

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

**Eighty-second Session
March 20, 2023**

The Senate Committee on Commerce and Labor was called to order by Chair Pat Spearman at 8:02 a.m. on Monday, March 20, 2023, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Pat Spearman, Chair
Senator Roberta Lange, Vice Chair
Senator Melanie Scheible
Senator Skip Daly
Senator Julie Pazina
Senator Scott Hammond
Senator Carrie A. Buck
Senator Jeff Stone

STAFF MEMBERS PRESENT:

Cesar Melgarejo, Policy Analyst
Lynn Hendricks, Committee Secretary

OTHERS PRESENT:

Steven D. McDonald, Executive Director, State Board of Cosmetology
Janie Huggins, Chief Compliance Officer, State Board of Cosmetology
Sarah Watkins, Interim Executive Director, Nevada State Medical Association

CHAIR SPEARMAN:

I will open the hearing on Senate Bill (S.B.) 249.

[**SENATE BILL 249**](#): Revises provisions relating to cosmetology. (BDR 54-829)

SENATOR ROBERTA LANGE (Senatorial District No. 7):

This bill seeks to clarify the practice of cosmetology by including the practice of advanced estheticians and clarifying the language from S.B. No. 291 of the 81st Session. That bill created a license for estheticians, which had not been licensed in Nevada before that. To date, we have licensed more than 1,000 estheticians in Nevada, and I consider it hugely successful.

At the same time, there have been some bumps in the road, and the Board of Cosmetology has worked over the Interim to try and resolve those issues. This bill will continue that process.

STEVEN D. McDONALD (Executive Director, State Board of Cosmetology):

Senate Bill 249 is intended to clarify last Session's bill and do some housekeeping. Last Session's bill created two licenses, esthetician and advanced esthetician, and there has been some confusion between the two. This bill will draw the lines more clearly and do some other housekeeping.

The State Board of Cosmetology was established in 1931 with a mission to protect the public health, safety and welfare of those who obtain cosmetology-related services in Nevada. We do this through quality testing, licensing, inspection and education services that focus on consumer protection. We are governed by *Nevada Revised Statutes* (NRS) 644A and its related regulations in *Nevada Administrative Code* 644A.

On June 13, 2022, the Board held a town hall meeting with the cosmetology industry, specifically with the estheticians, to hear their concerns and comments on the newly passed law. The overwhelming consensus was that some of the services that were unintentionally removed from the scope of practice in the regular esthetician license had been moved into the advanced esthetician license. As a result, the Board proposed the changes you see in S.B. 249.

I want to go through some of the highlights of the bill and the amendment we are proposing ([Exhibit C](#)).

Regarding section 1 of the bill, in our communications with the State Board of Nursing, we learned they have a regulation that deals with direct supervision of registered nurses. They advised us that it may not be appropriate for us to have this section in our bill. We are neutral on that because we have no jurisdiction

over NRS 632. However, since they said there is a direct regulation on supervision of registered nurses, this area could be removed from S.B. 249.

Section 7 of the bill highlights advanced esthetician procedures. The Board has proposed that exfoliation, microdermabrasion, dermaplaning, extraction and hydrotherapy be moved back to the basic esthetician license so they can continue to do those services. Those services can be found in sections 8 and 11 of the bill.

Section 15 of the bill includes some of the clarification the Board has proposed regarding the duties of the executive director.

The rest of the bill is housekeeping and clarification, deleting duplicative language and some obsolete licenses that we do not offer anymore, such as demonstrators of makeup.

Regarding [Exhibit C](#), the first change is to delete section 1 completely.

The second change is to add a provision to section 15 that the executive director needs to get the Board's approval before establishing new offices.

The third change is in section 44, subsection 2 and requires that the cosmetologist's license needs to be displayed anywhere the person practices where customers can see it.

SENATOR PAZINA:

Section 4, subsection 4, paragraph (c) assumes certified mail will be received within three days after it is sent. I can tell you from personal experience that this might not be enough time. I have had certified mail take 7 days to 14 days to arrive. You might want to consider an amendment here as well.

SENATOR DALY:

There are a number of items here that you say will be handled by regulation, including fees. However, Governor Joe Lombardo has issued an executive order that puts a moratorium on new regulations. What are your plans if the bill passes and you cannot make new regulations for the next four years?

MR. McDONALD:

Yes, the Governor's moratorium has frozen all regulation hearings. However, we can request an exemption to his executive order. In fact, we got an exemption from the Office of the Governor to move forward with a regulation from last year. We will follow the same procedure for any further regulations we need.

SENATOR DALY:

That means you will roll the dice and take your chances. That is okay; we are a gaming state, after all.

Sections 20, 22, 24, 25 and 26 make changes regarding reciprocity. What evidence are you going to accept from someone to demonstrate their experience? Do they just need to prove they are licensed in that state, or are you going to review that state's requirements to see how they compare with Nevada's requirements? That is an issue in all those sections.

MR. McDONALD:

Generally speaking, we look at their license, and we also look at the curriculum in the state they came from to see how it matches our requirements.

SENATOR DALY:

Some language to clarify that might be good.

JANIE HUGGINS (Chief Compliance Officer, State Board of Cosmetology):

Someone who has an active license in the U.S. can transfer that active license to Nevada by showing proof of the license. We then coordinate with the other state to verify that they do have that license at the minimum training we require in Nevada.

The intent for this proposed language is to aid those coming into Nevada from outside of the U.S. Typically, we require them to show proof that they attended schooling hours similar to what we require in Nevada per license type. Some countries require schooling, and some have a license they can transfer. The intent is that this would aid individuals with experience transferring into Nevada from outside the U.S. with the reciprocity process.

SENATOR DALY:

Is there something along those lines in regulation? Having a little more guidance either in the bill or in regulation would be helpful.

I appreciate the amendment in section 15 in [Exhibit C](#). I was going to ask why you were going to give all the power to the executive director. I would also like to clarify that deleting the language that something is going to be a public record does not make it confidential. This same change is made in section 56 of the bill. Taking that language out is helpful in that it makes the statute less confusing.

Section 51 of the bill deletes language about the practical experience required for cosmetology teachers. What was the reasoning behind removing that requirement for an instructor?

MS. HUGGINS:

There are two paths to getting an instructor's license. You can be a student instructor or a provisional instructor. If you are a provisional instructor, you have already demonstrated to the Board that you have a year's worth of work experience, and our minimum requirement is reduced. Student instructors are typically individuals who go to a cosmetology school, obtain a license and then go immediately into an instructor program. The language we removed prohibits them from acting as licensed instructors in a school of cosmetology without a year's experience.

SENATOR BUCK:

Before S.B. No. 291 of the 81st Session was passed, did you license all estheticians under a basic license?

MR. McDONALD:

Yes.

SENATOR BUCK:

You then added the advanced license, which basically put a lot of tasks estheticians have been doing for years into the advanced license, one of which involves using a laser. Can you explain to me what estheticians are doing with a laser?

MR. McDONALD:

As the law is now, use of lasers is only possible with an advanced esthetician license. Some laser applications require a prescription from a physician, according to the Food and Drug Administration. From our discussions with the

Board of Medical Examiners and the State Board of Nursing, we felt that using a laser requires training to do that safely.

Right now, there is a law that if you are already an esthetician and you take a 75-hour laser course, you can be grandfathered in and get the advanced esthetician license. That ends October 1. After that date, a 300-hour course is required.

SENATOR BUCK:

The estheticians I spoke to do not want to train in the use of a laser. They do not want to take a class for the advanced license because they do not do laser and cannot afford the equipment in their small practices. I like that you have separated that out.

SENATOR STONE:

When you are talking about reciprocity, I am concerned about reciprocity with other countries. It is difficult to compare curricula and experience. I believe the bill states that not only are you going to compare their hours of experience, you are also going to have them do a live demonstration to prove that they are competent in the skills. Is that correct?

MR. McDONALD:

Yes, Senator. They will have to take a practical exam.

SENATOR STONE:

I am glad to hear that.

We have had complaints that some of these training courses are quite expensive. Some have said they are required to take a \$1,500 class to be certified in a service they are not going to be performing. We are talking about people who live on modest means. Is there a difference in the fee for an esthetician versus an advanced esthetician?

MS. HUGGINS:

All our licensing fees are the same regardless of what type of license. The fee is \$70 for a two-year license or \$140 for a four-year license.

SENATOR STONE:

That is reasonable.

CHAIR SPEARMAN:

I have had people ask me if they have to have the advanced license even if they only want to do a laser procedure once. My response was that if they do it once, they will probably do it more often. If they do not ever do it, they do not need the advanced license.

MR. McDONALD:

We made it as clear as possible in the scope of practice. If you are going to use lasers, you need the advanced esthetician license. If you are not going to use lasers, there is no need to get that license. From a regulatory standpoint, we do not want to have any ambiguity. If someone does it once without an advanced license, we tend to give them a warning saying that it is outside their scope of practice. We typically do not automatically go straight to citing them.

CHAIR SPEARMAN:

Would the amendment delete all of section 1 in its entirety, or just the supervision provisions?

MR. McDONALD:

It would remove all of section 1 because that deals with NRS 632. What we proposed in NRS 644A is to add registered nurses to the exemptions of doctors, advanced practice registered nurses and physician assistants. All we did was add that one category of practitioner so they would be exempt from our statute. We did not propose anything to go into NRS 632.

SARAH WATKINS (Interim Executive Director, Nevada State Medical Association):

Given the added amendment, the deleted section was our main concern, so we are neutral on S.B. 249. We are available to work with the sponsor on this bill to get a little bit more clarification.

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CHAIR SPEARMAN:

I will close the hearing on S.B. 249. Is there any public comment? Hearing none,
we are adjourned at 8:34 a.m.

RESPECTFULLY SUBMITTED:

Lynn Hendricks,
Committee Secretary

APPROVED BY:

Senator Pat Spearman, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit Letter	Introduced on Minute Report Page No.	Witness / Entity	Description
	A	1		Agenda
	B	1		Attendance Roster
S.B. 249	C	2	Steven McDonald / State Board of Cosmetology	Proposed Amendment