

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

**Eighty-first Session
March 29, 2021**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:04 a.m. on Monday, March 29, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Dina Neal, Vice Chair
Senator Melanie Scheible
Senator Roberta Lange
Senator Joseph P. Hardy
Senator James A. Settelmeyer
Senator Keith F. Pickard

GUEST LEGISLATORS PRESENT:

Senator Marilyn Dondero Loop, Senatorial District No. 8

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Wil Keane, Counsel
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

William Stanley, Southern Nevada Building Trades Unions
Archie Walden, Southern Nevada Building Trades Unions
Randy Canale, Northern Nevada Building Trades Unions
Peter Krueger, National Electrical Contractors Association, Northern Nevada Chapter
Danny Thompson, International Brotherhood of Electrical Workers Local 1245 and Local 396
Chris Daly, Nevada State Education Association
Wendi Newman, Executive Director, Unified Construction Industry Council

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Rob Benner, Building and Construction Trades Council of Northern Nevada
Amber Stidham, Henderson Chamber of Commerce
Brandon Morris, Southwest Regional Council of Carpenters Local 1977
Mac Bybee, President and CEO, Associated Builders and Contractors
Craig Madole, Associated General Contractors, Nevada Chapter
Brian Reeder, Nevada Contractors Association
Sophia Romero, Legal Aid Center of Southern Nevada
Bailey Bortolin, Nevada Coalition of Legal Service Providers
Tess Opferman, Nevada Women's Lobby
Maria-Teresa Liebermann-Parraga, Battle Born Progress
Roberta Ohlinger-Johnson, Creditors Rights Attorneys Association of Nevada

CHAIR SPEARMAN:

I have one bill draft request (BDR) to be introduced.

BILL DRAFT REQUEST 54-709: Revises provisions relating to regulatory bodies.
(Later introduced as [Senate Bill 402](#).)

SENATOR NEAL MOVED TO INTRODUCE BDR 54-709.

SENATOR SCHEIBLE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (SENATORS HARDY AND
SETTELMAYER WERE EXCUSED FOR THE VOTE.)

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CHAIR SPEARMAN:

I will open the hearing on Senate Bill (S.B.) 247.

SENATE BILL 247: Revises provisions relating to apprenticeships. (BDR 53-575)

SENATOR MARILYN DONDERO LOOP (Senatorial District No. 8):

This bill relates to apprentices and the apprenticeship program in Nevada. An apprenticeship is an industry-driven, high-quality career pathway where employers can develop and prepare their future workforce, and individuals can obtain paid work experience, classroom instruction and affordable and nationally recognized credentials. The National Apprenticeship Act of 1937 directs the U.S. Department of Labor (DOL) to formulate and promote the furtherance of

labor standards necessary to safeguard the welfare of apprentices. The DOL has carried out these provisions by developing a system in which the DOL or a DOL-recognized state apprenticeship agency registers individual programs as meeting federal and/or state standards. In Nevada, the apprenticeship program is administered by the State Apprenticeship Director under the direction of the Governor's Office of Workforce Innovation and with the advice and guidance of the State Apprenticeship Council. The Council has the authority to approve and register or reject proposed programs of apprenticeship. Registered apprenticeships or apprenticeship programs are registered with the DOL and are governed by regulations laid out under the National Apprenticeship Act.

Senate Bill 247 ensures the apprenticeship programs in Nevada train individuals in skills and knowledge that are applicable to the industry and not specific to one company or employer.

I will provide a brief summary of the bill. The provisions of this bill generally revise existing State requirements regarding registered apprenticeships to more closely conform with federal regulations.

Section 1 of the bill revises the definition of "program" to more closely conform to federal regulations.

Section 2 of the bill revises existing statutory requirements for the approval and registration of such programs in conformity with federal regulations to enable them, with one exception, to be structured in one of three ways: as a time-based program that requires apprentices to acquire at least 2,000 hours of on-the-job training; as a competency-based program that measures skill acquisition through an apprentice's successful demonstration of acquired skills and knowledge; or as a hybrid approach that combines elements of both. An apprentice program in the construction trades must be structured as a time-based program.

Section 2 also prohibits the Council from approving a program that is based in a skilled trade when there is already a program that has been approved and registered by the Council, unless the program requires the completion of at least as many hours of on-the-job learning, or at least the same number and quality of skills, as all existing programs. The bill also prescribes the elements the Council is required to consider in order to determine whether to approve or reject such a program.

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WILLIAM STANLEY (Southern Nevada Building Trades Unions):
I am the Secretary-Treasurer of the Southern Nevada Building Trades Union.

Senate Bill 247 was introduced by Senator Dondero Loop at the request of the Southern and Northern Nevada Building Trades Unions and other nonaffiliated building trades.

"I would also like to state for the record that these two individuals [Mr. Walden and Mr. Canale] are appearing on behalf of their joint apprenticeship training committee and not on behalf of the State Apprenticeship Council. Just to make that perfectly clear."

We have worked with the stakeholders from the Nevada System of Higher Education (NSHE) and other registered apprenticeship programs to ensure both the expansion of apprenticeship opportunities in Nevada and the preservation of building trades apprentice programs.

We are seeking the passage of S.B. 247 to ensure the following: that only work-based learning that should be registered as an apprenticeship program is registered in Nevada, that emerging industries have the statutory structure to create career pathways through apprenticeship, and that building trades apprenticeship programs recognizing the gold standard of work-based learning strategies maintain their proven delivery method.

The bill is that simple and straightforward. The current statutory scheme in *Nevada Revised Statutes* (NRS) 610 was from its inception created to regulate building trades apprenticeship programs. No other programs existed or were contemplated. As nontraditional programs have been introduced, their approval by the Council has been difficult. The statute as presently constructed is based on the building trades model and the building trades delivery method and does not contemplate any other delivery method.

In section 2, subsection 1 of S.B. 247, we are seeking these changes to facilitate the approval of these nontraditional apprenticeship programs by recognizing other apprenticeship delivery methods.

Section 2, subsection 2 of the bill clarifies when and how parallel programs are approved.

We have two amendments ([Exhibit B](#)). The first amendment is intended to clarify that the Council shall determine the minimum wage for all registered apprenticeship programs. Current statute only contemplates a minimum wage rate for apprentices in the construction industry.

The second amendment clarifies language that the compensation to apprentices in a skilled trade is equal to or greater than the parallel program. The existing language talks about wages and benefits. In conversation with the Associated Builders and Contractors apprenticeship programs over the weekend, we were able to come to an agreement and substitute "compensation" for "wages and benefits." The concern was that "benefits" might be construed to mean a defined benefit such as a pension plan rather than a 401(k) plan. That was not the intent of the bill.

ARCHIE WALDEN (Southern Nevada Building Trades Unions):

I am the training director and apprentice coordinator of Laborers Local 872 for Southern Nevada Laborers Training Trust, chair of the State Apprenticeship Council, president of the Western Apprentice Coordinators Association and a member of SNAP, the Southern Nevada Union Apprenticeship Programs.

I stand in full support of Mr. Stanley's testimony. Apprenticeship programs are here to provide a career path, transferrable skills and a competitive livable wage for our apprentices. This bill is giving us an opportunity to do that, make it a fair deal across the board for everybody, and allow our program to continue in the gold standard model that the building trades and the construction standard have set forth.

RANDY CANALE (Northern Nevada Building Trades Unions):

I am the training coordinator for the United Association of Journeymen and Apprentices of the Plumbing, Pipefitting and Sprinkler Fitting Industry of the United States and Canada Local 350 Pipe Trades Apprenticeship. I am also the president of the Northern Nevada Apprenticeship Coordinators Association that represents the ten northern Nevada building construction trades programs. I am also currently a member of the State Apprenticeship Council.

Everything I have to say has been said already by previous speakers. I am in full support of this bill and the reasoning behind it.

SENATOR NEAL:

Can you tell me how this bill conforms to Title 29 CFR part 29?

MR. STANLEY:

The goal here is to create alternate pathways that are not contemplated in 29 CFR part 29, such as competency-based programs and other types of hybrid programs. We want to give leeway to other industries to develop apprenticeship programs that work for them. We struck language from the NRS that we felt was too restrictive. We had conversations with NSHE and others, and this is the language they requested. These compromises were made along the way to get everybody on board with the bill.

It is my understanding that we are in total compliance with both federal and State law with this language. We have had conversations with the director of the State Apprenticeship Council, and we believe we are in 100 percent compliance with both State and federal law.

SENATOR PICKARD:

The building trades have done a fantastic job with their apprenticeship program. Their training programs are second to none, and they are the gold standard.

The language in the bill seems to apply only to the skilled trades. Section 2, subsection 2 says, "If a program of apprenticeship in a skilled trade is proposed ... " As it goes along, it continues to focus on skilled trades. Can you clarify the intent of the bill? Are we looking at nontraditional, nonskilled trades apprenticeships in this or just nontraditional methods of delivery of skilled trade apprenticeships?

MR. STANLEY:

We are creating a pathway for nontraditional apprenticeship programs. The language clearly states that construction trade apprenticeship programs have to follow one delivery method, which is a time-based program. All other programs can be time-based, competency-based or a hybrid of those two. For the first time in statute in Nevada, we will have created a clear pathway for nontraditional programs to deliver programs through a method not previously contemplated in statute. That was the genesis of this bill and why we asked Senator Dondero Loop to bring it forward.

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I have had numerous conversations with other industries, trying to assist them through this process of registering an apprenticeship program. Too many times, we have run into roadblocks where the traditional methods codified in statute only contemplated a time-based program. This bill allows industries to use nontraditional programs while leaving traditional programs as they are.

SENATOR PICKARD:

I am still concerned that the language in section 2, subsection 2 refers only to skilled trade apprenticeship programs that already exist. I want to make sure we are clear on the record that this is intended to apply to all apprenticeship programs.

SENATOR SETTELMAYER.

I have a question on [Exhibit B](#). It refers to "the minimum apprentice wage established by the State Apprentice Council." Obviously, this would not allow them to go below the State or federal law as far as minimum wage. I ask because we have allowed that in other instances, and I am sure Mr. Stanley would in no way want to do that. I just want to make sure that is on the record. Perhaps we should clarify the wordsmithing to make sure of that.

MR. STANLEY:

Thank you for the question. You are right. In current statute, the Council sets a minimum wage rate for apprentices each year, but only in the construction industry. We wanted to give them the ability to do that for all apprenticeship programs.

CHAIR SPEARMAN:

I had a similar question.

WIL KEANE (Counsel):

In answer to the question about the minimum wage, the payment to the apprentices has to be at least the minimum wage for the State and the federal government. These all appear to be floors, but certainly we can revise the language if it is not clear. The apprentice needs to be making at least the federal and State minimum wage, and at least what their collective bargaining agreement would provide.

CHAIR SPEARMAN:

Did you all get your questions answered?

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SENATOR NEAL:
Yes.

SENATOR PICKARD:
Yes. If Mr. Keane is happy with the language, I trust him.

CHAIR SPEARMAN:
When I look at section 2, subsection 1, paragraph (c), I see that a program must "contain the pledge of equal opportunity prescribed in 29 CFR ... and, when applicable, a plan of affirmative action." Speak to me a little bit about what your outreach looks like. Many times, we are well into a program, but when we look around, the equal opportunity option has not been met.

MR. STANLEY:
The requirements of 29 CFR part 29 are inclusive. Our outreach is set by the DOL Office of Apprenticeship. Those programs of outreach into underserved communities and others are well established and are required. Our outreach efforts are tracked by the Southern Nevada Apprenticeship Program and the Northern Nevada Apprenticeship Program. Our outreach includes job fairs in high schools, at community colleges and throughout our community. We do job fairs on a regular basis trying to promote registered apprenticeship programs everywhere and anywhere we can.

As you are aware, in southern Nevada we have an outreach program and an apprenticeship readiness program at High Desert State Prison. That is one of the few programs in the Nation where the building trades are imbedded in a prison. We have enormous success out of that program. We are bringing people back into society and placing them in career pathways that lead them in a much different direction. I hope you have an opportunity to talk to some of those guys who have come from those programs and listen to their testimony.

I have accomplished a few things since I have been in the building trades, but none makes me more happy than when I sit down with those guys who have come out of High Desert and talk to them about buying homes, buying cars, getting married, having children and things that have truly changed their projection in life. I am so proud of the outreach these guys do into underserved communities to provide these opportunities that have not always been generationally true. We do so much better of a job today. This is something I am really passionate about.

CHAIR SPEARMAN:

My concern is the Covid-19 pandemic has disproportionately affected Black, Indigenous and People of Color communities. I want to make sure in everything we do there is a specific outreach to those communities. If we do not all come back together, none of us will come back. We all have to recover at the same time.

PETER KRUEGER (National Electrical Contractors Association, Northern Nevada Chapter):

We are in full support of S.B. 247 and its amendments. This is an important bill because it helps ensure that men and women receive proper training in any new and expanded apprenticeship programs. Apprenticeships and apprenticeship programs train for careers, not jobs. I would like to give you some perspective. Unlike building trades and skilled trades, electrical apprenticeship programs require a minimum of 8,000 hours rather than 2,000 hours. Electricians do a lot more than pull wires these days. Electrical apprentices are trained in low voltage, high voltage, solar, wind, storage batteries, insulation and use, to mention a few subjects. These are all new and emerging technologies.

DANNY THOMPSON (International Brotherhood of Electrical Workers, Local 1245 and Local 396):

We stand in full support of this bill and its amendment. We think it is critical to maintain the quality of programs we have in Nevada today and in the future.

CHRIS DALY (Nevada State Education Association):

We are in support of S.B. 247. Apprenticeship programs are important career pathways for many Nevada students, combining structured on-the-job learning with related instruction and living wages. We appreciate the work of the building trades on this and are in support of the bill.

WENDI NEWMAN (Executive Director, Unified Construction Industry Council):

We are in support of S.B. 247. This bill will maintain the historical delivery model of the building trades apprenticeship program while allowing other nontraditional programs to develop programs that fit their industry needs without changing the building trades model.

ROB BENNER (Building and Construction Trades Council of Northern Nevada):

We would like to testify in support of S.B. 247. We echo the comments of the previous speakers.

AMBER STIDHAM (Henderson Chamber of Commerce):

We support this bill. We believe it really could help employers and employees seeking to pursue meaningful careers. We also believe this bill could help support Nevada's future workforce needs in the skilled trades.

BRANDON MORRIS (Southwest Regional Council of Carpenters Local 1977):

We are in support of S.B. 247. We believe it helps the future industry we need and also future employees in Nevada.

MAC BYBEE (President and CEO, Associated Builders and Contractors):

We are currently in opposition to this bill. However, I believe the amendments discussed by Mr. Stanley likely address our concerns. We look forward to moving from opposition to support once we have a chance to fully evaluate the amendment.

CRAIG MADOLE (Associated General Contractors, Nevada Chapter):

I echo Mr. Bybee's comments. I think it very likely that the amendment will address our concerns.

BRIAN REEDER (Nevada Contractors Association):

We oppose the bill as written. However, like Mr. Bybee, we believe the amendment will address our concerns.

CHAIR SPEARMAN:

Evelyn Pacheco has an organization called "Nevada Women in Trades," and I have spoken to its graduating class a couple of times. Is it on your radar for outreach?

MR. STANLEY:

We work with several different women's groups, including Ms. Pacheco's group. We are devoted to making sure we bring more women into the trades. They are one of those underrepresented groups I discussed earlier. We look forward to their input every time we do a recruitment for a new cohort in each one of our apprenticeship programs.

CHAIR SPEARMAN:

I will close the hearing on S.B. 247 and open the hearing on S.B. 248.

SENATE BILL 248: Revises provisions relating to the collection of medical debt.
(BDR 54-576)

SENATOR MARILYN DONDERO LOOP (Senatorial District No. 8):

This bill seeks to assist consumers during the collection of medical debt. During the unprecedented Covid-19 pandemic, most states issued lockdown orders to close many workplaces. The ensuing job losses have left millions of workers without employer-sponsored health coverage. Studies estimate that as many as 7.7 million workers lost their jobs and employer-sponsored insurance because of the pandemic-induced recession. The employer-sponsored insurance of these workers covered 6.9 million dependents for a total of 14.6 million affected individuals.

There has been a lot of confusion surrounding health care during the pandemic. During the course of the pandemic, thousands of Nevadans were hospitalized as a result of the disease, and countless others sought medical care from their providers. While testing was provided free of charge, medically necessary and potentially life-saving treatment for those with the virus was not. Many people were confused by this and thought all medical expenses related to the virus would somehow be covered. Those who have recovered from the virus now face a new set of economic challenges. This is especially true for those who were uninsured at the time of treatment.

Even before the pandemic, almost 42 percent of Nevada households were not covered by an employer-sponsored insurance plan. According to the Urban Institute, 21 percent of Nevada's population has some form of medical debt in collection. In communities of color, it is 26 percent. You can imagine getting a medical bill and not being able to pay for it, having your account go into collections, receiving harassing phone calls and finally being sued by that debt collector. Now, on top of the medical debt you are already unable to pay, you face collection costs and fees. These fees are often twice the amount of the underlying debt, and in at least one instance, the fees were ten times the amount of the original debt.

These predatory debt collection practices can force people into having to choose between paying a creditor and putting food on the table. Many are unable to do both and are then forced into filing for bankruptcy.

Let me be clear: the people this bill seeks to help are not those who have spent frivolously or who are trying to find a way out of paying their debts. We are trying to help people who had no choice but to seek necessary and sometimes lifesaving medical care. This bill does not change the practices of hospitals or medical providers. Rather, this bill helps Nevadans who find themselves dealing with debt collectors because they are struggling to pay medical bills.

For these reasons and others, it is necessary that we implement protections for consumers with medical debt in Nevada. Time will tell how many lost jobs are permanent, resulting in the loss of employer-sponsored insurance for workers and their dependents.

SOPHIA ROMERO (Legal Aid Center of Southern Nevada):

I am a staff attorney in the Consumer Rights Project of the Legal Aid Center of Southern Nevada.

Before I walk through the bill, I would like to thank Senator Dondero Loop for bringing this very important piece of legislation. This bill will be a much-needed addition to Nevada law. It will not only help people who are currently facing medical debt collection but will also help countless others going forward as we see the results of the pandemic unfold.

In my role, helping the low-income population of Clark County, debt collection is an everyday occurrence. There are times where the client had insurance but is still being sued by a debt collector on the debt due to billing issues or errors for which the client is not responsible. At other times, the client is being sued by a debt collector well past the statute of limitations for services that occurred many years ago. Perhaps the most egregious situation is when the client had Medicaid and is still being sued in a practice known as balance billing, which is strictly prohibited.

These clients are the lucky ones. These are the clients I get to help because the debt collector is clearly doing something wrong, something that is prohibited by statute. These are the people whom I get to tell, "Don't worry. I can help you."

But there are so many others, those who do not know that legal aid exists or who do not have a defense but just cannot afford to pay. This is where S.B. 248 comes in. It helps regulate the behavior of and limits the fees charged

by debt collectors so people with no other defense can have a chance to pay back their debt without being forced into bankruptcy.

One practice that S.B. 248 seeks to eliminate is debt collectors taking what is known as a confession of judgment against someone with an outstanding medical debt. Often, consumers will go to the debt collection office to set up a payment plan. The collection agency will say that the person has to sign the document that contains the payment schedule. People sign this, thinking they are entering into a payment arrangement and having no idea what they actually just signed. Then, if they are one day late, and in many instances when they have not been late but a clerical error has occurred, the confession of judgment is filed with the court. This confession of judgment has the same effect as if a court had found in favor of the debt collector and means that the debt collector can begin garnishing wages and attaching bank accounts without a judge ever having seen the case.

Additionally, people who have minor debt end up owing thousands, even five and tens of thousands of dollars, due to collection fees in these matters. Default judgments are entered in matters where no defense is raised and no litigation is required. In the last year, we have seen a default judgment turn an underlying debt of \$6,000 into a debt of nearly \$13,000, a \$688 debt become a \$2,600 debt and a \$431 debt become a \$1,400 debt. This is all based upon collection fees and costs. Even when a consumer enters into a payment plan or confession of judgment, once that judgment is filed, fees are charged turning, for example, a \$2,800 debt into a \$7,000 debt.

We want people to pay back their medical debt, but we want to give them a fighting chance to do so. When the amount of the debt is inflated due to collection and attorneys fees, we take away people's ability to work toward paying their debt and instead push them toward bankruptcy where, oftentimes, there is no chance of that debt being paid.

These abusive debt collection practices are the practices S.B. 248 intends to regulate.

I will go through the sections of the bill.

Senate Bill 248 is a fairly simple and straightforward bill. Sections 1 through 6 contain the definitions.

Section 7 talks about notice. This section requires a collection agency to provide a written notice to a person who owes a medical debt at least 60 days before taking any action to collect a medical debt. This notice must include:

- The name of the healthcare provider, medical facility or provider of emergency medical services that provided the goods or services for which the medical debt is owed;
- The date when the goods or services were provided;
- Whether a health insurer has been billed for those goods or services and the status of the bill; and
- Whether the healthcare provider, medical facility or provider of emergency medical services offers a financial assistance program for medical debtors.

Section 8 prohibits a collection agency, or its manager, agents or employees, from engaging in certain practices relating to the collections of a medical debt, including:

- Taking any confession of judgement, or having the debtor sign any power of attorney to the collection agency or to any third person to confess judgement or to appear for the debtor in a judicial proceeding;
- Commencing a civil action to collect the medical debt if the amount of the medical debt—excluding attorney's fees, collection costs, interest, late fees and any other fees or costs—is less than \$10,000, which is the maximum jurisdictional amount for a justice of the peace for small claims court; or
- Charging or collecting a fee of more than 5 percent of the amount of the medical debt—excluding attorney's fees, collection costs, interest, late fees and any other fees or costs—as a collection fee or as an attorney's fee for the collection of the medical debt.

BAILEY BORTOLIN (Nevada Coalition of Legal Service Providers):

I would note that this bill does not affect hospitals or medical providers. Those are covered elsewhere in statute. We are specifically dealing with medical debt that has been turned over to a debt collector.

SENATOR PICKARD:

I am surprised that you referenced the pandemic as the basis for this bill. This obviously is not a temporary measure. Has the pandemic brought this issue to a head, or is there some other connection?

I have personal experience with this issue. Recently, I went into cardiac arrest in Louisiana and eventually had a pacemaker installed. I ended up with a bill of \$13,000 because my condition was misdiagnosed and I was not covered. I worked that out with the providers, and it never went to collections.

My main question comes in sections 7 and 8. Most collections do not start until they are 30, 60 or 90 days behind. This bill adds another 60 days before the process can actually start. That puts it out four, five, six months. What is the rationale for adding 60 days to the time it takes for providers to get paid?

Ms. BORTOLIN:

You are correct in saying this bill establishes lasting consumer protections. We are aware that medical debt, the cost of health care, the inability to pay and all the pieces of this situation are not specific to the pandemic. However, the pandemic has highlighted the need for these consumer protections as more people in our community are facing this situation. When we look at the reasons people call us for help, we have seen a drastic increase in calls regarding medical debt.

The trouble started early in the pandemic. Some people were confused by the announcement that testing for Covid-19 would be free; they assumed that meant the government would also pay for medical care to treat the virus. They were wholly unaware that their care would generate medical debt once they were released from the hospital. We have seen a drastic increase in the number of people needing to file for bankruptcy and needing help with how to condense their debt and find a path forward. We expect that to only increase as we continue to wend our way through this pandemic.

Ms. ROMERO:

Regarding the notice requirement, we added that provision because there is no requirement in statute for debt collectors to provide any type of notice to consumers when they acquire debts.

Here is an example of the way this type of debt might occur. When you have surgery, you will have an anesthesiologist, whom you will meet the day of the surgery when you are getting ready to go into surgery. You do not know if that anesthesiologist is covered under your insurance. You may not even remember your anesthesiologist's name after surgery because you are nervous.

After the surgery, the anesthesiologist will bill you, and since your insurance does not cover it, you are unable to pay. Before you know it, that debt has been sold to a debt collector. You can be sued by someone you never heard of, and you are completely unaware what this underlying debt even is. The debt collectors are not required to tell you, "Hi! We're the debt collectors for Dr. So-and-So, your anesthesiologist." You can receive a summons and complaint and be sued with no idea who is suing you or why.

That is part of the rationale for having the notice requirement: to give people a chance to call their insurance and say, "This was supposed to be taken care of. Why am I in collection?" We also want to give people a chance to find out whether the hospital offers some type of financial assistance program. For example, here in Las Vegas, St. Rose Dominican Hospitals do not offer financial assistance because they are nonprofit. This will give people a chance to get proactive and say, "Hey, this is in collections, I need to do something about this," or at least start seeking other options.

SENATOR PICKARD:

It is a little odd that you would suggest the person would be suddenly surprised by the bill. Before anything is sent to collections, the provider typically tries to work with the patient through their billing process, usually for two or three months. Generally speaking, a bill will go to collections only after the provider has made an attempt to get paid. The patient is well aware that he or she owes the bill and knows who it is from. Then the bill goes to collections.

This would be like any litigation. If you and I have a disagreement and we just cannot get anywhere and I hire a lawyer, he files a complaint. The complaint is required to give all that detail, but that lawyer does not have to give you 60 days notice—"Hey, I'm on the case, and in 60 days I'm going to file a complaint." That is not how this works. All this really does is delay it by 60 days.

My main question is on section 8 of S.B. 248. Section 8, subsection 1 refers to a confession of judgment. Unless you deal with judgments and litigation, most people do not know what a confession of judgment is, and the State Bar of Nevada requires us to outline in some great detail to the recipient what a confession of judgment is. It is simply a confession on the part of the obligor that he or she owes the bill. If it does have to go to litigation, the provider does not have to prove you were the person who received the service.

This bill forces debt collectors to go straight to litigation because you have taken away the ability to do a confession of judgment and then try to work out how it is going to get paid. If it goes to litigation, it will be because the patient has not voluntarily entered into a payment plan, so the debt collector is trying to force some payment. Then of course if the patient files for bankruptcy, the patient does not pay anything.

At the end of the day, why are we eliminating the nonlitigation part of this process and forcing the debt to go directly to litigation?

MS. BORTOLIN:

I recognize that in your experience, you had the capability and the ability to fix a problem before it became a medical debt collection issue. However, that is not the experience of a lot of low-income people and the people we meet in crisis. Many low-income people move residence a lot; they may not be able to pay their phone bills. They may get evicted or no longer be able to pay the rent. This can make them hard to get in touch with. That is why, in our experience, people get surprised by medical debt.

There are a lot of layers to that surprise. You are correct that for a lot of us, this situation would not come to a head with debt collectors. The bill was created to help those people in crisis who cannot afford to pay, to lay out a path forward that gives them the ability to pay. They are still going to owe the money, but this will allow them to overcome it and successfully pay it back without it becoming a greater barrier.

MS. ROMERO:

The abuses from the confession of judgment are almost unreal. People sign a confession of judgment thinking they are signing payment plans. They are not doing so in front of a lawyer; they are normally doing so at the collections office. They think they are signing a payment plan. They do not realize they are

signing a piece of paper that can be filed with the court, and now they have a judgment against them. Now they are open to wage garnishment, to bank account attachments and other debt collection methods.

By removing the confession of judgment, we are not taking away a tool for people to avoid litigation. A confession of judgment lets you immediately skip the entire point where a judge is overseeing the proceedings and can regulate the costs, where people have a chance to enter a defense and object to the costs and fees. You are skipping right to the judgment where wages are going to get garnished and bank accounts will be attached.

Nothing in this bill prevents a debt collection agency from entering into a normal payment plan with someone who is trying to pay their bills. It does prevent the abuses we see with the confession of judgment.

We even see confessions of judgment filed when people are paying their bills. Of course, when someone comes in with a confession of judgment, we call the debt collection attorney and try to get that attorney to withdraw the confession of judgment. Debt collection attorneys have huge caseloads. To try to get a debt collection attorney to go back and look through their records, discover that the person was not really late with payments and file something in court to remove that confession of judgment is extremely difficult.

SENATOR PICKARD:

I do not want to suggest that the legal system is not abused. We have all seen litigation used as a weapon, as a spear instead of a shield. I do not want to suggest that abusive litigation tactics should be tolerated. But let us not forget that a confession of judgment is merely the obligor's admission that he or she is responsible for the debt. That is as far as it goes. If the case goes to litigation, a confession of judgment simply means the provider does not have to prove that the person actually received the service.

My last question has to do with section 8, subsections 2 and 3. Subsection 2 says you cannot collect costs if it is below a \$10,000 claim, and subsection 3 says you cannot collect more than 5 percent of the original debt if it exceeds that. Private attorneys are not going to take these cases if they cannot get paid. You are essentially going to make providers prosecute these cases on their own or do without, which is going to raise the cost to everyone else because they have to recoup their costs. How does this help the people you are trying to

help, unless it is just to open a door to prevent bankruptcy, but at the same time, provide an avenue for nonpayment? That just raises the cost for the rest of us. How does this benefit the average consumer?

MS. ROMERO:

Just for clarification, this has nothing to do with the provider of medical services. This bill only comes into play when the debt has gone to a debt collection agency.

SENATOR PICKARD:

This bill will make the debt collector say, "This debt is only \$6,000. I won't take it because I won't get paid." That means the provider has to sue in small claims court to get paid.

MS. ROMERO:

Once these debts are sold to a debt collection agency or debt buyer, the providers are not involved. The provider is not going to go back and sue. This bill changes nothing on the provider's end of things. This is strictly focused on the debt collection side of things. And again, confessions of judgment do not induce litigation; they are the end of litigation. It is an official judgment that has been entered. The litigation process would not start once a confession of judgment was signed. That judgment would then just be acted upon and a writ of garnishment or a writ of attachment would be issued.

Debt collectors now represent themselves in small claims court. It would be the debt collectors, not providers, going to small claims court. Debt collectors now can represent themselves in small claims court.

SENATOR PICKARD:

The garnishment effort is the second part of litigation. This bill will make it hard for collection agencies who come at the very end of the debt collection process to collect. The providers are trying to collect all the way up to the point where it goes to the collection agency. Yes, they will write the debt off their books, but they do hope to get 50 percent of that claim back. But by eliminating the ability or severely hampering the ability of the debt collection agency to collect anything on this bill, you are going to force providers to write it off, give it up and raise the costs for everyone.

Ms. BORTOLIN:

As a point of clarification, this bill does not prevent providers from collecting. It just prevents them from collecting in that manner. They still have access to collect on that debt through small claims court, as they currently do.

SENATOR NEAL:

I believe section 7 of the bill includes a provision regarding the charge-off, the amount paid by a third party who purchases the debt. That amount can be 30 percent or 40 percent of the debt, yet the debt collector still tries to collect the original debt. You do not put any parameters around the charge-off, which could be pennies on the dollar. Are you going to require them to give information on how much the charge-off actually was?

Ms. ROMERO:

The third-party insurance provision is essentially talking about the situation where the provider says, "We have billed your insurance, or we have billed some other type of third party, like Medicaid or Medicare, and this is the balance." They are just required to say, "We are waiting to hear back from your insurance company about whether they are going to cover this."

SENATOR NEAL:

I understand that. I am asking about the situation in which a debt has been charged off to another party. There could be four people in line for a debt: the original provider who charged it, the second collector who picks it up, and a third-party debt collector who purchased the debt for pennies on the dollar. By the time the patient sees the bill, it says "Recovery Associates" or some such, and you do not know how much Recovery Associates paid for the debt from the second party. Are you trying to get that amount revealed in this bill?

Ms. ROMERO:

No, S.B. 248 does not address that issue at all. This bill only covers the balance of what the provider says is owed. It would not matter if debt collectors A, B, C and D subsequently purchased the debt for less and less each time.

SENATOR NEAL:

It would be a huge help to the communities of color and low-income people if we could get at that information. The original debt might have been \$900, and the debt collector only paid \$700 for it, but by the time it gets to the patient, it

is the original amount plus fees and interest, and that is what gets them. Do you see what I am getting at?

Ms. ROMERO:

Yes, I understand. I wish we could do that; I wish legislation would be brought forth to figure out what debt collectors are paying on these and limit recovery to what they actually paid. This bill does not do that. I agree with you wholeheartedly that that would be amazing.

As another example of the situation you describe, earlier this year, there was a patient who had a medical debt of \$1,000. The court awarded \$10,000 and attorneys' fees on that debt. That is ten to one on the amount of the debt. These types of practices do not give people a fighting chance. You can try to pay back \$1,000; you could come up with a payment plan for \$1,000. But when you are looking at \$11,000, that just becomes insurmountable for people, and people do not think they can make any headway on trying to pay that off.

SENATOR NEAL:

Section 8, subsection 1 has to do with the power of attorney. Is this bill going to amend standard language in a provider contract for services that says you are responsible for the debt if your insurance does not pay it?

Ms. ROMERO:

No. We do not foresee that this will change the contract language at all. Typically, people do not sign a confession of judgment or power of attorney until the debt has already been turned over to a collection agency and they are trying to work out a payment plan. I do not believe it will affect the contractual language in the provider's documentation saying you are financially responsible for the debt because that is still true. The patient is still responsible for the debt. We are just trying to give patients a chance to pay the underlying medical debt without being bogged down in fees and costs.

SENATOR SETTELMAYER:

Section 7 talks about giving notice. I myself have gone to the hospital for some reason, usually work-related, and I keep getting all these statements that say, "This is not a bill." Then all of a sudden, I get one printed in red that says, "You are now in collections." How will notice be defined? Will it be sent by certified mail? What is the concept being envisioned?

MS. ROMERO:

Currently, the bill does not define any parameters. It just requires that notice be sent; it does not require that notice be sent by certified mail. That is something we can look at.

CHAIR SPEARMAN:

In her opening statement, Senator Dondero Loop referred to the fact that there are people who have been disproportionately affected by the pandemic, and many of them are going to have a hard time coming back. In an article in *The Washington Post* from February 17, 2021, titled, "Millions of jobs probably aren't coming back, even after the pandemic ends," Heather Long said:

One problem for many unemployed people is they lack the money to retrain. This crisis has put many out of work for nearly a year, and the financial support from unemployment and food stamps is often not sufficient to pay their bills.

I do not know if that captures the essence of this bill or not, but there will probably be a lot of other instances where people have trials and tribulations and need additional help. I think back to Tim O'Callahan sparring with his homeowners' association, and he said, "I know I have the means, and a lot of people in the community know me, and so I was able to resolve it. But there are a lot of people who don't."

How will people know this service exists? We are listening to this testimony and many of us read the news, but there will be others for whom medical debt is a dark hole, and they do not know how to get out of it.

MS. BORTOLIN:

That is exactly right, and that is why we came at the problem from a consumer protection angle. We cannot forgive the debt, and there is a lot happening at the federal level. But a lot of state legislatures across the Country are looking at what consumer protections can be enacted to ensure that recovery is fair and balanced and allows people the opportunity to recover. We have seen many situations in which the person could not pay the original debt and it went to collections. By the time the debt is collected, \$1,000 has become \$10,000. If the person had had the opportunity to negotiate the original debt, he or she would have. We need to rein in those additional ways the amounts are multiplied. This is why we are seeing an increased amount of bankruptcy and

financial crisis. We do not have the power to forgive the debts, but we can put some consumer protections in place that will ensure people are protected going forward, in the sense that they have an opportunity to recover.

TESS OPFERMAN (Nevada Women's Lobby):

We are in support of S.B. 248. We want to thank Senator Dondero Loop and the Legal Aid Center of Southern Nevada for bringing forward such an important bill. Medical expenses are incredibly high in the United States, even with insurance coverage. Roughly 20 percent of Nevadans have some sort of medical debt. That is one in five people. Low-income individuals may struggle to pay their medical expenses, so they do not pay them at all, and then these bills become increasingly more expensive, creating a dangerous downward cycle. Though medical debt needs to be paid, there also need to be some protections to ensure we are not costing low-income families extraordinary amounts on top of their original medical expenses. This is a critical consumer protection bill. We urge your support.

MARIA-TERESA LIEBERMANN-PARRAGA (Battle Born Progress):

We are in support of S.B. 248. Many years ago, before I had great insurance, I was one of those Nevadans who would have benefited from this type of legislation. There was a moment in my life when I had to crawl my way out of significant medical debt because of an emergency that was not covered by my insurance. At the time, I had no idea, no education, no knowledge and no ability to navigate this problem. That is the case with many Nevadans today.

The process is difficult, and we should always help those who need this type of help. Now, however, the pandemic has made everything worse, especially with folks having a year or so of unemployment and significant economic hardship. We need to help them, and I hope everyone can support S.B. 248.

ROBERTA OHLINGER-JOHNSON (Creditor Rights Attorneys Association of Nevada):

I am an attorney debt collector. I want to clarify for the record that all third-party debt collectors, including debt collection attorneys, are subject to federal regulations of the Federal Debt Collection Procedures Act of 1990 (FDCPA) pertaining to medical debt. That includes the 30-day dunning notice and the verification requirements. It appears that was not brought forward in the testimony.

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The Creditor Rights Attorneys Association of Nevada is opposed to this bill. We are happy to offer our assistance on federal regulation of the debt collection industry.

CHAIR SPEARMAN:

This is an extra consumer protection layer of due process for the individual who owes the money. Is that right?

MS. ROMERO:

Yes. This is in addition to the FDCPA, which does not contain any of the provisions seen in this bill. These are additional provisions applying to debt collectors specifically here in Nevada on medical debt only, not on any other type of debt.

SENATOR DONDERO LOOP:

Several years ago, I received a call from a debt collector for someone named Valerie. The more I told them I was not Valerie, the angrier they got. I got letters addressed to Valerie. I tried to contact them, and they were sure I was Valerie. To this day, once in a while I get a text message for Valerie. Someone gave an incorrect number. I had the means to correct it and knew it was not me.

It is important that we move forward with this bill in these most unusual times we are living in with the medical issues we have.

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CHAIR SPEARMAN:

I will close the hearing on S.B. 248. Is there any public comment? Hearing none, we are adjourned at 9:49 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
	A	1		Agenda
S.B. 247	B	1	William Stanley / Southern Nevada Building Trades Unions	Proposed Amendment