

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

**Eighty-Second Session  
March 1, 2023**

The Committee on Commerce and Labor was called to order by Chair Elaine Marzola at 1:33 p.m. on Wednesday, March 1, 2023, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Elaine Marzola, Chair  
Assemblywoman Sandra Jauregui, Vice Chair  
Assemblywoman Shea Backus  
Assemblyman Max Carter  
Assemblywoman Bea Duran  
Assemblywoman Melissa Hardy  
Assemblywoman Heidi Kasama  
Assemblywoman Daniele Monroe-Moreno  
Assemblyman P.K. O'Neill  
Assemblywoman Selena Torres  
Assemblyman Steve Yeager  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

None

**STAFF MEMBERS PRESENT:**

Marjorie Paslov-Thomas, Committee Policy Analyst  
Cyndi Latour, Committee Manager  
Julie Axelson, Committee Secretary  
Garrett Kingen, Committee Assistant

Minutes ID: 321



**OTHERS PRESENT:**

Margi Grein, Executive Officer, Nevada State Contractors' Board  
David Behar, Director of Investigations, Nevada State Contractors' Board  
Chase Whittemore, representing Nevada Builders Alliance  
Brian Reeder, representing Nevada Contractors Association  
Joshua Hicks, representing Nevada Home Builders Association; Southern Nevada Home Builders Association; and Builders Association of Northern Nevada  
John T. Jones, Jr., representing Nevada District Attorneys Association  
John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office  
Erica Roth, Government Affairs Liaison, Washoe County Public Defender's Office  
Jim Hoffman, representing Nevada Attorneys for Criminal Justice  
Susan Fisher, representing Baxter International Inc.  
Elizabeth Stoll, Director, State Government Affairs, Baxter International Inc.  
Vince Hanks, Field Pharmacy Supervisor, Baxter Healthcare Corporation  
Jimmy Lau, representing DaVita Inc.  
Jessica Ferrato, representing Fresenius Medical Care North America  
Adam Porath, Director at Large, Nevada Society of Health System Pharmacists  
Elizabeth MacMenamin, Vice President of Government Affairs, Retail Association of Nevada

**Chair Marzola:**

[Roll was called and Committee rules and protocol explained.] Welcome, everybody in Carson City, Las Vegas, and anyone listening over the Internet. I will now open the hearing on Assembly Bill 22, which revises provisions governing the issuance of cease and desist orders for unlicensed activity by the State Contractors' Board. Today, we have Margi Grein, Executive Director of the Nevada State Contractors' Board, presenting via videoconference in Las Vegas.

**Assembly Bill 22: Revises provisions governing the issuance of cease and desist orders for unlicensed activity by the State Contractors' Board. (BDR 54-267)**

**Margi Grein, Executive Officer, Nevada State Contractors' Board:**

I have with me today David Behar, who is our Director of Investigations. I am here today to testify in support of Assembly Bill 22, which outlines the process the Nevada State Contractors' Board (NSCB) must adhere to when issuing cease and desist orders. The Board is required to issue cease and desist orders pursuant to *Nevada Revised Statutes* (NRS) 624.212, to any person acting as a contractor or submitting a bid without a valid Nevada contractor's license. Current law segregates the authoritative actions of the Board following issuance of a cease and desist order based on the Board's determination of a contractor's compliance. The proposed language in A.B. 22 continues this authority but in a more direct manner, which we feel will help streamline the process and better clarify potential options to address unlicensed contracting activity.

Under the single procedure set forth in this bill, the Board, regardless of the person's compliance with the order, is required to either issue an administrative citation and impose an administrative fine or report the violation for possible criminal prosecution. Following issuance of a cease and desist order, A.B. 22 retains the existing authority of the Board to consider requiring the person to submit an application for a contractor's license, or if the person is not compliant with the order, the Board is to apply for injunctive relief through *Nevada Rules of Civil Procedure*.

This bill eliminates distinctions in existing statutory procedures that are based on the number of previous violations and the value of the unlicensed work. To help set the context of this issue, the Board has issued 924 cease and desist orders over the past three years. There were no instances in which a cease and desist order was issued and the person failed to comply. In the majority of cases, the individual received an administrative citation or had their case filed with the district attorney's office for criminal prosecution, pursuant to NRS 624.700. Among these, it is estimated that approximately 90 percent reflected unlawful construction work that was either abandoned or completed with workmanship concerns noticed and reported by the homeowner to the Board. It should be noted that there have been several large commercial construction projects in Nevada where unlicensed contractors were utilized as subcontractors. Once the Board was advised of the unlicensed activity, the Board took appropriate action in the issuance of a cease and desist order to the unlicensed contractors while also issuing a citation to the general contractor for contracting with an unlicensed contractor.

Again, I would like to make it clear that A.B. 22 simply realigns the existing authority of the Board under NRS 624.212 to provide a single procedure subsequent to the issuance of a cease and desist order that is consistent with our authority under NRS 624.700 and 624.710. The Nevada District Attorneys Association (NDAA) has proposed an amendment [[Exhibit C](#)] to the bill that requires the Board, after issuing a cease and desist order for the first-time offender, to issue an administrative citation pursuant to NRS 624.341 and impose an administrative fine under NRS 624.710 in addition to reasonable investigative fees and costs. Additionally, for a second or subsequent violation or for a first violation where fraud or theft occurred, the Board is to report the violation to the respective district attorney for possible criminal prosecution in accordance with NRS 624.700. If the violation is prosecuted, the Board would be required to aid in the prosecution.

The Board would also seek to add a provision allowing for the option of criminal prosecution of a first-time offender with multiple cases and/or in cases where the victim was a senior citizen 62 years of age or older as defined under NRS 439.650.

The Board looks forward to working with NDAA and other concerned parties in amending A.B. 22. At this time, I would like to ask David Behar, our Director of Investigations, to provide you with some specifics on some cases.

**David Behar, Director of Investigations, Nevada State Contractors' Board:**

I am here today to provide testimony in support of A.B. 22. The Nevada District Attorneys Association has proposed an amendment [[Exhibit C](#)] to this bill that requires the Board, after

issuing a cease and desist order for a first-time offender, to issue the administrative citation pursuant to NRS 624.341 and impose an administrative fine under NRS 624.710 in addition to reasonable investigative fees and costs. If this proposed amendment is accepted, the Board is, again, seeking to add a provision that allows the option for criminal prosecution for first-time offenders with multiple cases or in cases where the victim was a senior citizen.

As an agency, we are entrusted with the responsibility of protecting the health, safety, and welfare of the public. I wish to highlight several examples of why the Board is seeking to include this language that would allow for prosecution of first-time offenders. In December 2022, the Board received a first-time offense complaint against an unlicensed contractor for abandoning a project involving two seniors who are ridden with a variety of significant health issues which included dementia, stroke, and severe respiratory matters. During the course of the investigation, it was learned that an unlicensed contractor received approximately \$14,000 in funds from these homeowners for the removal of mold at their residence in April 2022.

During the initial process at their home, this unlicensed contractor conducted extensive demolition throughout their property and alleged to the homeowners they had uncovered significant water leaks which needed immediate attention. As a result, this unlicensed contractor conspired with a licensed contractor to complete this work at the residence. Shortly thereafter, the licensed contractor conducted additional demolition at the location, which resulted in the residence becoming completely uninhabitable and infested with rats. In addition to the money that was paid by the seniors to the original unlicensed contractor, the senior homeowners were then pressed to pay an additional \$12,000 to the licensed contractor in hopes of having their residence ultimately repaired. Once this additional payment was received, however, both contractors completely abandoned the project and left these two senior homeowners without a livable residence. As a result of this extreme example, the two seniors were forced to move into a small casita in the rear of their property for an extended period of time. During this time, they were without the use of running water or even the necessities to accommodate their health problems. The Board took measures to try and assist these individuals during this process, and this ongoing investigation is currently being reviewed for potential prosecution.

A second example I would like to bring to your attention involved another first-time offense committed by an unlicensed contractor. In this occurrence, the unlicensed contractor entered into a written agreement with an individual who had limited mobility due to a past leg amputation in January 2022. As part of the agreement, this homeowner paid approximately \$235,848.81 to an unlicensed contractor for work that included a variety of plumbing, electrical, gas, cabinetry, painting, drywall, framing, wall coverings, and other necessary requirements.

During the course of that investigation, the unlicensed contractors significantly damaged the interior of this homeowner's residence to include the destruction of their stairwell in the house and a safety barrier of a single-person elevator that was being used by the occupant to move between floors within their home. Due to the fact that the project was ultimately

abandoned, this homeowner was then required to retain a third-party group to assist with completing additional repairs to their property that totaled close to half a million dollars. In this instance, the unlicensed contractor was issued a cease and desist order and the case was referred to the district attorney's office and is currently pending prosecution as well.

As illustrated by these examples in my testimony, the severity of significant harm and financial loss to members of the public can easily arise from first-time offenses and, therefore, the Board asks that language be included in A.B. 22 to allow for prosecution of these first-time offenders when the situation warrants such a measure.

The Board looks forward to working with the Nevada District Attorneys Association and others regarding A.B. 22. Thank you for your consideration, and I would be happy to answer any questions.

**Assemblyman Yeager:**

I am not sure if this question is for Ms. Grein or the Nevada District Attorneys Association because it does relate to the proposed amendment [[Exhibit C](#)]. Looking at the amendment, I think the first part makes sense that there would be an administrative citation and restitution would be included. On the second offense, or if it is a first violation for theft or fraud, it looks like the requirement is to report the violation for possible criminal prosecution. What if a criminal prosecution does not result from that reporting? Does the Board still maintain the authority to assess an administrative fine or fee? I am wondering what happens on the back end in a second or first involving theft, if there really is no prosecution. Is this a way the Board hands it over to the district attorney, and the decision is made there, or does the Board have the ability to do something if a district attorney declines to prosecute?

**David Behar:**

When the matter is moved over to the district attorney's office, if for some reason the prosecution is declined, we do not move forward with anything following that.

**Assemblywoman Jauregui:**

This is the third session where I have seen a cease and desist bill before Commerce and Labor. I believe the language we are actually removing from the bill was language I think we implemented in 2019. Now, it looks like you are removing your statutory authority to assess a fine on an unlicensed person who is doing work. Why would you be removing your statutory authority to fine? I think this is language that was recently added maybe two sessions ago. That is part one.

This is part two. Again, can you walk me through the evolution of what has happened over the last three sessions because we have seen this exact same statute now changed three sessions in a row. Can you let me know why the need to change the statute that we just changed last session?

**Margi Grein:**

To answer your first question, we would still have the ability under section 1, subsection 3 where it states that "After issuing a cease and desist order, the Board shall:" either issue an administrative citation or report the violation. What we are seeking to achieve with this bill is that we have the opportunity to do one or the other. Often what happens when we issue an administrative citation is the unlicensed contractor ignores that. There is no penalty. We can turn it in for collection if he does not pay that. We cannot order the unlicensed contractor to make restitution to the victims. In certain cases, we would like that ability to turn it over to the district attorney's office for prosecution. The way I interpret the bill, we would still maintain that ability to issue the administrative citation with the fines and costs.

To answer your second question, yes. When this bill was put in place in 2019, it came about because of a commercial construction project in Reno. I believe it was Assemblyman Daly who put the bill in. We worked with him on it, and we determined we would give it a little bit of a trial period to see if the bill worked. Last session in 2021, we went back to then-Assemblyman Daly and explained to him our concerns and how it was not working. There is little we can do if they do not pay the administrative citation; it is simply a fine. However, if there is a little bit more of a heavy hammer—and as some of the cases that Mr. Behar indicated, where there was going to be a criminal prosecution because in our minds this is, in a lot of cases, a crime—then that is more of a deterrent for the unlicensed contractor.

Last session, we again tried to work with the district attorney's offices, and I believe the public defender's offices, on a compromise but we were unable to achieve that, so the bill did not pass. This is similar to the bill we had in 2021.

**Assemblywoman Jauregui:**

I think that answers my question. I just wanted to make sure you still had the ability through that administrative citation to issue a fine. Maybe I am missing it, but I do not see it in here. Is there a limit to how much a person can be fined based on the citation? If that fine is collected, does that money go into the Victims of Crime Program fund?

**Margi Grein:**

The amounts of the fines issued for administrative citations is contained in the *Nevada Administrative Code*, and I believe it goes up to \$50,000. That money does not go into the Victims fund. The homeowner who hires an unlicensed contractor is not eligible for the recovery fund. Those fines go back to the state.

**Assemblywoman Backus:**

In the amendment [\[Exhibit C\]](#) under section 1, subsection 3, paragraph (a), it includes for the NSCB, as a part of the administrative citation, to include restitution. From your testimony, it sounds as if it would be preferable that the restitution go to the district attorney for handling, instead of having the Board handle that because that would obviously be separate from the Residential Recovery Fund. Is that my understanding?

**Margi Grein:**

Yes, that is correct.

**Assemblywoman Backus:**

And along those same lines with respect to section 1, subsection 3, paragraph (b) of the proposed amendment [\[Exhibit C\]](#), I noticed theft is mentioned. This may be a conversation to be had with the district attorney's office. Some of the examples you were talking about where unlicensed contractors were engaging in deals, sometimes those are quite large, and they will collect a lot of money up front and not do the work. Hopefully that is included in the theft and that could be referred to the appropriate authorities. I wanted to make sure that catchall gets in there for those first violations.

**Margi Grein:**

Yes, I would have you ask the district attorney's office for clarification on that, but I believe that is the intent.

**Chair Marzola:**

Are there any additional questions? [There were none.] We will now hear testimony in support of Assembly Bill 22. Is there anyone in support of A.B. 22?

**Chase Whittemore, representing Nevada Builders Alliance:**

We support the bill as written. I have yet to review the proposed amendment [\[Exhibit C\]](#). I will do that and follow back up if necessary.

**Brian Reeder, representing Nevada Contractors Association:**

Same testimony. We support the bill as written. We need to review the amendment [\[Exhibit C\]](#).

**Joshua Hicks, representing Nevada Home Builders Association; Southern Nevada Home Builders Association; and Builders Association of Northern Nevada:**

We support this bill. Unfortunately, there are bad actors occasionally in the industries, and we support giving the NSCB more authority to go after those bad actors.

**Chair Marzola:**

Is there anyone else in support of A.B. 22? [There was no one.] Next, we will hear testimony in opposition to Assembly Bill 22. Is there anyone wishing to testify in opposition?

**John T. Jones, Jr., representing Nevada District Attorneys Association:**

I appreciate Executive Officer Grein and the NSCB for working with us on our amendment [\[Exhibit C\]](#). We are not quite there yet in terms of an agreement, but I do think we will be able to get there.

I do want to say that over the last few sessions, we here at the Legislature have had numerous conversations about what conduct properly belongs in the criminal justice system. In 2019, as was referenced by Assemblywoman Jauregui, Assembly Bill 27 of the 80th Session was passed, and it was passed unanimously in both houses. It took first-time violations of doing business without a license in the NSCB statute out of the criminal justice system. We feel that is where those offenses properly belong unless there are fraud or theft elements present. Granted, I do not know the full facts regarding the two cases that were testified to today, but considering some of the facts we heard, I think you could make an argument that theft or fraud were present. For example, if somebody is holding themselves out to be a licensed contractor when they are not, in fact, a licensed contractor, and that induces somebody to sign a contract with them, that is fraud. If somebody accepts \$10,000 worth of a bid, and only performs \$2,000 to \$3,000 worth of work and then leaves, that is theft. We want those cases. Those cases are properly in front of the criminal justice system. The other cases are the ones that we do not feel are proper in front of a criminal justice system for a first-time violation, and that is the dynamic we are working with here. But again, I want to thank the Board for working with us, and those conversations will continue.

**John J. Piro, Chief Deputy Public Defender, Legislative Liaison, Clark County Public Defender's Office:**

We did a lot of work last session, as Mr. Jones said, to fix that. Both examples the NSCB talked about sound like crimes to me. They could have immediately been referred. Where we did see our system get clogged—and where we took it out—were those first-time violators, where you have me and Mr. Jones becoming contract negotiators. For my lawyers, I think maybe unless you do contract law regularly, then we are arguing about a term called quantum meruit. How was the work done? Was it done up to par? Where did they negotiate it? Sometimes people hire unlicensed contractors because they are cheaper. I do not do that because I want to be able to sue if the work is not done right, and I want to know the contractor has a bond so I may recoup some of the money I lost. We think the Nevada District Attorneys Association's amendment [[Exhibit C](#)] strikes the right balance in this, and we would ask the bill not be passed without this amendment.

**Erica Roth, Government Affairs Liaison, Washoe County Public Defender's Office:**

I echo the sentiments of my colleague, Mr. Piro. What was described is a crime. The only thing I am going to add this afternoon is that I want to put a story in front of you of a client and a case that was tried in Washoe County in 2022. In that case, an individual, a client, was a handyman, and he put himself out as a handyman. He was very clear to a client of his that he was not a licensed contractor, and there was certain work that he absolutely could not do. That client of his still wanted him to do it. He was capable of doing that work, and he did the work well, but he made it clear he was not going to do that work. She begged him to do that work. After he completed the work, she told him he did not do the work as a licensed contractor, and she was not going to pay him. Then she claimed he assaulted her. The entire interaction was filmed by another individual there, and that case went to trial. He was charged with a felony for assaulting an elderly person. He was found not guilty at trial, but his life was absolutely upended. He was taken to jail; he had his fifth child on the way during that time.



I put that story in front of you to remember that as the law exists right now, if a crime is committed against somebody because they put themselves out as a contractor, and they commit fraud, there is nothing right now that precludes a prosecutor from bringing a criminal case. Let us also remember that people are choosing to pay individuals who are not licensed contractors to do certain work. We would recommend adopting the amendment [\[Exhibit C\]](#) as provided by the Nevada District Attorneys Association.

**Chair Marzola:**

Is there anyone else in opposition to [A.B. 22](#)?

**Jim Hoffman, representing Nevada Attorneys for Criminal Justice:**

We are in opposition to this bill at the moment for the reasons echoed by the other people testifying in opposition. I also wanted to raise a concern. I know Governor Lombardo has talked a lot about the need to look at how we license people and make sure we are not putting up barriers to people's participation in the economy. The fact that people need to be licensed for building contracting, that is an important safeguard to make sure our homes are safe and the work is done correctly. In the spirit of Governor Lombardo's call, we need to be careful about how we do that, and we need to carefully consider whether civil sanctions or criminal sanctions are appropriate. We believe in many of these cases that criminal sanctions are not appropriate, so we are currently in opposition to the bill, although we are hoping to change that.

**Chair Marzola:**

Is there anyone else in opposition? [Technical difficulties.] We are going to move to neutral testimony. Is there anyone wishing to testify in neutral on [Assembly Bill 22](#)? We are currently having some technical difficulties, and we will recess. [Meeting recessed at 2:05 p.m. and reconvened at 2:11 p.m.]

We will go back to testimony in opposition. Is there anyone else wishing to testify in opposition to [A.B. 22](#)? [There was no one.] Is there anyone wishing to testify in neutral? [There was no one.] Ms. Grein, would you like to give any closing remarks?

**Margi Grein:**

Thank you for letting us present this bill today. We are happy to work with the other parties on a workable compromise on the amendment [\[Exhibit C\]](#) and look forward to presenting this to you at a later date.

**Chair Marzola:**

I will close the hearing on [A.B. 22](#). I will now open the hearing on [Assembly Bill 23](#), which revises provisions relating to the resolution of certain administrative citations issued by the State Contractors' Board.

**Assembly Bill 23: Revises provisions relating to the resolution of certain administrative citations issued by the State Contractors' Board. (BDR 54-266)**

**Margi Grein, Executive Officer, Nevada State Contractors' Board:**

I am here today to testify in support of Assembly Bill 23, which expands the existing process for the resolution of an administrative citation to allow individuals the opportunity to request an informal conference with the executive officer, or his or her designee, for the purpose of reviewing the alleged offense and proposed penalty. Between fiscal years 2020 and 2022, a total of 1,173 administrative citations were issued to both licensed and unlicensed contractors. Approximately five of those resulted in contested cases. Currently, *Nevada Revised Statutes* (NRS) Chapter 624 does not provide a process by which an individual can seek an informal resolution or settlement pursuant to NRS 624.351. The Nevada State Contractors' Board (NSCB) is required to hold a formal disciplinary proceeding should a person choose to contest any portion of an administrative citation.

Under A.B. 23, individuals who receive an administrative citation by the Nevada State Contractors' Board would have 15 days to request an informal conference, if desired. A requested conference must be scheduled by the executive officer or a designee within the following 60 business days. Resolution of the citation may be agreed upon during the conference, including affirmation, modification, or dismissal of the allegations. Should the citation be amended or affirmed, an individual would still have the right to contest a citation formally within 15 business days by requesting a hearing pursuant to NRS 624.345. It is anticipated that the process proposed in A.B. 23 will reduce the current number of contested administrative citations that are adjudicated through the formal hearing process, as well as reduce costs incurred by the Board and the respondents in these cases.

If passed, the Board would ask that the effective date be changed to October 1, 2023, and not upon passage as currently drafted. Additionally, I would like to note that the Associated General Contractors of America (AGC), Nevada Chapter, has approached us concerning a potential amendment to the bill, and we look forward to working with the AGC to address any concerns. At this time, I would be happy to answer any questions you may have regarding A.B. 23.

**Assemblyman Yeager:**

Forgive me, as I am not familiar with the process when these are contested citations. Here is the question. When someone contests it, are those hearings subject to the rules of evidence and all of that? The reason I ask that is I wonder if that is the case with this informal meeting that happens if you are not able to resolve it. Are there any concerns about somebody incriminating themselves in the context of what sounds like a settlement conference or maybe an attempt to negotiate? I wondered how those two work together.

**Margi Grein:**

Yes. In A.B. 23, if it goes to a hearing, then nothing that would be discussed during the settlement conference would be included in that hearing. We follow the Administrative

Procedure Act in all of our hearings, so nothing would change if it went forward with that. However, if the citation is modified during that process, we would issue an amended citation or notice of hearing if they contest it.

**Chair Marzola:**

Are there any other questions? [There were none.] I will open up testimony in support. Is there anyone wishing to testify in support of Assembly Bill 23?

**Chase Whittemore, representing Nevada Builders Alliance:**

We definitely support this concept. It is a little crazy to think that you cannot go in and request an informal conference to begin with, and we have to put this in statute. I think it is a good idea and provides another layer to go in if there was a mistake, or if the NSCB did not have all the facts on the citation to go in and request an informal conference to try to resolve it that way before having to go through a full appeal. We appreciate it and look forward to supporting this further.

**Joshua Hicks, representing Nevada Home Builders Association; Southern Nevada Home Builders Association; and Builders Association of Northern Nevada:**

We support this bill for the same reasons we talked about with Assembly Bill 22. The enforcement of NRS Chapter 624 is important to the integrity of the construction industry. This bill helps provide some efficiencies that allow the NSCB do its job.

**Chair Marzola:**

Is there anyone else wishing to testify in support of A.B. 23? [There was no one.] Is there anyone wishing to testify in opposition to A.B. 23? [There was no one.] Is there anyone wishing to testify in the neutral position to A.B. 23? [There was no one.] Ms. Grein, would you like to give any closing remarks?

**Margi Grein:**

Thank you for allowing us to bring this bill forward today. I look forward to working with the AGC if they have a proposed amendment.

**Chair Marzola:**

Thank you. I will now close the hearing on Assembly Bill 23. We will go to a recess. [The meeting recessed at 2:21 p.m. and reconvened at 2:22 p.m.] [Vice Chair Jauregui assumed the Chair.]

**Vice Chair Jauregui:**

I will now open the hearing on Assembly Bill 110.

**Assembly Bill 110: Makes revisions governing the dispensing and delivery of certain dialysate drugs and devices used to perform dialysis. (BDR 54-616)**

**Assemblywoman Elaine Marzola, Assembly District No. 21:**

Assembly Bill 110 makes revisions governing the dispensing and delivery of certain dialysate drugs and devices used to perform dialysis at a residence. This bill pertains to the delivery of home dialysis supplies and devices to end stage renal disease (ESRD) for patients in Nevada. There are 700 ESRD patients in Nevada who dialyze at home. To conduct their dialysis at home, these patients need a continual delivery to their home of various dialysis drugs, supplies, and devices. Currently in Nevada, the State Board of Pharmacy is now requiring a pharmacy that only distributes dialysis supplies and solutions to comply with the same difficult requirements as a retail pharmacy, like Walgreens or CVS, that handles controlled substances, compounds, and dispenses medications with varying safety profiles. Since the manufacturers of home dialysis supplies and devices offer a limited product portfolio and follow all quality and United States Food and Drug Administration requirements, additional retail pharmacy mandates are burdensome to the operation.

This bill would amend the Pharmacy Practice Act to allow manufacturers of home dialysis drugs, supplies, and devices to be exempted from the pharmacy licensure if they maintain control of all products for manufacturing to the patient. This bill will still require the central pharmacy to maintain any additional licenses such as a wholesale license. Susan Fisher, representing Baxter International Inc.; Elizabeth Stoll, Director of State Government Affairs for Baxter International Inc.; and Vincent Hanks, Field Pharmacy Supervisor for Baxter International Inc., will provide testimony of the bill and the proposed amendment [[Exhibit D](#)], which has been uploaded in the Nevada Electronic Legislative Information System, and answer any questions the Committee members may have.

**Susan Fisher, representing Baxter International Inc.:**

On the phone are Elizabeth Stoll and Vincent Hanks. Since Assemblywoman Marzola has given you a good overview of the bill, I will walk through the bill section by section.

Section 1 allows for dispense and delivery by a third party directly to the patient for self-administration. Section 1, subsection 6, has definitions, and there is also a friendly amendment [[Exhibit D](#)] for subsection 6. The amendment was requested by the Nevada Society of Health-System Pharmacists, and they wanted us to clarify that a dialysate drug means a drug that is not a dangerous drug, so it is safe for a patient to use at home. In section 1, subsection 6, paragraph (a), the amendment says a "'Dialysate drug' means a drug solely composed of fluids, electrolytes, and sugars . . . ." Those fluids are typically saline.

Moving on to the next part of the bill, part of section 1 also allows for third-party logistics providers to be able to transport from the warehouse to the patient the solutions and equipment. Section 3, subsection 5, paragraph (b), subparagraph (3) adds the ESRD language to the current list of bona fide and approved sales. Section 6 addresses

recordkeeping. It makes sure everything that goes from the manufacturing plant to the warehouse and on to the patients is fully recorded and provided to the State Board of Pharmacy.

I think a lot of this was already covered. Baxter has been operating with this model in Nevada for well over a decade. The recent review of statutes by the State Board of Pharmacy determined we need to have something clear in statute to say that it is all right for you to transport directly to the patient from the warehouse. Under current statute, they felt we needed to have a pharmacist on site in the warehouse to double-check that these things were going to the right patients. These are very large boxes, typically 500 to 1,000 pounds of the solutions. This is so the patient does not have to go to a hospital or clinic three times a week for the dialysis. I would be happy to answer any questions, or if there are some technical questions, we have the experts on the line.

**Vice Chair Jauregui:**

Are Ms. Stoll and Mr. Hanks only online to answer questions?

**Susan Fisher:**

Yes.

**Vice Chair Jauregui:**

Committee members, are there any questions?

**Assemblywoman Monroe-Moreno:**

To make sure I understand it clearly, this medication is not being produced in a warehouse. It is simply being packaged to be shipped to the patient, correct?

**Susan Fisher:**

That is absolutely correct. It is produced in a manufacturing plant in Illinois, and it is shipped to the warehouse in Dixon, California, that serves both the California and Nevada patients. There are 700 patients here in Nevada. I will also add this is already being done in 34 other states in some format or another. There are 24 states that exempt these warehouses from having to have an additional pharmacist on site because it is already reviewed by a pharmacist at the manufacturing plant. Another 8 states also have some special licensing for them to be able to do this without having a pharmacist on site. This language mirrors the Model State Pharmacy Act from the National Association of Boards of Pharmacy.

**Vice Chair Jauregui:**

I am just going to piggyback off what my colleague asked. Is there any way to quantify how much this will actually save Nevadans by just passing this? What will it save them monetarily by not having to go in and do the dialysis physically at a location?

**Susan Fisher:**

Could we have either Ms. Stoll or Mr. Hanks answer?

**Elizabeth Stoll, Director, State Government Affairs, Baxter International Inc.:**

I can get you the numbers on the difference of what in-center dialysis versus home dialysis costs on a broader scale as it relates to a decrease in hospitalizations, nonemergency transportation, and so on. The way it is paid for by Medicaid, it is usually paid into a bundle rate, so the actual cost of the therapy is going to be very similar. There are significant differences in medical outcomes as well as financial outcomes when people do dialysis at home versus in the center.

**Vice Chair Jauregui:**

That leads me into my follow-up question. It seems like a very cost-effective way for people to be able to treat themselves. My question is, Why is it limited to only people with irreversible renal failure? Why is it not available to anyone who might need dialysis, but it is not permanent?

**Elizabeth Stoll:**

You are correct. There are people who have acute renal failure that do dialysis, and they do dialysis at home, but it is not considered end stage because their kidneys are going to recover. I am going to call on my colleague Vincent Hanks, who is the leader of all of our pharmacies across the country. He may have a little bit of insight as to how this distribution model works when somebody is not diagnosed with end stage but more acute. Is there a differentiation, or is there a need to differentiate in the language? Is that an understood nuance within the disease state?

**Vince Hanks, Field Pharmacy Supervisor, Baxter Healthcare Corporation:**

To my knowledge, we do provide supplies for patients to perform home dialysis in an acute setting. We can amend the language so it is not only for end stage renal disease.

**Elizabeth Stoll:**

As you mentioned, it is very rare for somebody to have short-term treatment, but I do not believe there is a barrier for us to deliver to those patients.

**Vince Hanks:**

We do have patients who are only on dialysis for a short time. We do run into this situation exactly, whether they receive a transplant or recover enough. One good thing about most of our dialysis is it does preserve residual kidney function, so that option is open to them.

**Vice Chair Jauregui:**

I have one last question. Is there any dialysate that is not made up of fluids, electrolytes, and sugars? I know it was a friendly amendment [[Exhibit D](#)], and I appreciate seeing that in there. I was curious if there were different types of dialysates available on the market.

**Susan Fisher:**

Yes, there are. There are some that may have heparin or insulin in them and some other drugs that are considered dangerous drugs.

**Vice Chair Jauregui:**

This bill would only apply to those made with electrolytes, water, and sugar.

**Susan Fisher:**

That is correct.

**Vice Chair Jauregui:**

Are there any other questions? [There were none.] Thank you for your presentation. We will move to testimony in support. Is there anyone wishing to testify in support of A.B. 110?

**Jimmy Lau, representing DaVita Inc.:**

We want to say thank you to the bill sponsor and the bill proponents for making sure we are well-informed about the concept, and we log our support in today's hearing.

**Jessica Ferrato, representing Fresenius Medical Care North America:**

Fresenius supports A.B. 110 and the amendment proposed [[Exhibit D](#)]. Fresenius Medical Care provides care for thousands of Nevadans who rely on life-sustaining dialysis treatment in the state. Patients who need dialysis may have the option to receive treatment in their own home rather than at an outpatient dialysis center. Choosing home dialysis can mean greater scheduling flexibility, fewer food restrictions, and has shown strong outcomes. Home dialysis treatment can also be done longer and more frequently, which is gentler on the body, meaning patients feel better and have an improved quality of life.

Patients who qualify for home dialysis go through a rigorous training program, which includes home assessment and meetings with the patient's entire dialysis team. Once on home dialysis, patients continue regular check-in meetings with their care team at least once per month, support through a clinic, and 24/7 access to assistance should they experience issues. Depending on the type of home dialysis they are receiving, there are different drugs and medical devices that need to be regularly delivered to their homes.

Assembly Bill 110 removes the need for a licensed pharmacist to be in the warehouse when the package arrives in Nevada and removes the need for patients to go to a clinic or pharmacy. Packages will be delivered to patients as they were sealed in the licensed pharmacy in Illinois, as mentioned.

I thought I would touch on a couple of things because you asked a few questions that I think I can provide some background on. You asked about the dialysate. Some of those medications are often given to the patient separately. If you are in a clinic, it will be given separately, outside of it. Oftentimes, if those patients have more serious needs with insulin or other care needs, they will often be in an in-clinic setting.

I think the other question you asked was about acute care patients. Typically speaking, an acute care patient, when they have a sudden, blunt, acute kidney failure, is often getting that treatment in a hospital setting. Let us say they have to do dialysis for a short period of time before their kidneys recover or they are eligible for a transplant, they will often go to an

inpatient setting. Traditionally, the at-home dialysis is for patients that are tending to be on it for longer periods of time. It is a commitment to them and their caretaker to be able to do this, but it does provide substantial quality of life improvements.

I know you asked about cost savings, but for these patients, it is a very demanding treatment, and enabling them to be able to do this at home and maybe potentially travel if they want to, depending on the modality that they do, the outcomes are good from a health standpoint, as well as life quality for these patients. I am here to answer any questions.

**Vice Chair Jauregui:**

Is there anyone else wishing to testify in support?

**Adam Porath, Director at Large, Nevada Society of Health System Pharmacists:**

I have been a practicing hospital pharmacist in our state since 2006. The Nevada Society of Health System Pharmacists is supportive of A.B. 110 and the overall concept of removing barriers to patient access to dialysate medications when it does not pose a potential undue risk to patients. I appreciate the consideration of the proposed amendment [[Exhibit D](#)] to A.B. 110 that I believe better clarifies the scope of medications that would be included in the definition of dialysate drugs. Many adjunctive medications can be added to dialysates, some of which are considered at the highest risk for medication error, like insulin and the blood thinner called heparin, which was mentioned previously. When these medications are added to dialysate, it is important not to create a pathway to potentially circumvent the direct oversight of a pharmacist's review of dialysis prescriptions at all stages of the medication dispensing process in order to keep our patients safe. The Nevada Society of Health System Pharmacists believes the proposed amendment prevents a broader application of the term "dialysate drugs" to dialysate, including these high-risk additives and other dangerous drugs that can be used in association with dialysis.

**Elizabeth MacMenamin, Vice President of Government Affairs, Retail Association of Nevada:**

I called in to offer my support. I have been representing the Chain Drug Council for many years now, and in listening to the testimony on this legislation, I feel like this is much needed to free up a pharmacist from having to sit in a warehouse and rather have that pharmacist have their education put to better use by working with and caring for patients in Nevada. Oftentimes, there are different interpretations of statute, and this clarifies it for these entities to be able to provide the needed care to patients here in Nevada. Again, I support this, and our Association supports it.



**Vice Chair Jauregui:**

Is there anyone else wishing to testify in support? [There was no one.] Is there anyone wishing to testify in opposition to A.B. 110? [There was no one.] Is there anyone wishing to testify in the neutral position on A.B. 110? [There was no one.] Assemblywoman Marzola, would you like to give any closing remarks? [There were none.] At this time, I will close the hearing on A.B. 110. We will recess. [The meeting recessed at 2:41 p.m. and reconvened at 2:42 p.m.] [Chair Marzola reassumed the Chair.]

**Chair Marzola:**

I will now open it up for public comment. Is there anyone wishing to give public comment? [There was no one.] Committee members, are there any questions? [There were none.] Our next meeting will be on Friday, March 3, 2023, at 1:30 p.m. The meeting is adjourned [at 2:43 p.m.].

RESPECTFULLY SUBMITTED:

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Julie Axelson  
Committee Secretary

APPROVED BY:

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Assemblywoman Elaine Marzola, Chair

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

**EXHIBITS**

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a proposed amendment to [Assembly Bill 22](#), submitted and presented by John T. Jones, Jr., representing Nevada District Attorneys Association.

[Exhibit D](#) is a proposed amendment to [Assembly Bill 110](#), submitted and presented by Susan Fisher, representing Baxter International Inc.