

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

**Seventy-Fifth Session
May 1, 2009**

The Committee on Commerce and Labor was called to order by Chairman Marcus Conklin at 1:05 p.m. on Friday, May 1, 2009, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4106 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Marcus Conklin, Chairman
Assemblyman Kelvin Atkinson, Vice Chairman
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblywoman Barbara E. Buckley
Assemblyman Chad Christensen
Assemblywoman Heidi S. Gansert
Assemblyman Ed A. Goedhart
Assemblyman William C. Horne
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Mark A. Manendo
Assemblywoman Kathy McClain
Assemblyman John Ocegüera
Assemblyman James A. Settlemeyer

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblyman Joseph P. Hardy, Clark County Assembly District No. 20
Senator Barbara K. Cegavske, Clark County Senatorial District No. 8
Senator Terry John Care, Clark County Senatorial District No. 7
Senator Maggie Carlton, Clark County Senatorial District No. 2
Senator Valerie Wiener, Clark County Senatorial District No. 3
Senator David R. Parks, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Dave Ziegler, Committee Policy Analyst
Dan Yu, Committee Counsel
Andrew Diss, Committee Manager
Earlene Miller, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Bryan Gresch, representing University of Southern Nevada, Henderson, Nevada
Dr. Renee Coffman, Dean, University of Southern Nevada College of Pharmacy, Henderson, Nevada
Elizabeth MacMenamin, representing the Retail Association of Nevada, Carson City, Nevada
Chris Ferrari, representing the National Kidney Foundation of Northern California/Northern Nevada, Reno, Nevada
Teri Braegelmann, Private Citizen, Las Vegas, Nevada
John Sande IV, representing Medco Health Solutions, Reno, Nevada
Carolyn Cramer, General Counsel, State Board of Pharmacy, Reno, Nevada
Ernest E. Adler, representing the Board of Massage Therapists, Carson City, Nevada
Lisa O. Cooper, Executive Director, Board of Massage Therapists, Reno, Nevada
Brian O'Callaghan, representing Las Vegas Metropolitan Police Department, Las Vegas, Nevada
Patricia Patton, Private Citizen, Reno, Nevada
Bridgette Dolgoff, Private Citizen, Reno, Nevada
Michelle Quevedo, Private Citizen, Reno, Nevada
Rebecca S. Gasca, Public Advocate, American Civil Liberties Union of Nevada, Reno Nevada

Dr. Robin Huhn, Executive Director and Secretary, Nevada Chiropractic Association, Las Vegas, Nevada
Rocky Finseth, representing Pharmaceutical Research and Manufacturers of America, Las Vegas, Nevada
Stephen H. Osborne, representing the Nevada Justice Association, Reno, Nevada
Morgan Baumgartner, representing R&R Partners, Reno, Nevada
Robert A. Ostrovsky, representing the Nevada Resort Association, Las Vegas, Nevada
Gary Peck, Executive Director, American Civil Liberties Union of Nevada, Las Vegas, Nevada
Jan Gilbert, representing the Progressive Leadership Alliance of Nevada, Washoe Valley, Nevada
Patrick Patin, President, Nevada Stonewall Democrats, Las Vegas, Nevada
Jane Heenan, Private Citizen, Las Vegas, Nevada
Lauren Scott, Executive Director, Quality Nevada, Reno, Nevada
Maureen Cole, Assistant Administrator, Nevada Equal Rights Commission, Reno, Nevada

Chairman Conklin:

[Roll called.] We will open the hearing on Senate Bill 72 (1st Reprint).

Senate Bill 72 (1st Reprint): Authorizes a registered pharmacist or a registered intern pharmacist to perform certain screening tests. (BDR 54-376)

Assemblyman Joseph P. Hardy, Clark County Assembly District No. 20:

Senate Bill 72 (1st Reprint) would allow a registered pharmacist and a registered intern pharmacist to perform a "finger stick" blood sugar test that would be approved by the Food and Drug Administration. From a physicians view, the more opportunities we have for people to get information on their own health, the better off they would be. The pharmacist ends up being the one to explain to the patient how to use the blood monitoring kit. There are things the pharmacist would know in order to teach people how to use the kit; therefore, the pharmacist would be in an excellent position to also check a blood sugar level. When the pharmacist does this kind of thing, he is not in the position of making a diagnosis as much as informing the person and having the person follow up with his physician. Nurses and nursing students are already doing this kind of thing.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Horne:

Was there discussion in the Senate about people using pharmacists on a regular basis to test themselves?

Assemblyman Hardy:

If you try to get someone into a position of medical care, they can access it in different ways. Someone could do that. The bottom line is that the pharmacist is in an excellent position to counsel the people. Pharmacies are very interactive now. It is a good place to be.

Chairman Conklin:

Are there any questions from the Committee?

Bryan Gresch, representing University of Southern Nevada, Henderson, Nevada:

We have been working with Senator Cegavske on this bill throughout its progress.

Dr. Renee Coffman, Dean, University of Southern Nevada College of Pharmacy, Henderson, Nevada:

I am testifying in support of this legislation. I brought a monitor with me today. It is not an extensive test, but it is a test that patients with diabetes are counseled to use on a daily basis. As this legislation indicates, pharmacists have not been able to help their clients because the law prohibits them from performing this blood glucose test. If enacted, this legislation would allow Nevada to join 47 other states in allowing pharmacists to perform this very simple monitoring test. It would also allow pharmacists to join nurses, nursing students, emergency medical technicians, and other healthcare professionals who are able to perform this test on patients. It does not allow a pharmacist to render a diagnosis of diabetes.

There are no treatment guidelines that I am aware of that would provide for a diagnosis of diabetes from one random finger stick blood glucose test alone. The probable outcomes are that as patients get tested, they will be referred to physicians for diagnosis or to make sure that their treatment is working effectively. Monitors are purchased at pharmacies, so it is appropriate for pharmacists to demonstrate to patients how to use the monitor appropriately. The biggest things with diabetic patients in terms of positive outcomes are early diagnosis and follow-up to be sure treatment plans are working. By doing so, it allows you to avoid a lot of the more serious complications of the disease including blindness, nerve disease, amputations, and kidney disease.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone to speak in support of S.B. 72 (R1)?

Elizabeth MacMenamin, representing the Retail Association of Nevada, Carson City, Nevada:

We have supported this legislation from the onset. We believe that this is another duty that the pharmacists will be able to perform. They are not looking to diagnose but to help the patient and go further than they have been able to in the past.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Chris Ferrari, representing the National Kidney Foundation of Northern California/Northern Nevada, Reno, Nevada:

We are here in support of S.B. 72 (R1). There is a letter in your packet written by Christopher S. Kelley ([Exhibit C](#)) indicating that support. We believe this will help pharmacists perform preliminary blood glucose monitoring and help thousands of Nevadans who are at risk for diabetes and its complications to learn about their risk status. Blood glucose monitoring combined with physician directed treatment can help limit serious health issues.

Chairman Conklin:

Are there any questions from the Committee? There are none. Are there others in support?

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8:

I thank you for your time and consideration of this bill.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to get on the record in support? Is there anyone opposed to this bill? Is there anyone to speak from the neutral position? We will close the hearing on S.B. 72 (R1). Let us turn our attention to the work session document on Senate Bill 49 (1st Reprint).

Senate Bill 49 (1st Reprint): Creates a requirement for a written contract between a client and an architect, registered interior designer or residential designer under certain circumstances. (BDR 54-353)

Dave Ziegler, Committee Policy Analyst:
[Read from Work Session Document ([Exhibit D](#)).]

Chairman Conklin:

Are there any questions from the Committee? There are none.

ASSEMBLYWOMAN MCCLAIN MOVED TO DO PASS
SENATE BILL 49 (R1).

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

Are there any questions or concerns?

THE MOTION PASSED. (ASSEMBLYMEN BUCKLEY,
CHRISTENSEN, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

Chairman Conklin:

We will move to Senate Bill 91.

Senate Bill 91: Revises provisions governing architects, interior designers and residential designers. (BDR 54-351)

Dave Ziegler, Committee Policy Analyst:
[Read from Work Session Document ([Exhibit E](#)).]

Chairman Conklin:

Are there any thoughts from the Committee?

ASSEMBLYMAN SETTELMAYER MOVED TO DO PASS
SENATE BILL 91.

ASSEMBLYWOMAN MCCLAIN SECONDED THE MOTION.

Are there any questions or discussion?

THE MOTION PASSED. (ASSEMBLYMEN BUCKLEY,
CHRISTENSEN, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

Chairman Conklin:

We will take up Senate Bill 129.

Senate Bill 129: Revises provisions governing continuing education for dentists and dental hygienists. (BDR 54-769)

Dave Ziegler, Committee Policy Analyst:

[Read from Work Session Document ([Exhibit F](#)).]

Chairman Conklin:

Are there any questions or concerns from the Committee? There are none.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS
SENATE BILL 129.

ASSEMBLYMAN MANENDO SECONDED THE MOTION.

Are there any questions or comments? There are none.

THE MOTION PASSED. (ASSEMBLYMEN BUCKLEY,
CHRISTENSEN, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

We will open the work session on Senate Bill 335 (1st Reprint).

Senate Bill 335 (1st Reprint): Revises provisions regarding regulation of accountants. (BDR 54-191)

Dave Ziegler, Committee Policy Analyst:

[Read from Work Session Document ([Exhibit G](#)).]

Chairman Conklin:

Are there any concerns from the Committee? There are none.

ASSEMBLYMAN ANDERSON MOVED TO DO PASS
SENATE BILL 335 (R1).

ASSEMBLYMAN OCEGUERA SECONDED THE MOTION.

Are there any questions? There are none.

THE MOTION PASSED. (ASSEMBLYMEN BUCKLEY AND
CHRISTENSEN WERE ABSENT FOR THE VOTE.)

We will take up Senate Bill 339 (1st Reprint).

Senate Bill 339 (1st Reprint): Requires the Colorado River Commission of Nevada to review and analyze available information, studies and reports to assess the feasibility of constructing a hydrokinetic generation project below Hoover Dam. (BDR 58-1150)

Dave Ziegler, Committee Policy Analyst:
[Read from Work Session Document ([Exhibit H](#)).]

Chairman Conklin:

We heard from the bill sponsor's intern and the Colorado River Commission that they wanted the opportunity to conduct this study in the interim.

Assemblywoman Kirkpatrick:

Who pays for it and how long is the study?

Chairman Conklin:

The testimony was that there would be no additional cost. It was just a request to conduct a study over the interim and provide the results to us.

Assemblywoman Kirkpatrick:

I am not necessarily in support of this. I have had a difficult time getting information from the Colorado River Commission. I would like to reserve my right. I want to ask more questions. The way their board is set up, they hire consultants and architects all of the time and I wonder where that money comes from.

Chairman Conklin:

Would you like me to hold this bill so you can speak with the sponsor?

Assemblywoman McClain:

I would like to make a motion to do pass.

Assemblyman Anderson:

If Ms. Kirkpatrick is concerned, the Colorado River Commission would be more willing to speak to her if we waited for a moment to pass the legislation.

Chairman Conklin:

It sounds like we have two people with questions, so I am not going to accept the motion and will pull this bill back to the Committee.

We will open the hearing on Senate Bill 168 (1st Reprint).

[Senate Bill 168 \(1st Reprint\)](#): Revises provisions relating to prescription drugs.
(BDR 54-1011)

Senator Terry John Care, Clark County Senatorial District No. 7:

Every session we get many requests for legislation, but every once in a while we get a request from just plain folks. Teri Braegelmann will tell her story which involves the tragic death of her son. I thought maybe there is something we can do to prevent this from happening again. That was the basis for the bill. The Committee has the bill in its first reprint. It is all contained in section 1, subsection 3, and says, "If a prescription filled by any practitioner requires a boxed warning pursuant to 21 C.F.R. § 201.57(c)(1), the label described in subsection 1 must contain the warning...." I would like to have Ms. Braegelmann tell her story.

Teri Braegelmann, Private Citizen, Las Vegas, Nevada:

I am here in support of S.B. 168 (R1) ([Exhibit I](#)). On June 1, 2007, my 22-year-old, Joshua, killed himself by shooting himself in the head. This was an irrational, impulsive act that might have been prevented had we received better information about the effects of antidepressants on young adults the age of my son. That information existed, but we did not know about it. There was no note or any indication that he was going to take his life. Joshua took antidepressants for approximately nine weeks prior to his suicide. In the weeks after my son's death, I was concerned about the medication I was taking for my depression as my vision was becoming increasingly bleary. I decided to look into the possibility of this being a side effect.

Upon reading the medication guide, I discovered the "black box warning." The Food and Drug Administration (FDA) directs that it be included in a prescription package insert and contain the necessary information to prevent serious adverse events which are essential in patient decision making and drug effectiveness. I was shocked to find such serious risk-versus-benefit information pertaining to young adults under the age of 25 tucked away in the box and probably never read by most patients. Amazingly, there was no directive to this vital information on my son's bottle of medication. My son's bottle of medication said, "Take with food or milk and may cause dizziness." I equate the "black box warning" with information found after plane crashes. Unfortunately, the plane has crashed for our family and for many others, given the statistics. My son was never given the patient medication guide, and because of the lack of this vital information, we, the family, never knew what to look for or the risk involved until months after my son's death.

Joshua exhibited all of the side effects listed in the medication guide as to clinical worsening; however, the information came too late to assess or to monitor him properly. It is hard to put into words the impact of the loss of my son. Joshua was an identical twin and left behind his brother Aaron, who was, and continues to be, impacted in his unique way. Losing my son in such a tragic manner is haunting every second of every day.

In my packet is a map of the United States from the Office of Suicide Prevention. On the second page it states that Nevada has the second highest rate in the nation for suicide, which is double the national average. Suicide is the sixth leading cause of death for Nevadans and the third leading cause for youth ages 10 to 24 years. My second illustration, which is labeled 1B, is from the Food and Drug Administration's website. It is an enlarged version of a "black box warning." The box at the top is the "black box warning" for the specific antidepressant which my son was taking. I have highlighted the part of the warning which states, "Patients of all ages who are started on antidepressant therapy should be monitored appropriately and observed closely for clinical worsening, suicidality, or unusual changes in behavior." Families and caregivers should be advised of the need for close observation and communication with the prescriber.

I have included a letter from the Food and Drug Administration which is dated May 2, 2007, less than a month before my son died. It warns about the increased risks for suicidality among young adults ages 18 to 24 years old, and mandates the pharmaceutical companies to update their "black box warnings" for the increased risk of suicidality. This research is ongoing.

In the packet, there is a portion of a transcript from a meeting presided over by Associate Director Dr. Paul Seligman in Washington, D.C., which is dated Tuesday, June 12, 2007. I read the entire 287-page transcript dealing with problems with patient medication guides. In the second paragraph on page 14 it says:

On the other end of the spectrum, we are also aware that sometimes medication guides are not getting into the hands of patients as intended. A 2004 FDA study of 5,000 randomly selected pharmacists examining their knowledge of risk minimization tools, found that 29 percent of the pharmacists were not familiar with medication guides.

In December 2005, in this very room, the FDA held a meeting on risk communication and whether FDA materials were actually finding their way to patients. Testimony and study results

presented at that hearing documented circumstances where medication guides were not being distributed. Comprehensibility and ease of understanding of medication guides is essential to their success. . . .

From 2003 to 2008, I was legal guardian over the person and estate of my disabled mother who is now deceased. With all of my many meetings with her caregivers and health professionals, I was never advised as to the "black box warning," and she took several of the medications that contained the "black box warning."

I have received and sent many letters regarding the issue to make warning labels more prominent. The letter from Senator Harry Reid dated April 4, 2008, stated:

You wrote specifically about antidepressant labeling. In 2005, the FDA mandated a "black box" labeling change for antidepressant drugs, warning that their use could increase the risk of suicide in children and adolescents. In May of last year, the FDA ordered pharmaceutical companies to update the black box warning about an increased risk for young adults aged 18 to 24. The FDA defines "labeling" as inclusive of all written, printed and graphic material that may accompany a prescription. In the case of antidepressants, the FDA directs that the "black box" warning be inserted at the beginning of the prescription package insert.

I took note of your concern that many consumers may not be aware of this warning, as well as your ideas about making such labeling more prominent. While I am unaware of any legislation currently pending in the 110th Congress to address this change, please be assured that I will keep your thoughts in mind should I have the opportunity to consider any related bills.

My son Joshua leaves behind a love for life and an identical twin brother with a bond that baffles scientists and gives us a glimpse of the miracle of life. He leaves behind a military career which he aspired to have; his one and only girlfriend who he intended to marry; his love of animals; and his favorite pet, our dog named Zimba. He leaves behind a large family which includes four generations and hundreds of cousins who reside in our great state. We will be looking to you, our legislators, for direction.

I would like to speak not only as a parent but also as a consumer. In our state, consumers are becoming more proactive in their own healthcare choices and expectations to be informed. This is evident for every age group. When we entrust our lives to professionals, we have a duty to give our input and our insight related to our experiences especially when lives are at risk. I have great concern about our many veterans returning from war, as a vast majority fall into this 18 to 24 age group, and many will be taking these medications. We have a duty to ensure that we give them our best as they have sacrificed so much. Sharing my tragedy today was not an easy endeavor for me. Losing my son is the most difficult thing I imagine I will ever endure. It is my hope that another adult patient caregiver or parent will receive the tools necessary to make an informed decision regarding their medication.

Chairman Conklin:

On behalf of the Committee, we appreciate your testimony and are deeply saddened by your loss. Are there any questions from the Committee? There are none.

Senator Maggie Carlton, Clark County Senatorial District No. 2:

The Senate Commerce and Labor Committee amended the bill. We heard a number of concerns about the technical difficulties there would be in the original bill about age and colors of labels and other issues like that. We took those to heart after hearing the testimony that you just heard and the statement of an expectation to be informed, and came up with the reprint that you have before you. The only opposition we had in the Senate was from the Retail Association of Nevada. There are others in opposition now, but they did not express that opposition in the Senate.

I see this as an issue of information. The label that is on the front of the prescription bottle that sits on the kitchen counter, on the top of the refrigerator, on the bathroom vanity, or on the nightstand is going to have a warning on it. It is going to let everyone who comes in contact with that bottle know that this drug may have some very serious side effects. Information is power when it comes to pharmaceuticals. When you get a "black box warning" now, it is a pamphlet that is in the bag. What do you do when you go home? You walk into the kitchen, you pull the bottle out, and the bag goes in the trash. If it is not a new prescription, most people will pull the other stuff out of the bag, give it a cursory glance, and then it is gone. The other people in the household have no idea of the serious nature of the drug. I do not think we are talking about an unreasonable expectation of information for the consumer of the drug and everyone else who is in the household.

The pharmacy my family uses has come up with a label that shows typed warnings on the bottle. I see no undue impact to the pharmacies and the people who deal with this to have their computer type on the label that this is a "black box" drug—beware. I think it would serve everyone in the family due notice that they need to pay attention. It will give them the idea that the drug is dangerous.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Settlemeyer:

The worst part about suicides is the second guessing by the survivors. Have other states considered this? Some doctors worry that if a patient read the entire packaging information, he might choose not to take the medication which could be detrimental. Have other states found that it has done more harm than good?

Senator Carlton:

I believe Nevada will be the first state to do this. Nevada could be number one in something that I think is very important for our consumers. I do not think that putting the warning on the bottle is anymore dangerous or anymore of a deterrent to taking the drug than it would be to have the doctor describe the drug or having a "black box warning" inserted into an envelope. I think there are many stages of information, and I do not believe that argument would apply only to the labeling on the bottle. I think that argument applies to the moment the doctor has the discussion with the patient to take the drug.

Assemblyman Horne:

Was there testimony in the Senate on the standard operating procedure when these drugs are prescribed? I do not know what drugs fall into this black box category, but when I had my knee replacement and my physician prescribed OxyContin, he explained exactly what it was and what the dangers of taking it were. When I got it at the pharmacy, the pharmacist explained it to me again, and this was in addition to the label page in the prescription. Is that standard operating procedure?

Senator Carlton:

I think the only discussion on that issue is basically the prescription part of it. You said they reviewed it with you, but did anyone else in your household have the same information that you had? I think that is what this is getting to. I will look over my notes and refresh my memory on the standard operating procedures. I do not remember having any medical professionals in opposition

to the bill, but I will pull the file on that. The goal is to have everyone in the household know about the drug.

Assemblyman Horne:

I guess it begs the question about the extent of knowledge that everyone in your household should have on your medication. There may be things that adults would not want their children to know about their medications. Are we moving into an area where we are requiring everyone in your household to know everything about your medication, beyond the fact that you are taking it?

Senator Carlton:

No, that is not what I meant. This is purely an informational thing. If you have someone who is suffering from some type of mental illness or another condition, who may be prescribed a drug that could be dangerous, they may not be the person who can make the rational decision to share the information with their family. By having this warning on the bottle, it would allow the other family members to know that this is a black box drug, and has been designated by the FDA to have serious side effects. You may want to investigate a little further and watch your loved one a little more closely so that if something did arise, the family can be more aware. The original pamphlet may have been thrown away. This is just a warning to say "pay attention."

Assemblyman Anderson:

One of the questions that has come up since the bill came from the Senate is the Health Insurance Portability and Accountability Act of 1996 (HIPAA) rules. I am well aware of the disclosure documents. How do we balance the responsibility of the individual versus the other members of the family? I want to keep my medical condition private. I may share it with one member of the family, but not the entire family. By proceeding in this fashion, are we potentially doing more harm than good? We want people to get the medical help they need. By putting this label on the bottle, will that open to others information that we do not want them to know about our overall condition?

Senator Carlton:

When we look at the system as a whole, the warning is already going in the bag and could be available if you leave it sitting out. The goal behind doing this was to let the other family members know. If there is something you would not want known, you would put it where they could not see it, but hopefully one person would know. I know it is hard to balance, but when you are dealing with a drug that has such significant side effects, allowing the people around you to know that something may go wrong is important.

Assemblyman Anderson:

It is a difficult issue.

Senator Carlton:

We struggled with it, but we all felt the need to do something. This is what we thought was the best information to get to the public and to protect the public.

Assemblyman Anderson:

Did the HIPAA question come up on the other side?

Senator Carlton:

I cannot say whether it did because the hearing was so long ago. I would not want to misrepresent it. If this "black box warning" pamphlet is going in the bag, I see the notation on the label being not different from the bag. It is still information that is being shared in print.

Assemblyman Anderson:

That is the relationship between the patient, the pharmacist, and his doctor. The patient usually gets to choose with whom he wishes to share the information. We are concerned about the laws relative to HIPAA and making sure that your health information is not public even though the warning is in the bag.

Senator Carlton:

When I was trying to find a good balance I looked at the other warnings. It is going to have the name of the drug and the dosage on it. It is not going to have what you have it for. On the warning label it is going to say, "take with food or drink, do not drink, do not operate heavy machinery, pay attention to this drug." I see it as a simple warning. It does not say why you are taking the drug. It just says this is a serious drug.

Assemblywoman Kirkpatrick:

I get information when my adult children go to the doctor because they are on my insurance. I am curious about what happened with Ms. Braegelmann.

Teri Braegelmann:

My son lived at home. He was not on my insurance. He was an adult, and I was not privileged to know his diagnosis until I received his medical records as the administrator of his probate. However, I think the warning on the prescription bottle is important for the patient. I was a patient on antidepressants after my son died and did not know about the "black box warning." My son disclosed that he was taking the medication. When he was experiencing clinical worsening, that information would have been vital and, in

my opinion, could have prevented his death or at least would have given me important information to assess and monitor him. That information is directed to the family members and caregivers in the "black box warning". I had no directive when I looked at his bottle of medicine that such serious side effects existed.

Assemblywoman Gansert:

Senator Carlton, are you thinking the entire black box should be on the prescription bottle or just the warning?

Senator Carlton:

If you look in the reprint, we are talking about saying, "warning: review black box warning information or black box warning." It is just saying this is a "black box drug," review the warning. We just want them to know there is a "black box warning" and to investigate further.

Assemblywoman Gansert:

I am concerned about the confidentiality. Will people understand what a black box warning means? I know you are trying to make it generic so people know they need to be concerned and follow it. The number of words you put on the bottle needs to be limited, and people need to know to look.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Senator Carlton:

If the Committee is uncomfortable with the wordiness of the warning and comes up with a more abbreviated version, that would be acceptable. We want to make sure people get the information.

Chairman Conklin:

Are there any additional questions? There are none. Is there anyone else to testify in support? Is there anyone to testify in opposition to S.B. 168 (R1)?

Elizabeth MacMenamin, representing the Retail Association of Nevada, Carson City, Nevada:

I understand the feelings this mother brings to the table. However, in the Senate I discussed our concerns with this legislation. Our first concern is confidentiality and HIPAA regulations. Adult patients are not required to let you know what medications they are taking. The "black box warning," or the "box warning" as the FDA corrected me, was never intended for consumers. The information for the consumer came from the prescriber and from the pharmacist. If you look at the actual "box warning" that the FDA provides, it is

meant for a physician or a pharmacist. Most people would not understand the wording in the "box warning." It was never intended for that. I spoke to the FDA within the last couple of days and was informed that they would be happy to talk to the Chairman of the Committee.

There is a study at the Institute of Medicine being done on the standardization of medical labels. We are talking about complicating the prescription bottle in Nevada with more information while the federal government and the Institute of Medicine are looking at ways to standardize it. In the information I gave you ([Exhibit J](#)) on page 4 it says:

Why is a standardized label needed? Clearly, one reason is to increase patient understanding. Another reason is because of the inconsistency across states in the information on the prescription drug label.

Chairman Conklin:

Is the "box warning" in your handout what is typically provided in the prescription information?

Elizabeth MacMenamin:

This is not what is provided to the patient. What is provided is clear concise language that the FDA has determined that you need to have to understand the drugs that you get. For the over 400 drugs that come under this classification, there is a specific piece of paper that is issued from the pharmacy to the patient. It is not in this language, but it is in layman's language. If the patient chooses to share that information with family members or whoever, it is up to him.

Chairman Conklin:

Who gets this document?

Elizabeth MacMenamin:

This is for the physician and the pharmacist to understand that with the drug that they are considering to prescribe, they need to spend time with the patient, and counsel the patient on risk. That is one of the issues we talked about. We want to make sure the doctors and pharmacists are doing counseling. In the State of Nevada, pharmacists have one of the best counseling laws in the United States. They document that they have counseled the patients. The only loophole that we might look at is to make sure the doctor has counseled the patient on some of these drugs.

Chairman Conklin:

Is your opposition to the bill that this warning be distributed, or is your opposition to an additional label?

Elizabeth MacMenamin:

My opposition is to both. An additional label would serve no purpose now. I do not believe there is anything that is going to bring this information to the patient or family member's attention. This is information that was never intended for the patient.

Assemblyman Horne:

Are you saying that the sheet of information that comes in the prescription bag is not the "box warning" information that we are talking about today? You said it was not for the patient; then why are they including it?

Elizabeth MacMenamin:

The information that is given to the patient is the "box warning" in language for a layman. It is not called a "box warning" when it is included with the patient's prescription. It is a separate piece of paper, and the FDA has determined the content of the language for the patient. It is so patients will understand the risks and benefits of the drugs they are taking.

Assemblywoman Kirkpatrick:

I thought last session we passed a bill that allowed for the prescription label to have what the medication might do. If you were a curious person or an emergency medical technician you would know what the drug was used to treat. Did we do that last session?

Elizabeth MacMenamin:

I have some recollection of that, but it is not printed on the label now.

Assemblywoman Kirkpatrick:

I believe the effective date is coming soon for that and the label will have that information. I thought we did that so other household members or care providers could know what the drugs do. Maybe that would solve some of our problems.

Assemblywoman Gansert:

Does this bill require that the actual document that came in the box be inserted into the envelope?

Elizabeth MacMenamin:

I am confused about what it is that is going to be included.

Assemblywoman Gansert:

I have looked at those documents, and there are chemical formulas that are not understandable to a lay person. You have to have all of the disclaimers when you receive your medications.

Chairman Conklin:

Are there additional questions from the Committee? There are none.

John Sande IV, representing Medco Health Solutions, Reno, Nevada:

My client is a distributor of pharmaceutical medicines nationwide. This would impose quite a burden on my client to make sure that this was accurately labeled. There are 400 drugs which are required to have warnings accompany them. There is not a method to flag the drugs at the labeling stage. That happens more at the packaging stage. We would have to rework all of that to distinguish drugs that were being sent to the State of Nevada. We would support standardization of the labels at a national level. I believe that there would be a significant cost to this which would ultimately add to the cost of the already-rising prices of medication. Before we add different labels, we should be sure of the benefits. I think it would be unlikely that I would share the information with my parents, and that is the point of the HIPAA laws.

The benefit of having this label on the prescription bottle is not going to get to the family members for the reason the sponsors want. Additionally, the label is long, and, as a lay person, I do not know that I would understand what a "box warning" was until I started looking into the issue. I have spoken to several doctor friends who know exactly what it is. They indicated to me that the reason it was there is so they can tell the patient about the warnings before they prescribe a drug. We want to foster the doctor-patient relationship, allow them to have candid conversations, and not push the burden on the family to determine treatments. I do not know if many parents could find the information about the warning. I do not know whether this bill will resolve what we hope it will.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Atkinson:

Was there any discussion in the Senate about how much and what was going to be on the prescription bottle? I am very concerned about how much we can put on a bottle.

John Sande:

We did not testify in the Senate; however, we explained our concerns to Senator Carlson. There is in statute a list of things that have to be included. Most of them are included on the white label. This will be another label, and it is a concern. There was some data that also discussed the effectiveness of warnings when additional warnings are included. Studies have shown that the more warnings there are, the less likely the warning is going to be heeded by the patient.

Assemblyman Atkinson:

On the second page of this bill, on lines 25 and 26, where it says, "WARNING: Review boxed warning information included with this prescription." Is that what is going to be on the bottle?

John Sande:

Yes, it is my understanding they will want language stating that.

Assemblyman Atkinson:

Will the information be on the bottle anyway? I read that information and throw it away. What is it doing if the paperwork is not included?

John Sande:

That is true. It stresses the importance of the initial conversation between the patient and the doctor.

Chairman Conklin:

Are there additional questions from the Committee? There are none. Is there anyone else wishing to testify in opposition to this bill? Is there anyone wishing to get on the record in the neutral position?

Carolyn Cramer, General Counsel, State Board of Pharmacy, Reno, Nevada:

The Nevada Board of Pharmacy is deferring to the Committee but has a few comments for you to consider. "Black box warnings" are from the manufacturer to the practitioner to be considered prior to prescribing or dispensing medication. They have never been intended to be given to the patient. It is difficult to understand the information, and it takes a considerable amount of education to understand it. We ask that you remember that in deliberating. Providing "black box warnings" to patients without appropriate discussion with healthcare professionals will potentially deter patients from taking very necessary medication.

Several members have talked about risk and rewards of medication. If some information was given and not understood by the patient, that patient may not take the medication. A few of you have mentioned some of the dire warnings that have been placed on medications, and you questioned if you would take the medication. Nevada pharmacists have counseling requirements, and they do a very good job. We could amend the present counseling regulations to specifically include "black box warnings," do additional regulatory work toward continuing education on that subject, and get further clarification. If the Committee is uncomfortable with actually going forward with the labeling requirement, that may be something we could focus our efforts on, which would help. The Nevada Board of Pharmacy regulates dispensing practitioners. There are approximately 250 doctors who have the legal authority to dispense medication. There are no counseling requirements on their practices. We could adopt regulations to require them to counsel their patients specifically on "black box warnings."

There is the issue of the logistics of trying to paste another label on the label. The only things required under the *Nevada Revised Statutes* are the alcohol warning and the "if you do not know what it is contact your doctor" label. Some of the stickers that you see may be placed by pharmacies pursuant to policy. The only thing actually required is the alcohol label, but all that additional information is required by statute. Something else to consider in your deliberations is what is on the prescription itself and what is counseled between the pharmacist or doctor and the patient that is confidential by state law. You have opposed that law. If you are going to consider having it opened, you should realize that you have already put laws in place to make sure that prescriptions and the information contained in them are confidential. We are neutral on this bill and realize it is difficult. We did not participate in the hearings on this bill in the Senate.

Chairman Conklin:

I think everyone here is compelled to deal with the issue, and I am not sure we are convinced that this bill gets to the heart of the issue. The heart of the issue is that there are some drugs that it would be helpful if other people knew what the side effect was, because the person taking it may not know. Even if he knew there was a potential side effect, it is highly likely he is not going to identify the problem in himself. He is going to choose to take the drug or not. You said an effective way of dealing with that might be through regulations. Maybe the regulation should be that when you counsel a person about taking this drug, you should let them know that they should tell a family member or somebody that there is a potential side effect. Is that currently done?

Carolyn Cramer:

That could be one of the considerations that a pharmacist addresses. The current regulation in *Nevada Administrative Code* (NAC) 639.707, subsection 2, lists some of the things they can go over. You can go over relevant information. There was one that had special directions and precautions for preparation, administration, and use of drug or device by the patient, common side effects and interaction, contraindications, and techniques for patient or care provider to monitor drug therapy. Those are things pharmacists can go over with a patient. Whether or not the patient chooses to share that with a family member is the patient's right. That has been deemed to be a confidential matter between the patient and the pharmacist.

Chairman Conklin:

I am aware of the privacy issue, but the term you are using is "can go over." I am asking if it is necessary to make certain that they do go over it when there is a potential that it could be incredibly harmful?

Carolyn Cramer:

In the things that are included in the "shall" list, that is not specifically listed. It could be specifically enumerated, and we could put regulations for dispensing practitioners to have to go over that. An additional 250 dispensers would have to come into conformity. If you are not certain that you want to go forward with the "black box warnings," it is something the Nevada Board of Pharmacy could consider and add by regulation. That is another opportunity to look at the same issue with a different approach.

Chairman Conklin:

Would you need a statute to do that?

Carolyn Cramer:

If you want to give direction, we could certainly do that, but we do have the counseling regulation and the law is in place. It is a matter of whether or not the Board would want to specifically enumerate that, or if there was something sufficient already in place. Presently we have nothing for dispensing practitioners, so we would need to adopt regulations, but we do license them, so we already have regulatory authority over their practice. That would be a matter of adopting regulations.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Horne:

Are you suggesting that there be instructions to physicians and pharmacists when they counsel the patient to encourage them to share the information with a family member or loved one? Would they have to add that to their admonishment?

Carolyn Cramer:

It could be done.

Chairman Conklin:

That is how I was thinking. Everyone thinks differently about this. Depending on what it is, you may not choose to share this with a parent or a spouse. The fact that someone tells you the importance of someone knowing who can observe you increases the likelihood that you will share it. That may be what we are trying to get at without violating any of the federal statutes that preempt us from providing that information.

Carolyn Cramer:

Your own statute that you enacted says this information is confidential. It would give patients an additional heads-up, and if they wanted to share this information, they could.

Chairman Conklin:

Are there any additional questions from the Committee? There are none. Is there anyone else to speak from the neutral position on S.B. 168 (R1)? I will close the hearing on S.B. 168 (R1).

We will open the hearing on Senate Bill 119 (1st Reprint).

Senate Bill 119 (1st Reprint): Revises provisions governing massage therapists.
(BDR 54-162)

Ernest E. Adler, representing the Board of Massage Therapists, Carson City, Nevada:

We are in favor of Senate Bill 119 (R1). I will go through the bill section by section. In section 2, it prohibits utilizing photocopies of licenses as licenses. This has been a problem because people have tried to utilize a photocopy to pretend they are massage therapists when they are not. We are encouraging people who have multiple practice locations to take the actual license with them as cosmetologists do. In section 4, it prohibits advertising as a massage therapist unless you actually are a massage therapist. On page 4, it says the Board may issue a cease and desist order for someone who is practicing massage therapy without a license. This is currently an implied authority that

the Board has and this would make it an actual authority for the Board. There has been some confusion about what a cease and desist order looks like. It is a simple letter from the Board saying you need to stop practicing massage therapy because you are not licensed under the Board.

In section 4, subsection 6, paragraph (b), it says the Board may disconnect a telephone of someone who is advertising as a massage therapist when that person is actually practicing massage illegally. This is a provision taken from the Contractor's Board. Section 5 has to do with sexual activity and violence. In those instances, the Board may impose very substantial fines which are proportional to the amount of money that some people are making in illegal prostitution and is why those fines tend to be very high. In section 7, it allows for a written administrative citation. This is also an implied authority at this time, but this would actually permit it under the statute. They have 15 days after this citation is issued to correct whatever action is correctable once they receive the citation.

On page 6, it sets fines for unlicensed activity. This was an important amendment added in the Senate which greatly reduced the fines. The minimum fine is only \$100, which I believe is one of the lowest fines of any licensing board for unlicensed activity. It was felt that there are people who engage in activities without being aware they are practicing without a license. The idea was to keep the fines minimal. In section 8, it states a person may request a hearing in front of the Board when a citation is issued. In section 11, it talks about keeping the original license where the practice is being done. In section 14, there is additional language about how the citations are to be issued. In section 15, it talks about a temporary suspension for up to 60 days when there is a direct threat to the health, safety, or welfare of the public. This may be an instance where a massage therapist has a communicable disease and it is necessary to shut them down immediately. This allows the Board that emergency authority.

On page 11, it states that if there is a crime of violence or prostitution, the Board may suspend the license without a hearing and shut them down pending a hearing. That does occur with some frequency in Las Vegas where an establishment is a prostitution establishment. It is usually law enforcement that goes in first, and the Board would be secondary. If somebody in that establishment has a license, the license would be removed immediately. On page 13, it reiterates that you cannot advertise as a massage therapist unless you are licensed.

You will hear some opposition to the bill which we heard in the Senate. Many of the people are upset that the Legislature passed this bill in 2005. Some were massage therapists who have since dropped their licenses and are upset that they have been cited for not keeping their licenses current. The Board's opinion is they need to enforce the licensing laws. It is not an option to be licensed if a person is actively practicing massage therapy.

Chairman Conklin:

Does your ability to disconnect telephones include cell phones?

Ernest Adler:

I do not think we would be able to disconnect cell phones. This does what the Board wants because it is the people who advertise in the yellow pages as licensed massage therapists, but who are not licensed. That is what we are trying to get at. We cannot do much about cell phones or out-of-state cell phone numbers. It is not as big a problem as people who have paid for advertisements that falsely designate that they are licensed.

Chairman Conklin:

Do we allow any other Board to do this?

Ernest Adler:

The Contractor's Board has done it for decades. That was suggested by the Legislative Counsel Bureau as a remedy for people who are illegally advertising.

Chairman Conklin:

The fine for a first violation states that an administrative fine of not less than \$1,000 and not more than \$50,000 will be imposed.

Ernest Adler:

That is for acts of prostitution or acts of violence which are both criminal and civil violations.

Chairman Conklin:

A criminal violation gets jail time, a civil violation gets a fine, and on top of that you are asking to have a maximum fine for a first offense of \$50,000. Why do you not just pull their license?

Ernest Adler:

They would pull their license as well. The reason that fine is so high is that if someone is actively engaged in prostitution, they may easily be making \$25,000 a month.

Chairman Conklin:

Do the criminal and civil statutes already take care of that?

Ernest Adler:

This is the civil statute. In terms of the criminal statute, the problem is that in most counties if someone is charged with prostitution, the District Attorney usually plea bargains it down to something else which is a misdemeanor with a minimum fine. There really is no incentive to stop engaging in that activity. In reality there is not a substantial fine on the criminal end.

Chairman Conklin:

This seems awfully large. It reads, "if the Board finds that a licensee has engaged in or solicited sexual activity during the course of practicing massage on a person or has been convicted of a crime involving violence." If you had said the licensee has been convicted of doing those things, I might understand, but you are saying, "if the Board finds." What authority does the Board have to determine that? What criminal proceedings will take place to say that you have engaged in that behavior?

Ernest Adler:

They have the right to a full-blown hearing in front of the Board with an attorney, if they choose, to present evidence. There is another part which refers to the police reports that may be generated by a police agency. Those reports have a lot of detail in them. The arresting officer will be brought in to testify, as will other witnesses, just as in a regular criminal case. It will be a full hearing and they will only issue those types of fines if they find that this has happened. These are referrals generally from the police department. The Board would not do this on its own. The police would come to the Board with a complete police file to say that this person has been engaged in a pattern of prostitution and is one of your licensees, and you need to do something to stop this activity. A lot of the prostitution charges in Las Vegas and other cities are reduced to misdemeanors, which means the fine just becomes the cost of doing business. This tries to reduce that possibility. Since we have had the Massage Therapy Board in Nevada, the rate of licensed therapists committing crimes has plummeted about 75 percent. It has been working, but I think this would work a lot better.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Settelmeyer:

If a licensee engages in this activity, why not say a licensee or someone who is unlicensed, too?

Ernest Adler:

There is only so much the Board can do in terms of going after people. The unlicensed activity is people practicing massage without a license, not the criminal activities and violence. We do not want this to become so broad that anybody that is in an escort service who engages in prostitution ends up in our jurisdiction to fine. That is more than the Board can handle.

Assemblywoman Kirkpatrick:

A fine of \$50,000 seems high. What is the justification for it, and how many fines have you assessed more than \$10,000 in the past ten years?

Ernest Adler:

The Board has only been in existence since 2005. There have been zero fines over \$10,000. The highest fine ever assessed was \$1,000.

Lisa O. Cooper, Executive Director, Board of Massage Therapists, Reno, Nevada:

To date we have probably assessed 10 or 12 fines. We turn the money back to the state.

Assemblywoman Gansert:

In section 16, it says that if you have a listing in the phone book it is a misdemeanor. One of the big problems is unlicensed people advertising as massage therapists. I wonder if this is where it needs to be strengthened because if you put your number in a phone book, it is a misdemeanor, but it is still there for a year. If it is a cell phone number, you cannot disconnect it. I was concerned about removing a license for 60 days, but it could take 60 days to have the hearing. I was concerned about that because they had not been proven guilty of anything, but they lost their license which could put them out of business.

Ernest Adler:

They can request an expedited hearing before 60 days. Those are in public safety situations where someone has committed a crime of violence or is an imminent threat to the health and safety of other people.

Lisa Cooper:

When we get information that a massage therapist has done something illegal, we can give them a cease and desist notice and suspend their license for 15 days. The problem with that is it takes us 30 days to notice them to get to a Board meeting. If we let them sign a waiver, an attorney would not allow them to sign it. Once we get notice, we have to give the Las Vegas Metropolitan Police Department 15 days to get the records into their department so I can subpoena them. I subpoena the records, and they have another 15 days to get them back to me. Then we have to notice the person for a hearing. These are people who are arrested by a police agency, not people who are working without a license.

Assemblywoman Gansert:

It does not say that they have been arrested. What are the issues that you are trying to address so that we make sure that it is strong in those areas? Maybe there are other things that have unintended consequences that should not be here.

Lisa Cooper:

The 15-days language is already in our statute. We are asking for it to be raised to 60 days. Currently, we send them a letter that says they have 15 days that they have to stop working. They send us back their license. We count 15 days and then mail their license back. It is not a deterrent and does not help us. We still have another 45 days until we can bring it to a hearing. We are looking for the 60-days language to give us the number of days we need to get the licensee, the arrest records, and comply with the open meeting law.

Assemblywoman Gansert:

In section 15, 30-days language is being changed to 60 days, but if they are arrested, you go from 15 days to 60 days, so there are quite a few variations in this.

Lisa Cooper:

Depending on what has happened.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wanting to testify in support?

**Brian O'Callaghan, representing Las Vegas Metropolitan Police Department,
Las Vegas, Nevada:**

We have a problem in Las Vegas, and the massage places bring in a lot of human trafficking. A business has an owner who has massage people who work for them. Clark County, with our Special Investigations, goes out to do compliance checks. If the business hires people who are not licensed massage therapists, or we find there is prostitution on those arrests, it is forwarded to the Board of Massage Therapists. We work hand in hand. It keeps a legitimate business working properly, and it is safe for our community.

Chairman Conklin:

I think the issue is the administration of justice and whether or not the Board should have the authority, without a proper trial, to decide if a person is guilty and to impose a \$50,000 fine. That is problematic. There are places where we do not allow a judge to impose that kind of fine. We agree there is an issue and are glad that you and your department work closely with the Board. There is a delicate balance between making it safe for patrons and allowing the good people to continue to operate as well as administering justice to those who violate the law. There is also the administration of justice to those who may not be violating the law but have been entangled. That is the balance to be struck.

Brian O'Callaghan:

In Clark County everybody has to be licensed. There was a situation several months ago in Carson City where there was an inappropriate act of touching. There was an investigation, and he was being sought by four or five other states, but they never caught him because he was never fully investigated when he applied to get his license through the Federal Bureau of Investigation or other states.

Ernest Adler:

If you want to reduce the \$50,000 fine, that is fine with the Board. The amount was taken from the Contractor's Board and other statutes.

Chairman Conklin:

Are there any questions from the Committee? Are there others in support of S.B. 119 (R1)? Is there anyone wishing to testify in opposition to the bill? There are a lot of people signed in, and I would prefer to have one or two people represent everyone.

Patricia Patton, Private Citizen, Reno, Nevada:

I am speaking for myself, several other people in this room, people who had to leave, and people who could not be here. [Read from prepared testimony ([Exhibit K](#)).]

We also feel that this bill will have a financial impact on a Board that has not yet operated out of the red and has a forecast of a sizable deficit in the next fiscal year.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

How will we be reassured that this problem is going to be addressed next session? Do you have a commitment from the Senate that someone will reintroduce the bill?

Patricia Patton:

We do not; however, we are making ourselves available to work with the Board and will attend Board meetings to work out something that will make everyone happy.

Assemblyman Anderson:

Have you had that opportunity before? Are these new issues?

Patricia Patton:

Until we got in trouble in February and started contacting other massage therapists, we did not know anything about S.B. 119 (R1). It was not on their website, and at the time we found it, my attorney advised me to stay away from the Senate committees. He said, "Do not testify until you have your license in your hand."

Assemblyman Anderson:

Do you realize that we do not put bills on the website for the Legislature until they are introduced?

Patricia Patton:

Yes.

Vice Chairman Atkinson:

Are there any other questions from the Committee? There are none.

Bridgette Dolgoff, Private Citizen, Reno, Nevada:

I got involved with a lot of the alternative bills including S.B. 119 (R1) by accident ([Exhibit L](#)). I am an alternative practitioner, not a massage therapist. Many of us were removed outside of our offices, outside of the Board's jurisdiction, and given cease and desist orders. There are a lot of legal issues going on, and we have been testifying wherever we can, but it does not seem like anybody cares what has happened to us. Janine Hansen helped us, and I submitted a copy of the actual testimony ([Exhibit M](#)) she gave in the Senate against the bill. One of her issues was about the fines and the fact that people would not have due process against this Board. The Board would be police, judge, and jury. Another issue is that anyone could get placed on a list, so if someone has a vindictive attitude against you, what keeps them or the Board members from posting you on a public list like Craig's List and saying that you are advocating prostitution? We see that as a big problem.

I submitted my affidavit about what occurred on January 15, 2008, ([Exhibit N](#)), which includes the cease and desist order which was mailed to me. Since I was outside of their jurisdiction, my legal counsel was surprised that it was mailed to me. I also submitted an affidavit from Mary Rini ([Exhibit O](#)) who was the landlord who did the forced evictions for the Board out of fear. Our contracts with her were disturbed and her center is closing due to all that has gone on. Other centers and businesses have also undergone activity with the Massage Board. I severely oppose the passage of S.B. 119 (R1). I think it is wrong. I do not think a massage board should be policing. The police department should deal with the issue of prostitution. The Board has operated outside of their jurisdiction. There are 35 of us who will be filing a lawsuit against the State of Nevada and the Board of Massage Therapists and its members for their illegal activities. I urge you to look at the testimony given on April 10 for public comment. There were about 30 people who testified against the illegal activity and behavior of the Board. There was an attorney who said they are 100 percent liable, and if we chose to sue, they would have a serious situation on their hands. I would advise that there be a lot of investigation done before this bill passes this Committee.

[Ann Lysight submitted an affidavit ([Exhibit P](#)).]

[Tina Marie Wener submitted a statement ([Exhibit Q](#)).]

[Timothy Glenn submitted a signed affidavit ([Exhibit R](#)).]

[Cheryl Blossom submitted a notarized statement ([Exhibit S](#)).]

Vice Chairman Atkinson:

Are there any questions from the Committee?

Assemblywoman Kirkpatrick:

The one problem I see with our boards is that they do not do enough. I think this bill goes way too far. The Board has to be involved in the process because their job is to make things safer and better for everybody. I am not defending this bill, and I think \$50,000 is ridiculous. I do not know what that is going to solve. I thought there were civil penalties that local jurisdictions could use. I know that Clark County is trying to get some civil penalties. What would your suggestion be to help the Board correct this problem? This is a big bill with a lot in it.

Bridgette Dolgoff:

Someone needs to let the Board understand their legal parameters because in the last year they have clearly overstepped them. I think they need to be led in a more proactive way towards what their legal guidelines are. Once that is established, there is a possibility of giving them more power or helping them to write a bill that would be more proactive. As a young Board, they need to get collected, work under their parameters, and then decide what they are going to do about prostitution. You cannot just go after advertising. What keeps them from accusing the average person of being a prostitute, whether or not they are licensed?

Assemblywoman Kirkpatrick:

One of the problems in this bill is that it does not say they are targeting people who have already been arrested and have already been a problem.

Bridgette Dolgoff:

It does not say that at all. It does not say that they are not going to come after new people. They could accuse you of anything and have you arrested.

Assemblywoman Kirkpatrick:

Just keep this focused on your testimony and your ability as a massage therapist.

Bridgette Dolgoff:

I am not licensed by them because I am an alternative practitioner and outside of their jurisdiction. They removed me from the premises and forced my landlord to do it. They are operating outside of their jurisdiction. All of the affidavits submitted explain that. This has been happening to numerous people all over the state. We are not talking about massage therapists. We are talking about the Board not staying within its own parameters.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else to testify in opposition?

Michele Quevedo, Private Citizen, Reno, Nevada:

I am a massage therapist in the State of Nevada. I have been a massage therapist for 14 years. I understand there is a difficult situation regarding prostitution, particularly in Las Vegas. I acknowledge this and want this Board to be able to clean that out of our profession. We have worked too long to elevate our profession to something respectful only for it to be torn down by a profession that does not promote us.

I would like to share my experiences with you. On February 14, 2009, I was on the Board's agenda in response to a cease and desist order which I was handed. My business partner received one also through the mail and contacted the Board to see what it was for. The answer was that we were practicing without licenses. That confused her, and she said we were licensed. We got no help and could not reach the field officer who had served the orders. At this point we were panicking because we had a full schedule of work. Some massage therapists may not be financially capable of doing this, so being handed an order of this degree is very scary and they do not know what to do. Thankfully, we had the means and resources to hire an attorney to help us. Our issue was about continuing education units being in question. We were not told not to work while this was pending. Later, we were told not to work while this was pending. The issue at hand was that we were not able to get on the Board's agenda for the following week until we procured an attorney. It was mentioned that no attorney would allow an individual to sign a waiver to not allow him to prepare for 30 days, but we would have had to wait 60 days to meet before the Board to find a resolution. The economic impact of 60 days without work does not need an explanation.

The power that S.B. 119 (R1) gives to the Board is not clearly defined. It is not clearly defined that it is just for massage therapists. I am concerned that something I may have done due to a clerical error or a misunderstood issue might get me caught in this dragnet again, be fined, and have to pay for the investigation. It was mentioned that an individual could also request an emergency meeting at any time. That is true, but that is over \$2,000 that an individual would have to pay for that meeting. There is a great economic impact with this, and we ask that you allow us to redefine some of the language in S.B. 119 (R1).

In section 8, it talks about waiting 60 days. That is a concern for us as are the fees. The fees are lowered for non-massage therapists but not for legitimate massage therapists. I heard the testimony and can understand the compelling issues the Board has to deal with, but why the tiers? I applaud this Board for trying to clean up prostitution. My main concern about S.B. 119 (R1) is that we get caught in this dragnet because it is so broad as to the punishments and the citations. One of the most disturbing aspects is the language in section 8, subsection 3, which states, "The citation shall be deemed a final order of the Board and not subject to the review by any court or agency." This disturbs me.

Another issue is in section 7, subsection 1, paragraph (c), which forces people who are given citations—whether they are found guilty of noncriminal offenses or not—to pay the cost incurred by the Board to investigate each violation. I found this disturbing. If you are given a speeding ticket, you are not handed a bill for the police officer's salary. I am very concerned in these economic times that massage therapy professionals may be affected this way. I do not yet have the confidence in this Board. Maybe the Board can give us the confidence that misdemeanor issues and these types of punishments will not be imposed on us. That resolution can be easily found.

That is why we request a delay of S.B. 119 (R1). There were many requests for an investigation. None of it has gone through the process, but the powers will be expanded with the passage of this bill. There is a concern that if given a bigger hammer, more issues may arise. We do not want this Board to be a liability to the state.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wanting to get on the record in opposition?

**Rebecca S. Gasca, Public Advocate, American Civil Liberties Union of Nevada,
Reno, Nevada:**

I signed in as neutral on this bill, but would like to change that for the record. We testified in the Senate on this bill and offered the same amendments ([Exhibit T](#)). At the hearing, Mr. Adler and the Committee agreed to the amendment. I was not able to attend the work session, and I understand that the amendments we offered were lost in the shuffle of the bigger issues. The amendments are cleanup language on due process standards. We do not have a problem with the intent of the bill. All of the amendments suggested by us are in bold print. It specifies that rather than the cease and desist orders being valid the day on which it was mailed, that it be three days after the date it was mailed because in the interim they would be technically violating the law.

We believe these amendments would preserve the critical due process rights of the individuals.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to testify in opposition? Is there anyone wishing to testify in the neutral position?

Dr. Robin Huhn, Executive Director and Secretary, Nevada Chiropractic Association, Las Vegas, Nevada:

We are here to get some clarification on this bill. Many of our members and nonmembers have massage therapists in their offices. We need to know if a massage therapist has any violations in a doctor's office, is it the doctor who is responsible for the fines, the cease and desist order, and the loss of the phone number, or is it the massage therapist?

Ernest Adler:

It would be the licensed massage therapist because they are the ones who hold the licenses.

Robin Huhn:

Each city has its own laws and regulations regarding massage therapy. In some cities if a person is an employee and does not have a business license, he has to have a massage therapy license. If he is an independent contractor, he has to have both. My concern is if the massage therapist is an employee, is the doctor held liable for any violations?

Chairman Conklin:

I do not know how the doctor would be held liable for anything unless he knowingly and willfully referred patients to someone who is in violation. Legal agrees. It would not matter what the license was.

Ernest Adler:

Before we had the bill in 2005, Clark County licensed massage therapists both as a business and a profession. After that, if they needed a license they would have both. If they were in a medical group which had a general business license, that would cover everyone in the group. If the massage therapist does anything wrong, he is the one who is individually responsible.

Chairman Conklin:

Is there anyone else wishing to testify in the neutral position? We will close the hearing on S.B. 119 (R1).

We will open the hearing on Senate Bill 197 (1st Reprint).

Senate Bill 197 (1st Reprint): Revises provisions relating to the reissuance of certain prescription drugs. (BDR 39-804)

Senator Valerie Wiener, Clark County Senatorial District No. 3:

I appear before you today to seek your support of S.B. 197 (R1). This measure revises provisions relating to the reissuance of certain prescription drugs. In the original version of Senate Bill No. 327 of the 72nd Session, I provided that particular institutions would have the option to engage in a second use of unused drugs. They could provide them for one subsequent use only within their institutions. The institutions included mental health facilities, facilities for skilled nursing, facilities for intermediate care, and in institutions or correctional facilities for incarcerated felons. In the original measure I included an option to give them to a nonprofit, which was amended out. I am asking you to consider reinstating this based on the times and the needs of the people we serve. The bill before you is a first reprint which addresses one statutorily designated entity that was in the original bill and which was omitted in drafting. That is the Department of Corrections. The amendment includes corrective language, and I am glad we revisited this because we were not in compliance. I know that everybody abided by the law, but the statute did not provide for that. We had references in the original bill in 2003 for a particular level of controlled substances. We are not allowed to do that to comply with federal law which prohibits the reissuance of a controlled substance. This measure will take care of that. The amendment also includes a reference to adding Corrections back in. It was not my intention to leave them out.

A lot has changed in the past six years since I introduced legislation that allows for a one-time reissuance of a prescription or pristine drug. These are medications that are either in a blister pack or in a vial that is in pristine condition. In current law, these are reissued within the facilities. There is a very strict standard to ensure that these retain their pristine state and are unadulterated in the second issuance. Because of the economic times, it is important that we maximize the use. The measure I have before you would allow us to let these particular institutions work collaboratively with nonprofits that have dispensing pharmacies and meet all of the standards required by the State Board of Pharmacy. The requirements are strict, and the participants will be allowed to work together for the donation to qualified nonprofits. They can then dispense, based on prescription, to those who need the services of the nonprofit. In 2003, one of the rural hospitals wanted to bring to the Committee what they had to throw away in a month to show how much waste there is. They were willing to bring an oversized, heavy-duty garbage bag stuffed to the brim to show the waste. It is my hope that we allow one more opportunity for

these particular institutions to dispense these drugs, which are not controlled substances. This would allow people who may not be financially able to acquire their needed medications to access their medications. For this reason and many others I urge your support.

I have been approached with another amendment to address liability that all parties agree to. There is an amendment from the Nevada Justice Association, but it is not quite accurate, so it will be changed. It is my understanding that the amendment language that was utilized in two other bills dealing with cancer drug donations would be appropriate for this bill as well. I seek your support of S.B. 197 (R1).

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone wishing to testify in support of this bill?

Carolyn Cramer, General Counsel, State Board of Pharmacy, Reno, Nevada:

We have been working with Senator Wiener on this measure. The Pharmacy Board stands in support of it. We asked that the controlled substances be taken out of it. We are in support of the measure and ask that you pass it.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Elizabeth MacMenamin, representing the Retail Association of Nevada, Carson City, Nevada:

We worked closely with Senator Wiener as she was drafting this language. The industry totally supports this. There are drugs that can be used for people who need them. We ask the Committee to look closely at the bill, and we look forward to working with the Nevada Justice Association on their amendment.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Rocky Finseth, representing Pharmaceutical Research and Manufacturers of America, Las Vegas, Nevada:

The Pharmaceutical Research and Manufacturers of America (PhRMA) is in support of S.B. 197 (R1). We have seen the proposed amendment from the Nevada Justice Association. It is PhRMA's position that, as long as the amendment mirrors the language that was contained in Assembly Bill 213 which Assemblyman Anderson worked on relating to cancer donation programs, we are supportive of the forthcoming amendment.

Stephen H. Osborne, representing the Nevada Justice Association, Reno, Nevada:

We do have an amendment ([Exhibit U](#)), but it does not exactly mirror the changes in Assembly Bill 213, so it will be changed again. With the amendment, we support the bill.

Chairman Conklin:

Can you explain what the amendment does?

Stephen Osborne:

The amendment says the pharmacy, medical facility, health clinic, or provider of healthcare which exercises reasonable care in the acceptance, distribution, and dispensing of a cancer drug is not subject to criminal or civil liability. It also says the manufacturer of a cancer drug is not subject to civil or criminal liability for any claims.

Chairman Conklin:

We will look forward to the language when it is prepared. Is there anyone else wishing to testify in support of S.B. 197 (R1)? Is there any opposition? Is there anyone to speak in a neutral position? We will close the hearing on S.B. 197 (R1).

[Marla McDade Williams, Bureau of Health Care Quality and Compliance, Department of Health and Human Services, submitted written testimony ([Exhibit V](#)).]

We will open the hearing on Senate Bill 207.

Senate Bill 207: Revises provisions relating to unlawful discrimination in places of public accommodation. (BDR 54-738)

Senator David R. Parks, Clark County Senatorial District No. 7:

The Nevada Legislature passed Assembly Bill No. 5 of the 22nd Special Session four years ago. It revised the existing state policy which declared the right of all people to have access to places of public accommodation without discrimination. In addition to race, color, religion, and national origin, the Legislature added sexual orientation to that list. Section 2 of S.B. 207 adds sexual orientation to the list of prohibited acts of discrimination in places of public accommodation. Assembly Bill No. 5 authorized the Nevada Equal Rights Commission to investigate cases of discrimination based on sexual orientation in places of public accommodation. Their authority in these types of discrimination cases was limited to investigation and not enforcement.

Section 3 of S.B. 207 authorizes a person who believes he has been discriminated against based on sexual orientation to file a complaint with the Commission.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Morgan Baumgartner, representing R&R Partners, Reno, Nevada:

We do a lot of advertising for the state, Las Vegas, Clark County, and the resort entities there. We believe Nevada has always been an open community that welcomes people of all varieties. We market to different demographics and believe this is an important piece of legislation which allows us to market to these groups and to backup our marketing efforts with laws that say that people who made a choice with respect to their sexual orientation are welcome here. We are a state that respects peoples' personal freedom and the choices they make. We welcome and are respectful of all people. We urge your support of this very important piece of legislation.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Robert A. Ostrovsky, representing the Nevada Resort Association, Las Vegas, Nevada:

We would like to stand with Mr. Parks to support his bill. This sends a message to our nation and the rest of the world that Nevada is an open state in terms of accommodations. We would be happy to have any members of the public join us in the experiences that our hotels offer. We have no problem with expanding the enforcement rights of the Commission. If we have individual businesses that choose to discriminate in this way, we believe it is appropriate that they be taken before the Commission. I cannot urge you strongly enough to support the efforts of Mr. Parks in passing S.B. 207 as a good advertisement for the image of this state.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone wishing to testify in support of S.B. 207?

Gary Peck, Executive Director, American Civil Liberties Union of Nevada, Las Vegas, Nevada:

Our organization has been involved in working on all of the legislation that Senator Parks discussed, dating back to 2005. I believe this should be a noncontroversial bill as a matter of fairness but also as a matter of sound policy that is good for the state's economy. This is a bill that should enjoy

broad-based and very strong support. You are going to hear proposed amendments, and we would support amending language that adds gender identity to the list of protected classes along with sexual orientation. If this Committee and the Legislature chooses to vote in support of a bill which adds only sexual orientation as a protected class, we would support that bill most enthusiastically because we think that would be an important step in the direction of inclusiveness, fairness, and smart economic policy for the State of Nevada.

Vice Chairman Atkinson:

Are there any questions from the Committee? There are none. Is there anyone else in support of this bill?

Jan Gilbert, representing the Progressive Leadership Alliance of Nevada, Washoe Valley, Nevada:

We are a statewide coalition and have been in operation for 15 years. Our goals are to work for social, economic, and environmental justice in the State of Nevada. We support laws that expand civil rights and civil liberties to all regardless of sex, sexual orientation, gender identity, or gender expression. We believe this is an important opportunity to extend basic and legal protection and rights to all Nevada citizens. We urge the passage of S.B. 207.

Vice Chairman Atkinson:

Are there any questions from the Committee? There are none. Is there anyone else to testify in support of this bill? We will hear testimony from the neutral position.

Patrick Patin, President, Nevada Stonewall Democrats, Las Vegas, Nevada:

I am the sponsor of the gender identity or expression amendment ([Exhibit W](#)). Nevada Stonewall Democrats is a statewide grassroots organization working to expand civil rights protections to the lesbian, gay, bisexual, and transgender (LGBT) community here in Nevada. I would like to defer to Jane Heenan for her testimony.

Jane Heenan, Private Citizen, Las Vegas, Nevada:

I am a marriage and family therapist (MFT) and adjunct instructor at the College of Southern Nevada. I self-identify as transgender. As part of my professional work, I have had the privilege of getting to know hundreds of transgendered persons and have been a committed community activist since the late 1990s. I would like to thank Senator Parks and the Resort Association for bringing this bill. I am here to testify in support of the amendment provided by Patrick Patin to add gender identity and expression to S.B. 207. Currently, public accommodation laws include transgender persons in 13 states, including

New Mexico, Colorado, Oregon, Washington, California, Hawaii, Minnesota, Iowa, Illinois, New Jersey, Vermont, Rhode Island, Maine, and the District of Columbia. Nearly 100 local governments have also done so according to the National Gay and Lesbian Task Force. About 40 percent of the United States population lives in a jurisdiction with a law already in place.

I want to address the "bathroom issue" that has come up as part of the conversations about this bill. As a licensed MFT, I can testify as an expert who has worked for several years with victims of assault. The greatest risk for persons to experience such assault is among family members and friends, not in public places by anonymous perpetrators. Further, public accommodations protection laws include transgender persons in 13 states and the District of Columbia. There is no evidence that transgender persons have assaulted others as the result of providing these essential protections. San Francisco police have no reports of assaults on nontransgender women in bathrooms. Opponents of human rights bring up the so called "bathroom issue" to scare and intimidate. Such demagoguery emerges from misinformation, and those who would be swayed by such arguments bear some responsibility for the outcomes for Nevada's transgender citizens. Xenophobia has consequences for human beings. In 1995 an emergency medical team in Washington, D.C. delayed treatment to a transgender woman who was in a car accident. As team members laughed, her condition worsened, and she eventually died from her injuries.

In Boston, a study found that many homeless shelters for women will not accept transgender women and most men's shelters will not accept transgender women unless they wear men's clothing. Here in Las Vegas, earlier this year a United States Army veteran who happens to be transgender was denied access to any local homeless shelter. I personally have encountered many persons who have experienced such outcomes over the years. In Chicago, from 1995 to 2001, 35 percent of public accommodation discrimination cases reported to an advocacy organization included cases where police, hospitals, or paramedics did nothing to help or harassed the transgender person; 23 percent of the cases involved schools, museums, or libraries; 19 percent involved a store, bar, or restaurant; and 15 percent involved a public shelter or facility. In 2003 in San Francisco, more than one in three respondents experienced discrimination in public accommodations. Most commonly, victims were denied access to gender-specific facilities. Victims reported being denied access to bars and restaurants.

One in four respondents in the 2003 San Francisco study said that they had been harassed by police because they were perceived to be transgender. In Los Angeles in 2002, 53 percent of female to male respondents found that they

had been denied medical services due to being transgender. In addition, more than one-third reported that they needed to see a doctor within the last year but did not because of actual or perceived discrimination. Providing protections on the basis of only sexual orientation will not protect gay and lesbian and bisexual persons who are visibly different. It will only protect those who look and act straight. The established pattern in the United States is that protections were first provided on the basis of sexual orientation with a promise to come back later to add gender identity and expression. The problem is that it takes 10 to 20 years to do so. Passing a sexual-orientation-only bill is not enough and leaves tens of thousands of Nevada citizens at grave risk. I urge you to support an amended S.B. 207.

Chairman Conklin:

Are there any questions from the Committee? There are none.

Patrick Patin:

I would like thank Senator Parks and the Nevada Resort Association for supporting this well-intentioned piece of legislation. It would extend protections to homosexuals, bisexuals, and even heterosexuals, but as explained in the previous testimony, the bill in the current form extends no protection to the transgender community. Our organization in good conscience cannot support legislation that extends protections to some in our community while denying protections to others. It is for this reason that we cannot support S.B. 207 as introduced and have proposed amending the bill using the language from Assembly Bill 184 to make it fully inclusive.

I believe that the message that passing this bill would send to the country is not that all citizens are welcome here and all members of the LGBT community are welcome. I believe the message that it will send is that only some members of the LGBT community are welcome here. I would urge the Nevada Resort Association, our friend on many issues, and the Harrah Corporation, who has extended very inclusive benefits to the transgender community, to support my amendment and work with me to find wording that would make this bill much more inclusive. There are many areas this legislative session where the Legislature is going to have to compromise, such as schools, education, and energy, but the principle that each Nevadan should be equally protected under the law should not be compromised.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Anderson:

Did you propose this amendment in the Senate?

Patrick Patin:

I did propose this amendment in the Senate, and I believe it was not accepted by certain individuals who were pushing this bill.

Assemblyman Anderson:

Do you realize that if we accept this amendment it would go back to the Senate, and if they did not agree, the bill would die?

Patrick Patin:

My organization believes that we would rather see this bill fail in its current form and come back next session to work together for a fully inclusive bill. I believe it is wrong for one group of our society not to have certain rights. It is like a parent choosing one child over another.

Chairman Conklin:

Are there others in support of the bill as is? We will turn to the opposition.

Lauren Scott, Executive Director, Quality Nevada, Reno, Nevada:

I submitted prepared testimony ([Exhibit X](#)), and I support the amendment because there are a lot of issues that relate to transgender people. Low income transgender people have a difficult time finding work, so most of them rely heavily on public services such as library access, homeless shelters, and medical care. Without this in place, most of these people will be denied access to these critical facilities that improve the quality of their lives. Many people in many states have been turned away from homeless shelters and left to be beaten in the streets or to freeze to death. This bill will allow access to those facilities.

Chairman Conklin:

Are there any questions from the Committee?

Assemblyman Atkinson:

When you said you are in favor of the bill as amended, did you mean the amendment just proposed?

Lauren Scott:

That is correct.

Chairman Conklin:

Are there any additional questions for Ms. Scott? Is there anyone else to speak from a neutral position?

**Maureen Cole, Assistant Administrator, Nevada Equal Rights Commission,
Reno, Nevada:**

As Mr. Parks described, A.B. No. 5 created some apparent inconsistencies between *Nevada Revised Statutes* (NRS) Chapter 233 and Chapter 651. Because of those apparent inconsistencies, our agency asked the Attorney General's Office for a formal opinion. We received the Attorney General's Opinion 2005-11 on December 21, 2005, in which the Attorney General made two conclusions. (1) Pursuant to the powers granted to it in Chapter 233 of NRS, the Commission may accept and investigate charges of discrimination based upon sexual orientation in places of public accommodation; and (2) If after investigating such a complaint the Commission finds there is sufficient evidence to establish a violation, only the remedies outlined in Chapter 233 of NRS are available to resolve the complaint. In Chapter 651 of NRS those remedies are not available to the victim.

The differences between those two statutes' remedial provisions are that, under Chapter 233 of NRS, the Commission may issue a cease and desist order and may seek enforcement of the order if the party fails to comply. Those are the only remedies available under Chapter 233 of NRS. Conversely, under Chapter 651 of NRS, the victim may file a complaint with the Commission or may initiate a civil legal action in state court. The court may award any equitable relief it deems appropriate, including preliminary and permanent injunctive relief, actual monetary damages, and attorney's fees and costs. Additionally, under Chapter 651 of NRS, individuals are also protected from retaliation for having filed a complaint, for having participated in the investigation of a discrimination complaint, or for having opposed a discriminatory practice. Those practices are not available under Chapter 233 of NRS.

The current laws create a two-tiered system of justice for remedying discrimination in which some victims of discrimination are afforded more comprehensive remedies than others. The Commission sees problems in that approach in terms of due process and equal protection. Since we received the Attorney General's 2005 opinion, the Commission has applied that logic and reasoning to all of the inconsistencies in the various statutes we are charged to enforce. Some have argued that Chapter 233 of NRS is merely a statement of public policy that speaks to the state's ideals but does not confer any specific right to file a complaint or have a case investigated. The Commission rejects that argument based on one of the Attorney General's opinions and their reading of NRS 233.157, which states specifically that "the Commission shall accept any complaint alleging an unlawful discriminatory practice over which it has jurisdiction pursuant to this chapter." Senate Bill 207 will help alleviate some of the confusion in this area of our state's law. We are urging your favorable consideration.

Chairman Conklin:

Are there any questions from the Committee? There are none. Is there anyone else wishing to get on the record at this time on S.B. 207? We will close the hearing on S.B. 207.

ASSEMBLYMAN ATKINSON MOVED TO DO PASS
SENATE BILL 207.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

Are there any questions or concerns from the Committee?

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY, BUCKLEY,
CHRISTENSEN, AND OCEGUERA WERE ABSENT FOR THE VOTE.)

Is there anything else to come before the Committee? Is there any public comment?

The meeting is adjourned [at 4:17 P.M.].

RESPECTFULLY SUBMITTED:

Earlene Miller
Committee Secretary

Denise Sins
Editing Secretary

APPROVED BY:

Assemblyman Marcus Conklin, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: May 1, 2009

Time of Meeting: 1:05 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|---------------|----------------|-------------------------|---|
| | A | | Agenda |
| | B | | Attendance Roster |
| S.B. 72 (R1) | C | Chris Ferrari | Letter of Support |
| S.B. 49 (R1) | D | Dave Ziegler | Work Session Document |
| S.B. 91 | E | Dave Ziegler | Work Session Document |
| S.B. 129 | F | Dave Ziegler | Work Session Document |
| S.B. 335 (R1) | G | Dave Ziegler | Work Session Document |
| S.B. 339 (R1) | H | Dave Ziegler | Work Session Document |
| S.B. 168 (R1) | I | Teri Braegelmann | Outline of Testimony |
| S.B. 168 (R1) | J | Elizabeth MacMenamin | Supporting Documents |
| S.B.119 (R1) | K | Patricia A. Patton | Prepared Testimony |
| S.B. 119 (R1) | L | Bridgette Dolgoff | Prepared Testimony |
| S.B.119 (R1) | M | Bridgette Dolgoff | Transcript of Janine Hansen's Testimony |
| S.B.119 (R1) | N | Bridgette Dolgoff | Affidavit |
| S.B.119 (R1) | O | Mary Rini | Affidavit |
| S.B.119 (R1) | P | Ann Lysight | Affidavit |
| S.B.119 (R1) | Q | Tina Marie Wener | Statement |
| S.B.119 (R1) | R | Timothy Glenn | Affidavit |
| S.B.119 (R1) | S | Cheryl Blossom | Notarized Statement |
| S.B.119 (R1) | T | Rebecca S. Gasca | Proposed Amendment |
| S.B. 197 (R1) | U | Stephen H. Osborne | Proposed Amendment |
| S.B. 197 (R1) | V | Marla McDade Williams | Testimony |
| S.B. 207 | W | Patrick Patin | Proposed Amendment |
| S.B. 207 | X | Lauren Scott | Written Statement |