

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

**Seventy-Sixth Session  
March 28, 2011**

The Committee on Commerce and Labor was called to order by Chair Kelvin Atkinson at 1:38 p.m. on Monday, March 28, 2011, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/76th2011/committees/](http://www.leg.state.nv.us/76th2011/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](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Kelvin Atkinson, Chair  
Assemblyman Marcus Conklin, Vice Chair  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblyman Richard (Skip) Daly  
Assemblyman John Ellison  
Assemblyman Ed A. Goedhart  
Assemblyman Tom Grady  
Assemblyman Crescent Hardy  
Assemblyman Pat Hickey  
Assemblyman William C. Horne  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Kelly Kite  
Assemblyman John Ocegüera  
Assemblyman James Ohrenschall  
Assemblyman Tick Segerblom

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Assemblywoman April Mastroluca, Clark County Assembly District  
No. 29

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Committee Policy Analyst  
Sara Partida, Committee Counsel  
Andrew Diss, Committee Manager  
Jordan Grow, Committee Secretary  
Sally Stoner, Committee Assistant

**OTHERS PRESENT:**

Sam McMullen, representing Astellas Pharma US, Inc.  
Cheryl Blomstrom, representing the Nevada Dietetic Association  
B Bottenberg, Doctor of Osteopathy, Carson City, Nevada  
Mary Anne Homma, Private Citizen, Fallon, Nevada  
Michele Cowee, Dietitian, Carson City, Nevada  
Karon Sande Felten, Dietitian, Carson City, Nevada  
Pamela Wagner, Dietitian, Henderson, Nevada  
Maria Gnote, Private Citizen, Las Vegas, Nevada  
Jim Jenks, Private Citizen, Washoe Valley, Nevada  
Hans Frischeisen, Private Citizen, Reno, Nevada  
Bonnie Green, Private Citizen, Reno, Nevada  
Glenn Hausenfluke, Naturopathic Doctor, Reno, Nevada  
Dene Chabot-Fence, Owner, Vitamin Villa Health Food Store, Carson City,  
Nevada  
Rene Johnson, Private Citizen, Reno, Nevada  
Hannah McIntosh, Private Citizen, Reno, Nevada  
Keith Harper, representing Las Vegas Chapter, the Appraisal Institute  
Laura FitzSimmons, Attorney, Las Vegas, Nevada  
Tami Campa, Appraiser, Las Vegas, Nevada  
James J. Leavitt, Attorney, Law Office of Kermitt L. Waters, Las Vegas,  
Nevada  
Brenda Kindred-Kipling, Appraisal Officer, Real Estate Division,  
Department of Business and Industry  
Carol Sala, Board Member, Board of Examiners for Long-Term Care  
Administrators

**Chair Atkinson:**

[Roll was called, and a quorum was present.] I would like to welcome our audience here and in Las Vegas and anyone listening over the Internet. We have several items to take care of today in our Committee. We have two bills to hear, two bills to consider in work session, and seven bills to introduce. We will start with the introductions.

The first bill draft request (BDR) is BDR 54-1115.

**BDR 54-1115**—Revises provisions governing prohibited acts for certain health care practitioners. (Later introduced as [Assembly Bill 537](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 54-1115.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

The second BDR is BDR 54-1130.

**BDR 54-1130**—Revises provisions governing the regulation of pawnbrokers. (Later introduced as [Assembly Bill 538](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 54-1130.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

The third BDR is BDR 57-773.

**BDR 57-773**—Revises provisions governing insurance. (Later introduced as [Assembly Bill 539](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 57-773.

ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

The next BDR is BDR 57-1089.

**BDR 57-1089**—Revises provisions governing the Nevada Life and Health Insurance Guaranty Association. (Later introduced as [Assembly Bill 540](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 57-1089.

ASSEMBLYMAN SEGERBLOM SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

The next BDR is BDR 52-902.

**BDR 52-902**—Revises provisions governing certain loans. (Later introduced as [Assembly Bill 541](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 52-902.

ASSEMBLYMAN DALY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

The next BDR is BDR 52-649.

**BDR 52-649**—Provides for the licensing and operation of distilleries in Nevada. (Later introduced as [Assembly Bill 542](#).)

ASSEMBLYMAN CONKLIN MOVED TO INTRODUCE BDR 52-649.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS ABSENT FOR THE VOTE.)

The next BDR is BDR 35-824.

**BDR 35-824**—Provides for the regulation of mobile billboards. (Later introduced as [Assembly Bill 543](#).)

ASSEMBLYWOMAN KIRKPATRICK MOVED TO INTRODUCE  
BDR 35-824.

ASSEMBLYWOMAN CARLTON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN OCEGUERA WAS  
ABSENT FOR THE VOTE.)

We are now going to move into our work session. Ms. Paslov Thomas will go over the first bill and then we will address questions.

**Assembly Bill 221:** Establishes provisions governing certain acts of pharmacists. (BDR 54-1015)

**Marji Paslov Thomas, Committee Policy Analyst:**

The work session is posted on the Nevada Electronic Legislative Information System (NELIS) and the first bill is Assembly Bill 221. This was sponsored by the Committee and heard on March 4, 2011.

[Read work session document ([Exhibit C](#)).]

**Chair Atkinson:**

I would like Mr. McMullen to come up and explain this, so we all understand what we are doing, since it has been awhile.

**Sam McMullen, representing Astellas Pharma US, Inc.:**

If I can, I would like to give you some background on the amendment [part of ([Exhibit C](#))] that is before you entitled "Proposed Combined Amendment." First, if the Committee will remember, the amendment is basically to clarify, or restate, existing law. After the last three weeks of dealing with this bill in the halls to ensure clarity, I have come to believe it is absolutely necessary at this point. When I finished testifying on the bill, the direction the Committee wanted us to go was for John Pappageorge and his client, Jay Parmer and his client, the Generic Pharmaceutical Association (the Generics), and me to work together. We agreed with the amendments proposed by the Generic Pharmaceutical Association and worked with them to draft the amendments. Both of those are in section 6 of the original bill, which clarifies the definitions of "therapeutic interchange," "therapeutic alternative drug," and "therapeutically equivalent drug." It will also clarify the restriction in the bill that it is not to affect, or do anything to affect, the current practices of generic substitution, which is in the pharmacy code.

The definition of "therapeutically equivalent drug" is actually the Food and Drug Administration's (FDA) code word for "generics." A therapeutically equivalent drug in the Orange Book, which is the FDA's "Approved Drug Products with Therapeutic Equivalence Evaluations" referred to in our statute, is a generic. The amendment clarifies that a "therapeutic alternative drug" is the generic term for anything that is in the same therapeutic class. It says that anything that is a therapeutically equivalent drug under the FDA list, which is the same as what we define as generics in our laws, is clearly excluded from the impact of this bill. The amendment clarifies that in a much better way, and that is why we accepted their language.

If you look at section 6, it says that "therapeutic interchange" is the dispensing of a therapeutic alternative drug. If you move to the next definition, an "alternative drug" is a drug approved by the FDA that is within the same therapeutic class. What that means is it basically has the same goal, for instance, lowering cholesterol. It is another drug that is approved for the same indication, but is not a therapeutically equivalent drug. The next definition is the Generics' language on a therapeutically equivalent drug, but it may be changed by bill drafting. I explained that to them, but we put it in word for word that, for scientific and other reasons, it would be considered a generic: same active ingredient, dosage, form, and strength. The United States defines it through the FDA as a therapeutically equivalent drug by being an "A" rated drug in the Orange Book. An "A" rated drug in the FDA book, which sometimes will have a two-letter code, signifying different delivery methods, would be a generic and excluded from the effect of this bill. That keeps my commitment that we were not going to do anything to affect generics.

After a few weeks' work, the Generics proposed an additional amendment that I could not accept because it would have presented a policy change. It would have changed the law, and I had committed not to do that. If the Generics want to do that, they can do it today. Although this language was drafted with the Generic Pharmaceutical Association, they do not approve of it. We spent time trying to match the style of Nevada's laws and to include its definitions. That is why it is a proposed combined amendment. In my opinion, it is a much better bill now and clearly differentiates between generics and what we were trying to clarify. I would be happy to answer any questions.

**Chair Atkinson:**

Thank you, Mr. McMullen, for your work on this. I know it has taken a lot of time and energy. Are there any questions?

**Assemblyman Ellison:**

You said accepting the other amendment would have changed the law. Can you clarify what would have changed? I am confused.

**Sam McMullen:**

Nevada law would have been restricted if the Generics' additional phrase had been included. The Nevada Pharmacy Code does not restrict which brand-name drugs can be changed for other brand-name drugs. That is a function of going to the prescribing physician and, for patient cost, saying there would be a better drug. Currently, there is no limitation in Nevada law. They wanted to include that it applies only to FDA approved drugs. I could not get a satisfactory explanation of what that meant so I could explain it to others. The current law was not restricted in that format so, consequently, we could not propose it here.

There are drugs called "biologicals" that are currently under review by the FDA. That was part of the Generics' concern, but the biologicals have not yet been approved. The way it reads, the biologicals will probably be part of the law when they are approved, so I did not see a need for it. If you will also notice, the definitions in section 6 relate only to drugs approved under the Federal Drug and Cosmetic Act. It is already limited by the definitions as drafted, so it was not necessary.

**Assemblyman Hickey:**

Does the second amendment include the language of the latest amendment from Mr. Parmer? You mentioned that you had talked with him.

**Sam McMullen:**

The definitions in section 6 are the reworked definitions Mr. Parmer requested, particularly the definition of "therapeutically equivalent drugs," which is the key definition for generics. These are the same as were proposed. They are drafted the way they are as a drafting convention. The first change that the Generics made in section 1 was to take out the words "therapeutically equivalent drug" and change to the words "therapeutic alternative drug." If "therapeutically equivalent drug" is not in the statute, the bill drafter will not put in a definition for that term. What I told them was that if you said a "therapeutically alternative drug" is everything except a "therapeutically equivalent drug," that would make sure the definition of "therapeutically equivalent drug" is in the statute. We all considered that a very good thing. With a couple of minor changes, it is their language.

**Assemblyman Hickey:**

Are we going to hear from anyone else regarding this?

**Chair Atkinson:**

No. We should have done that before today. Are there any other questions?

**Assemblyman Segerblom:**

The one sentence that the other side wants to put in states that this section shall apply only to drug products that have been approved by the FDA. Why is this not acceptable?

**Sam McMullen:**

Because, currently, you can exchange a brand-name drug. Let us make it clear that we are not talking about changing a brand-name drug for a generic. We are saying that brand-name drug "A" could be changed for brand-name drug "C." Right now, there is nothing in the pharmacy code that restricts the change if a prescription is changed by the prescribing practitioner, but this proposed language would have added that. I do not know exactly what that means because it was never explained so I would be able to understand the need for it. To keep my commitment that I would not submit anything that would change policy, the Generics would have to do it.

**Assemblyman Segerblom:**

So you do not oppose that; you just cannot agree to it because of your prior commitment?

**Sam McMullen:**

I do oppose it. I do not know why there is a need for this restriction. If you look at the definition of "therapeutic alternative drug" and the definition of "therapeutically equivalent drug," those are already limited to drugs approved under the Federal Food, Drug, and Cosmetics Act by the FDA. I did not understand why it is necessary when it is already there. It would have been less troubling if they had not already been talking about drugs that have not been approved by the FDA.

**Assemblyman Grady:**

You are deleting about seven sections in the bill. Would these deletions make any changes to the fiscal impact on either local governments or the state?

**Sam McMullen:**

Are you talking about the second amendment, sections 3 through 10?

**Assemblyman Grady:**

Yes, sections 3 through 10.



**Sam McMullen:**

I do not believe the fiscal impact will change whatsoever. The bill drafter put those in to maintain the status quo, and he thought that additional language was necessary. In talking to people in the building who represent insurance plans, they did not think the language was necessary or anything changed. Since they did not know what the exact invocations would be, I decided to take it out.

**Assemblyman Grady:**

So, it would still have a fiscal impact.

**Chair Atkinson:**

I am not sure where that is coming from. What fiscal impact?

**Sam McMullen:**

I do not think it would have a fiscal impact.

**Chair Atkinson:**

I am looking at it, and there is no fiscal impact.

**Assemblyman Grady:**

I am reading what is on NELIS, and it says there will be a fiscal impact on state and local governments because of the part that requires imprisonment in a county or city jail.

**Sam McMullen:**

I can answer that. It is a standard feature whenever you change a law that is the basis for a crime. Anytime there is regulated conduct that can be disciplined, as in the pharmacy code, there is a fiscal note. An unlicensed person could be guilty of a crime if he did something in the pharmacy code that he was not licensed to do. A fiscal note is common.

**Chair Atkinson:**

The fiscal note only applies if a person went to prison for violating this bill, so it is not likely. Let us hope that never happens.

Are there any other questions?

**Assemblywoman Carlton:**

This is one of those bills that the more you read it and work on it, the more confused you get. You try to figure out what we are actually trying to do here. I thought I had a handle on it the day of the hearing when you proposed everything, and the Generics folks were here. Now folks that I greatly respect

who deal with the cost of pharmaceuticals with their health plans have some serious concerns about the change in language. I have still not found the problem that you are trying to fix. I thought I had it, but with all of these changes, I am afraid we are going to do more harm than good. What is your client trying to fix in this legislation?

**Sam McMullen:**

I do not think it is fair to characterize it as if there is a problem. We have tried to make it clear that we are not saying that pharmacists or anyone misunderstands the current law. What we are trying to do is clearly restate it. Working with Bobbette Bond of the Culinary Health Fund made it clear that this needed to be rewritten like the Generic Pharmaceutical Association's amendment. In my opinion, the real value of the bill now is that it uses Nevada and FDA terms to clarify that generics will not be affected by these types of transactions. They cannot be, they will not be, and they should not be. It lines up the definitions in Nevada statute with those in the FDA and makes it very clear that generics will not be affected. Current practice is not to change.

**Chair Atkinson:**

Are there any other questions from the Committee?

**Assemblyman Kite:**

I always have a problem doing something that clarifies something that we already do. It gets more confusing than it was when we started. That is where I am right now. I do not understand the need for it if what you are trying to clarify becomes more confusing.

**Chair Atkinson:**

Are there any other questions? I see none.

I do not know how this is going to go, but is there pleasure from the Committee? Is there a motion?

**Assemblyman Ocegueda:**

I would suggest that you take it back to your Board for a while and let it marinate.

**Chair Atkinson:**

That is exactly where we are. It appears we have more questions than when we had the hearing, so we are going to do just that.

We will go to the next bill.

**Assembly Bill 273: Revises provisions governing deficiencies existing after foreclosure sales. (I 3-561)**

**Marji Paslov Thomas, Committee Policy Analyst:**

The next bill is Assembly Bill 273, which was sponsored by the Committee and heard on March 23, 2011. [Read work session document ([Exhibit D](#)).]

Assemblyman Conklin proposed two amendments, and the mock-ups are on Nevada Electronic Legislative Information System (NELIS). The first one says "Conceptual Amendment to A.B. 273," and I would like to point out the highlights. It is just conceptual, so the sections and language may not look exactly like this after it is drafted.

The first change is section 1.5 in the mock-up, which would change existing law so that a junior mortgage or lien holder must commence a civil action after a foreclosure or short sale within six months. Currently, it is six years. It also discusses single action for recovery of the debt by a mortgage or other lien holder under section 2. Mr. Conklin explained that "default" should not have been in there, so a court must not render a judgment for more than the amount of the consideration paid for that right, plus interest from the date on which the person acquired the right and reasonable costs, rather than the date of the default. Under section 3, it would remove short sale provisions.

On page 3 of this first conceptual amendment, it states, "The amendatory provisions of section 1.5 of this act apply only to actions commenced after a foreclosure sale or sale in lieu of a foreclosure sale which occurred on or after July 1, 2011."

The next amendment further changes A.B. 273. You can see that this deals with the rights of a guarantor, surety, or other obligor in real property. A new section would be added, which would amend *Nevada Revised Statutes* (NRS) 40.495. Subsection 3 would include the following:

If an obligee commences an action against a guarantor, surety or other obligor to collect or satisfy the amount of the indebtedness or obligation, prior to a foreclosure sale, the court in that action shall determine the fair market value of the property securing the indebtedness, or obligation, prior to entry of judgment and shall not render judgment for more than the amount by which the indebtedness exceeds the fair market value of the property as of the date of the commencement of the action, or the date of the foreclosure sale if concluded prior to the entry of judgment.

**Assemblyman Conklin:**

If I may, I have just a couple of quick comments on this particular bill. The first comment is on the second amendment. I have had some conversations with Bill Uffelman of the Nevada Bankers Association, who has notified me that they have some concerns over the second amendment. I do not know if there is consensus among the banking industry as a whole, but I agreed to continue to work on it. I do not know if they are necessarily opposed to the amendment as much as opposed to the language. We could not come up with compromise language that made sense. It is a fundamental issue that is being addressed. In order to have capital investment in the state, you need two actors: an investor and a bank. The bank is how you leverage the investor's money. If a person has \$5 million and wants to borrow, he can borrow significantly more than his \$5 million, but he puts up his \$5 million as guarantee. Right now, without this amendment, the bank holds all the chips in that arrangement. What the bill does is prohibit, or inhibit, investors from reengaging in the market without closing a loophole that was not intended to exist in the first place. I am sure not all banks will agree with that, and we certainly want banks since that is how investors leverage their money. What we are trying to do is create balance. So far, this is the language that I have found that creates that balance. I gave my word to Mr. Uffelman that I would continue to work with him on this.

The other issue affects both amendments, particularly all of the second amendment and the part of the first amendment that allows a six-month statute of limitations on the second lien holder after the date of a foreclosure sale. Both of those provisions need to start on passage and approval. I cannot tell if that is the case from the language because the only date I see is July 1. That may work, but "passage and approval" is important. Hypothetically, if you pass this and the Governor signs it on April 20, you open a two-month window for a flood of commencement actions from people wanting to protect their right to the longer provision. If we are going to take intelligent action, amendment 2 and the six-month statute of limitations in amendment 1 need to have language that makes them effective upon passage and approval. When the Governor signs it, it is the law.

**Chair Atkinson:**

So there is no retroactivity?

**Assemblyman Conklin:**

There is no retroactivity in this bill. It is simply all future action. We could debate this, but the retroactivity issue is a matter of contract. If Ms. Bustamante Adams and I enter into a contract, we do so under the environment of laws that we have at that time. Those laws are part of

the contract because they dictate how we draft the contract. Business does not want to operate in an environment in which laws are changed to favor one or the other party after they enter into a contract. While on one hand it may be nice to retroactivate a law, the precedent it sets is enormous and probably highly detrimental to the business environment of Nevada.

**Chair Atkinson:**

I agree with that assessment. I wanted to ensure we had that on the record because I know it came up. I think it would be a nightmare to go backwards. I appreciate that and your work.

Are there any other questions or comments from the Committee? I see none. What is the pleasure?

ASSEMBLYMAN SEGERBLOM MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 273.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Mr. Conklin will take that on the floor.

We will move to our bills now. Assemblywoman Mastroluca will present Assembly Bill 289.

**Assembly Bill 289:** Enacts provisions relating to the practice of dietetics.  
(BDR 54-871)

**Assemblywoman April Mastroluca, Clark County Assembly District No. 29:**

I bring you Assembly Bill 289, a bill to license dietitians in Nevada. As our primary care system has grown more complex and become busier, every facet of health care needs to be examined for efficiency and effectiveness. As all of you know, preventive care is the least expensive care we can deliver in Nevada and nationally, and yet some of the most beneficial. Nevada has an interest in ensuring that citizens have access to reliable care throughout our health care system. Dietitians are a key part of that delivery. It is essential that we know who is delivering information to our citizens. Dietitians practice a learned profession using scientifically sound principles to provide nutrition information in a variety of settings. These include clinics, both rural and urban; our hospitals and schools; and private practice across the state. You will hear from dietitians about their areas of practice, from a doctor who refers patients to dietitians for their important work, and from those who instruct our future dietitians.

You will also hear from a mom with children whose nutritional health has depended on the important practice of a dietitian. Dietitians are currently registered with a nationally recognized organization. We do not propose increasing the criteria to license dietitians in Nevada, but merely to accept the national registration and follow the suggested national framework for licensing. Dietitians' education and knowledge are thoroughly examined, and we believe it is in Nevada's best interest to require this level of competence to practice dietetics in Nevada.

As someone with a medical condition that is controlled 100 percent by diet, I can tell you that having access to a dietitian is crucial. I have been living with celiac disease for over ten years, and I am often called upon to help educate newly diagnosed celiacs on what they can eat. This legislation would not prevent me, or anyone else, from offering our advice on what has worked for us. I am sure that many of you have received a series of emails that raise issues, but this bill will not make outlaws out of naturalists or homeopaths. Health food stores will continue to provide food, and gluten-free chefs will continue to prepare wholesome meals. A list of health care providers currently licensed in Nevada spells out who is exempted based on this licensed practice area. The language within the bill clearly shows a difference between medical nutrition therapy, nutrition therapy, nutrition services, and nutrition information. These are all parts of the continuum of nutrition, but not necessarily subject to licensure. The bill provides allowances for people who provide nutrition information, such as health food stores, vitamin stores, and others. It does not limit choices, but serves to provide Nevadans with an informed choice for their dietetic needs. You will hear from a series of people who either practice dietetics now or are recipients of dietetic services. They will tell you how the practice of dietetics matters to them and how licensure will actually improve it.

**Assemblyman Horne:**

I wonder if someone could give us definitions and explain the difference between a dietitian and a nutritionist.

**Cheryl Blomstrom, representing the Nevada Dietetic Association:**

A dietitian is trained across a spectrum of education in a particular degree program specializing in the components of nutrition with an emphasis on clinical nutrition practice. A nutritionist is not necessarily educated to the same level. Based on information that I have reviewed, there is a mail-order business that certifies nutritionists, as opposed to a college-level bachelor's or master's degree program, an internship, and a national examination in your practice area before you are allowed to be registered, which would then translate to a license in Nevada. I believe a dietitian is better educated, but a nutritionist can offer nutrition information. This bill makes exceptions for

people to offer nutrition information itself, but not to offer medical nutrition information. The registered dietitians behind me will be able to give you more information about that as well.

**Assemblyman Horne:**

Per Mrs. Mastroluca's testimony, she would be categorized as a nutritionist if she did not have a degree or certification as a dietitian. Nutritionists do not need to have college studies. Mrs. Mastroluca says she gives advice all of the time about her gluten-free diet.

**Cheryl Blomstrom:**

Yes, that is the case. We do not want to make Mrs. Mastroluca an outlaw either, and absolutely do not intend to do that. I have actually been accepting some of her gluten-free advice. It is good information.

**Assemblywoman Mastroluca:**

With your permission, I would like to leave this in the good hands of Ms. Blomstrom and go back to the Committee that I am missing.

**Chair Atkinson:**

There is quite a bit of opposition, so we will make sure it is taken care of. Do you have any more testimony?

**Cheryl Blomstrom:**

I am here to go through A.B. 289, which provides licensing for dietitians in Nevada. As you heard, preventive care is essential to our health care system. Licensing dietitians will ensure our citizens know that the nutrition information comes from a reliable, scientifically sound source. If you pass this bill, we will adopt nationally recognized criteria to license dietitians in Nevada. We are not making it up; we are doing what a lot of other states have already done. At the request of the sponsor, we have amended the beginning of the bill by putting in legislative intent and the professional language that appears in other health care statutes.

The occupational therapists were inadvertently missed when the bill was being drafted. They have submitted an amendment ([Exhibit E](#)). Mrs. Mastroluca has accepted it, and we would appreciate if you would also accept it from Paula Berkley. She expresses her apologies; she had to go to another appointment as well.

Sections 11 through 19 create the State Board of Dietetics and enumerate its various powers. In Section 17, we made a change that mirrors other boards' statutes to require minimum quarterly reports to the Legislative Counsel

Bureau (LCB) to encompass those licensees who have been disciplined in the previous quarter.

Section 20 is the actual beginning of the licensing process. It is taken from the national registration process, so we are not requiring another set of things for the dietitians to do. Applicants need to be at least 21 years old, of good moral character, and have completed education, an internship, and sufficient experience to be examined by the Commission on Dietetic Registration, if found appropriately qualified. We have elected to use this same method to reduce the duplication of requirements, as well as to reduce costs to the Board and the Dietetic Commission. We added a fingerprinting component at the request of the sponsor to ensure that people who seek licensure in Nevada are of appropriate character. We also want to eliminate those people who have issues in other states rather than allowing them to work in Nevada.

We deleted section 25 on page 10 in its entirety after the bill came out. We heard from the diet technician community, particularly those who work in hospitals that we might cost jobs, and that is not at all our intention. Those diet techs who work in Nevada work under the direct supervision of a registered dietitian now, and that would continue. The state does not have an interest in seeing them licensed.

It is important to note, as we talk about the scope of practice for dietitians, that medical diagnosis is not a part of the scope. That is most appropriately left to the practice of other medical providers.

Section 33 contains the fees. We are still trying to wrap our arms around what it is going to look like. At the suggestion of Assemblywoman Carlton, we intend to include, and will bring back to you before your work session, a not-to-exceed range of fees so that we give you an idea of what it is going to cost. None of this comes from the General Fund. It is all borne by the practitioners.

Sections 34 through 44 set out the disciplinary proceedings, judicial remedies, and remedies available to those who are aggrieved. Sections 47 through 61 are conforming language that blends licensed dietitians into the other health care statutes. The bill phases in by implementation dates: July 1, 2011, for the rule making; January 1, 2012, for licensure of new licensees; and 2013 for those dietitians who are already practicing in Nevada to give them time should they need to acquire the additional education.



**Chair Atkinson:**

Are there any questions from the Committee?

**Assemblyman Hickey:**

You mentioned exemptions, and I did not quite catch those. I will ask a question that may relate to some of the concerns of the proponents of this bill. You mentioned earlier that certain medical claims of nutritional advice that someone might give, like the sponsor of this bill or the owner of a health food store, would not be acceptable. Do you see the bill restricting their ability to say things like certain dietary supplements might help one's medical condition? Would the bill be prohibitive of that kind of advice?

**Cheryl Blomstrom:**

Section 9 is the section on exemptions. Line 10 on page 4 talks about nutritional information and defines what is available: food preparation, food included in a normal daily diet, essential nutrients which would cover those supplements, and those products marketed by a health food store. Going back to page 3, line 44 at the bottom of the page says, "A person who furnishes nutrition information or markets food, food materials or dietary supplements and provides nutrition information related to that marketing . . . ." I think the bill exempts them; that was our intention.

**Assemblywoman Bustamante Adams:**

On page 3, section 9, line 34 says, "A student enrolled in an educational program accredited by the . . . ." Can you give me some examples, especially in southern Nevada, of some of those accredited educational programs?

**Cheryl Blomstrom:**

There is a program at the University of Nevada, Las Vegas (UNLV), and one at the University of Nevada, Reno (UNR), as well. When we are speaking about students who are engaging in the practice of dietetics, those are students who are well into their programs, and who are practicing in an internship capacity. They are required to have 1,200 hours of post-education internship before they are considered qualified to sit for the national registration exam to be tested on their ability to practice. This bill gives them an exemption to achieve those hours during the time they are practicing under the direct supervision of a registered dietitian.

**Chair Atkinson:**

Are there any other questions?

**Assemblyman Ellison:**

You said that the cost is going to be borne by the licensee. Who is going to direct and oversee the Board?

**Cheryl Blomstrom:**

The State Board of Dietetics will consist of five members: four will be dietitians and one member will represent the general public. They will direct the money and be responsible for reporting to LCB. The Board will be considered an Executive Branch board. There is a component from the Governor's Office as well; he will be doing the appointing.

**Assemblyman Ellison:**

Is there a board now that oversees medical and the dietitians? Or does it strictly oversee the hospitals and health care facilities?

**Cheryl Blomstrom:**

There is the Division of Health Care Financing and Policy, and the Bureau of Health Care Quality and Compliance through the Health Division that oversees medical facilities. The Board of Medical Examiners oversees the licensure of doctors and physician assistants. There is also the State Board of Osteopathic Medicine, which oversees the doctors of osteopathy. There is no one in the state right now that oversees dietitians.

**Assemblyman Ellison:**

I do not want to sound like I am trying to lead you the other way, but we are trying to downsize government and this seems to be adding more to the government. That is my confusion and concern.

**Cheryl Blomstrom:**

We understand your concern. We brought this bill initially before the Governor said the boards were going to be downsized. The dietitians are willing to be included with another board wherever it makes sense. We have talked about boards where there is some synergy of practice, where we are working in a clinical setting with some other board, and where the practitioners of another healing art are willing to be put together with us. We are willing to do that.

**Chair Atkinson:**

I want to clarify that Mr. Ellison is not speaking for the Committee when he says, "We are trying to downsize government." That is not "we," that is him.

Are there any other questions or comments from the Committee members?

We will hear from the people who wish to testify in favor of A.B. 289.

**B Bottenberg, Doctor of Osteopathy, Carson City, Nevada:**

I have been a practicing physician in Carson City for the past 17 years. I have worked in a clinical outpatient setting, as well as at the Carson Tahoe Regional Medical Center. I am here today in support of A.B. 289. I think registered dietitians have a valid reason to license themselves. When a friend or family member becomes critically ill—for example, because of open-heart surgery or a ruptured appendix, or a serious infection where they are rendered unable to eat or perhaps unable to breathe for themselves—we call registered dietitians to help us care for these patients. If a baby is born and is unable to eat or is otherwise seriously ill, we immediately call in registered dietitians to help us take care of these children. In critical illnesses, there is a whole team of people who take care of these patients. This team would include doctors, nurse practitioners, nurses, therapists, pharmacists, and, frequently, registered dietitians. In this setting, the physician is licensed. The nurses are licensed. They are held to a higher standard. The therapists are licensed. The pharmacists who mix the drugs and are responsible for handling these drugs are licensed. Registered dietitians in these settings are responsible for calculating protein and calorie requirements. They help us with fluid and electrolyte balances, and figure out fat and glucose metabolisms. These are the types of things I would be afraid to calculate on my own. When I do calculate these things, I am asking a dietitian to look over my shoulder.

There is confusion in the community as to who is giving advice. As an outpatient clinician, I frequently consult with dietitians for help with my patients who have medical diseases such as diabetes, chronic kidney disease, and celiac disease. Although there are other practitioners, nutritionists and the like, it is clear that registered dietitians are trained to a different level. I think that licensure will allow registered dietitians to truly distinguish themselves. I think that is important. I think it also protects the community from confusion about whom they are getting their advice from. Again, the registered dietitians that I work with truly practice at a higher level, and should be allowed to distinguish themselves.

[Both the Chair and Vice Chair left the meeting. Assemblywoman Kirkpatrick assumed the Chair.]

**Acting Chair Kirkpatrick:**

Please introduce yourselves as you proceed.

**Mary Anne Homma, Private Citizen, Fallon, Nevada:**

I am the mother of two diabetic children. I have three daughters; two of them have type I diabetes. Jessica was four years old when she was diagnosed. Registered, qualified dietitians played a very important role when we were learning how to care for her. I had to take classes before they would release her from the hospital. That was 13 years ago. Back then, we used time-released insulin, which means that we gave her two shots a day, one in the morning and one in the evening. We had to make sure she ate the same amount of food at the same time every day. It is a challenge to write down everything a four-year-old eats, and how often she wants to eat. Back then, we also counted sugar grams with the help of dietitians, who understood insulin. This became easier.

My youngest daughter was diagnosed when she was only 18 months old. It had been only four years since Jessica's diagnosis, but it came with a whole new set of rules. Endocrinologists and dietitians decided it was better for the patient to count carbohydrates (carbs) instead of sugar grams. I had no idea how to count carbs, let alone keep my children alive and well while doing it. Something many people do not understand about type I diabetes, or juvenile diabetes, is that they could die within as little as two or three days without insulin. They could also die due to too much insulin. Diet and carb-insulin ratios are vital for diabetics. We need qualified dietitians to help us.

When Jessica was diagnosed, I took it well. I thought, "I can do this." Many professionals assured us that there was only a 3 in 100 chance of having a second child with diabetes so, when Gracie was diagnosed, I felt like I had been pushed out of a plane without a parachute. I went from giving one child two shots a day to giving two children eight to ten shots a day to cover every carbohydrate they ate. For instance, Gracie gets one unit of insulin for every 16 carbs she eats. I did not need a dietitian to help me feed my family a healthy diet. I was doing that already, but when medical issues arose, I definitely needed help. I cannot express enough the important role that qualified dietitians have played in our lives.

[Chair Atkinson reassumed the Chair.]

**Michele Cowee, Dietitian, Carson City, Nevada:**

I am a registered dietitian and certified diabetes educator. I am in private practice, and my business is Sierra Dietetics here in Carson City. I am speaking as a dietitian, and as a patient who has been referred to a dietitian for the nutritional care of my then-7-month-old son.

[Read from written testimony ([Exhibit F](#)).] I ask you to support A.B. 289.

**Chair Atkinson:**

Are there any questions? I see none.

**Karon Sande Felten, Dietitian, Carson City, Nevada:**

I am on the faculty of the Department of Nutrition at UNR. I also direct the Dietetic Internship Program in Nevada, which is accredited by the Commission on Dietetic Registration (CDR) through the American Dietetic Association (ADA). I am not here to represent UNR; I am here to represent myself as a registered dietitian in the State of Nevada and testify in support of A.B. 289.

[Read from written testimony ([Exhibit G](#)).]

**Chair Atkinson:**

Are there any questions?

**Assemblyman Ellison:**

I am looking through this trying to understand all the things that are exempt and what is required if this passes. Is this generally for health care facilities, hospitals, and places that control food? Or would this include health food stores and other such places?

**Karon Sande Felten:**

As for the exemptions, we are trying to delineate who is who for the public. You may ask about the nutritionist versus the registered dietitian, but there is really no definition for nutritionist. We define the expertise of the registered dietitian. We have the academic preparation and the credentialing that is required by the CDR through the ADA so, if you go to a registered dietitian, you know she is someone who is trained in medical nutrition therapy and all components of nutrition. We are not trying to eliminate freedom of speech or information that is given out.

If you are going to send your daughter or son for medical nutrition therapy, documented licensure will ensure the most expertise. We are not saying that these other people do not have knowledge, but registered dietitians all do continuing education. Nutrition can become a slippery slope also. We are just trying to define who we are. As we have heard, we are the only professionals in the health care team who have not been licensed. We have to ask, why is that?

**Assemblyman Ellison:**

If I sent Mr. Kite into the health food store, whoever was helping him would not have to be a dietitian?

**Karon Sande Felten:**

No, not at all. Does that help?

**Assemblyman Ellison:**

Yes.

**Assemblywoman Kirkpatrick:**

Boards are always great when you agree with them. Out of the 183 boards that Nevada has, we have more complaints from those who wanted to be registered. Now, they cannot work with their board. The regulations are now out of control. Has that been discussed?

**Karon Sande Felten:**

Not that I am aware of. I do not know if anyone else has discussed this. We have had numerous informational workshops with our colleagues, and it has not been a problem for the majority of dietitians. There is always someone who does not agree, but we represent the majority of the Nevada Dietetic Association.

**Assemblywoman Kirkpatrick:**

I want to go farther than Mr. Ellison. For the record, I will say that I work within the food industry and anytime you do retail you have to have nutritional information on the back of the products that you sell. While my daughter was studying to become a pharmacist, she decided to work toward becoming a nutritionist, so she could actually pay to go to pharmacy school.

What I am concerned about is that there is a lot of terminology that says "nutritionist" in large corporations that work with food, like the school districts. "Dietitian" is not specified, and they do not ask for a "dietitian." How are the people of Nevada going to change if they do not understand the difference? The school districts advertise for a "nutritionist," but they need someone who ensures the kids are receiving the proper food and that they are meeting the criteria from the federal government. They do not ask for a dietitian; they ask for a nutritionist. The hotels also ask for a nutritionist, not a dietitian.

**Karon Sande Felten:**

For the United States Department of Agriculture (USDA), the food systems and service programs are developed by registered dietitians. I would suspect that a lot of programs have registered dietitians guiding the programs and policies at

a higher level. The USDA's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is an example. We have a registered dietitian overseeing the WIC clinics. Under the guidance of the registered dietitian, someone can be trained to offer general advice. There is a difference between going to the food store where there is information on a product label, and knowing whether it is a good product. Let me give you an example. This product has omega-3 fatty acids. The body needs omega-3 fatty acids, but there are inherent dangers to too much omega-3 fatty acids. As a dietitian, I look at that next step. There is general guidance, and there is more finely-tuned guidance.

[The Chair turned the gavel over to Assemblywoman Kirkpatrick.]

**Michele Cowee:**

In the institutions you are talking about, oftentimes people will say "registered dietitian" or "nutritionist." I have people refer to me as the "nutritionist." In my private practice, I work with Head Start and other programs. Generally, they are looking for a registered dietitian. People may understand the word "nutrition," so that may be the first thing they say. However, what those programs generally require are registered dietitians. If you look at the city, the school food program, and the health department, registered dietitians are there. Every opportunity we have, we explain the difference. "Nutrition" is not a protected term, but the term "registered dietitian" is, and it comes with all of the education behind it. I hope that helps.

**Acting Chair Kirkpatrick:**

I work with a large coffee company that produces food and has set guidelines, but I work with what is called their "nutritionist," not their "dietitian." I am wondering where each group of people finds its place. We talk about trans fats, carbohydrates, sodium levels, and all of those things, so I am concerned that we are creating more confusion.

**Michele Cowee:**

I would probably want to look at that. Most large companies like Nestle, Starbucks, or Coca-Cola have dietitians. Raley's Supermarket has a dietitian in its corporate office who disseminates information. You may not know exactly which you are talking with. Is "nutritionist" something that is more easily remembered by most people, and do they refer to their dietitian as a nutritionist? I would have to look further into that. Generally, it is the dietitians who are in these big companies helping with the trans fats and labels and ensuring these companies have all of the required information on their products.

[Chair Atkinson reassumed the Chair.]

**Assemblyman Ohrenschall:**

My question is for Ms. Cowee, or anyone who cares to answer. Right now, since there is no licensure in Nevada, if a dietitian wants to work at a hospital or a medical office, how does that dietitian prove their qualifications? Is there a national certification? How does an employer know that he is getting a qualified dietitian rather than someone who is not?

**Michele Cowee:**

To be a registered dietitian, we had to acquire the appropriate education, do an internship, and sit for an exam. We are then registered with the credentialing agency, the Commission on Dietetic Registration (CDR), and we receive a number. Prospective employers can go to that agency in Chicago and get the proof that we are who we say we are, that we have maintained our credentials, and we continue to get our education. In that way, they know they are hiring the professional that we say we are.

**Assemblyman Ohrenschall:**

If this bill passes, will licensure be more stringent than the national credentialing, the same, or how will that work?

**Michele Cowee:**

In creating the bill, we did not want to reinvent the wheel. We have a good credentialing system. We want to continue with that. We would use the information, the exam, and the credentials from the CDR in our licensing. We would not make dietitians in the state take another test, or submit additional continuing education since they already do all of that. All of the time saved using the CDR requirements will keep our costs down, which has been a concern. We want to be cost-effective.

**Chair Atkinson:**

Are there any other questions from the Committee? I see none. Is there anyone else in Carson City who wishes to testify in favor of A.B. 289? No, so we will go to Las Vegas.

**Pamela Wagner, Dietitian, Henderson, Nevada:**

I am a registered dietitian and have been practicing for 25 years, 22 of them here in the State of Nevada. I have worked as a registered dietitian in a variety of settings, including a hospital, an acute care setting working with very ill patients, and a large health maintenance organization (HMO) providing nutrition consultation and doing preventative health care. Currently, I work in the



home health care setting, working with patients who are ill but are managing their care at home.

[Read written testimony ([Exhibit H](#)).]

**Chair Atkinson:**

Are there any questions from the Committee? Seeing none, we will take the next person at the table.

**Maria Gnote, Private Citizen, Las Vegas, Nevada:**

I have been using herbs for 61 years, and so have all of my family and thousands of people that I have been helping for the last 25 years. I would like to know if this bill will affect me and the thousands of people who do the same thing. Can someone give me some information on that?

**Chair Atkinson:**

I am sorry. What was the last question?

**Maria Gnote:**

I would like to know, if this bill passes, if it will affect me and the thousands of people who have the freedom to use natural herbs and vitamins.

**Chair Atkinson:**

You confused me because I asked for the people who wanted to testify in favor of this bill. It sounds like you have questions.

**Maria Gnote:**

I am testifying against the bill.

**Chair Atkinson:**

We are not ready for you yet. We want the people who are in favor right now. Is there anyone else in Las Vegas who wants to testify in favor of this bill? I cannot see if anyone else is there. We will move to the opposition, and since we have already had our first person testify, is there someone who wants to answer that question?

**Pamela Wagner:**

I can answer that question. The answer would be "No."

**Chair Atkinson:**

Is it just that simple?

**Cheryl Blomstrom:**

That would be my answer as well. Products that are marketed from a store, such as an herbal product or a supplement, are categorically exempt.

**Chair Atkinson:**

Would you please talk to her while you are down there and make sure she understands? Thank you.

We will move to the opposition in Carson City. We will go to Las Vegas next.

**Maria Gnote:**

I am just saying that I am against the bill, but if it does not affect me, I have no problems at all.

**Chair Atkinson:**

Since the bill does not affect you, you are for it now?

**Maria Gnote:**

Yes. If it has nothing to do with me, I am in favor.

**Chair Atkinson:**

Is there anyone else? [There were none.] We will go back to Carson City.

**Jim Jenks, Private Citizen, Washoe Valley, Nevada:**

I am a consumer of herbs and food. I sell herbs and enjoy sharing and talking about herbs and nutrition with everyone.

I am concerned about citizens across Nevada losing their freedom of health speech and not being able to share information about food and nutrition. Therefore, I oppose A.B. 289.

[Read written testimony ([Exhibit I](#)).]

I have heard all of these people testify. I think it is wonderful, except when they open the door to nutrition. They should just stick to dietetics and we would not have a problem.

[Continued to read written testimony.]

**Chair Atkinson:**

Are there any questions for this gentleman?

**Assemblywoman Carlton:**

We worked on a number of issues together, and we have known each other over the years. As previously stated, boards in this state are self-sufficient and pay their own way. Although we have had a number of boards not pay their attorneys' fees to the Office of the Attorney General the way they were supposed to, I feel using these costs as opposition to the bill is not being honest with the public. Boards are totally funded through their own licensing fees. In the past, we have asked boards to either refund money to their licensees if they gained too large of a reserve, or to increase their fees to make sure they are not a burden on the state. I wanted to make sure that is on the record.

**Chair Atkinson:**

Are there any other questions or comments from the Committee? Do you have something to add, Mr. Jenks?

**Jim Jenks:**

I agree that this is true, except I was looking at the experiences of some of the boards that have created expenses.

**Hans Frischeisen, Private Citizen, Reno, Nevada:**

My credentials are that I have not been sick for a single day since 1972. I believe what works for me can work for anyone. Would someone wanting to obtain my level of health rather talk to a dietitian or to me? Today you have a choice. If A.B. 289 becomes law, that may be challenged.

[Read written testimony ([Exhibit J](#)).]

Another consideration is the unpopularity of this proposed bill. Three hours ago, I checked the opinion poll for the Legislature to see what the results were on this bill; there were 88 opposed and 52 in favor. I have a stack of faxes that went through my fax alone, and the total count is 129 in opposition of this bill. I hope you will join the movement against this bill.

**Assemblywoman Carlton:**

I want to state for the record that I have spoken with a number of people who have emailed me and called me on this bill. With the amendments that were proposed today, the bill did not come out exactly the way it was wanted. I have been working with Ms. Blomstrom and Mrs. Mastroluca. I hope the people who have registered their opposition to the bill will read the bill with the proposed amendments and, hopefully, are able to get their questions answered. The original version was never our intent. We believe we have addressed a number of the concerns that have come to us. If there are more, we would be happy to address those also.

**Chair Atkinson:**

Thank you, Ms. Carlton, for working with the sponsor. Are there any other questions? [There were none.]

**Bonnie Green, Private Citizen, Reno, Nevada:**

I am here in opposition to some of the language in the bill, not to the licensure. My comments may be moot if the verbiage has been changed and if some of the scope of practice and the exemptions that are a concern have been addressed in the new verbiage. I will make my comments brief.

The exemptions must be clearly set forth to protect the herbalists, nutritional consultants, naturopaths, retailers, and cultural and religious based practitioners, as well as the everyday citizens who enjoy and gain benefit from nutritional therapies. Even if it is not the intent of this bill, not specifically making these exemptions could result in penalties, fines, and criminal actions. The scope of practice needs to be specific and needs not to bar those who are currently practicing as naturopaths or other health care professionals. That is why I oppose A.B. 289.

**Chair Atkinson:**

Thank you. I am sure Ms. Carlton will make sure we take a look at those sections as well.

**Glenn Hausenfluke, Naturopathic Doctor, Reno, Nevada:**

I have been practicing in Reno for 23 years. I have had an opportunity in the past to be a guest speaker at the Registered Dietitian Association, both in Alabama and Reno. I am a naturopath. We want to do like you do. It is ridiculous that the medical doctor essentially dictates what a registered dietitian will or will not do. In the 34 years that I have been practicing, I have never had anyone seek out or search for a registered dietitian to get information on how to make themselves healthy. We have always regarded registered dietitians as being an extension of the allopathic arm. Medical doctors are still not being required to study nutrition. The Centers for Disease Control (CDC) released statistics four months ago saying that 50 percent of all diseases are diet related. You, on this Committee, are probably like many other people in America who simply do not realize how much of a war this is, and how bad it is getting. The dietitians want to become licensed, in addition to charging \$100 an hour, but there are many other people who can do what they do. It is not necessary to set up another board, with another set of grievances and problems.

We took a quick poll a moment ago and all of the doctors, who are sitting on one side, have never heard of overdosing on omega-3. That alarms me that they would say such a thing. I have worked specifically for 34 years with heart disease, diabetes, and addictions, and I have never lost anyone. People who come to me to get heart disease treated and cured, get it treated and cured. The allopathic arm does not believe that heart disease can even be cured. They are not even on the same page as we, knowing that you can, in fact, cure heart disease. You can cure type II diabetes. I listened to the young lady talk about the family having trouble with type I. We have certainly been able to lower the insulin requirements for type I diabetics and for type II. We can basically cure it within 3 1/2 months. It is over and done, simple and sweet.

From what I have seen, when people are in a hospital setting, they are told by the registered dietitian that sugar-free soda is all right because it contains artificial sweeteners and will not harm anything. Once again, this Committee is probably not informed about the dangers of carbonated sodas and how they are 600 times sweeter than sugar. If the dietitians are doing nothing more than what the medical doctors are supposedly telling them to do, it is going to bring about much more danger for the patient. I am in opposition of A.B. 289.

**Chair Atkinson:**

Are there any more questions from the Committee?

**Assemblyman Hickey:**

I have a question for the Legal Counsel. I wonder if the amendments, as submitted, actually protect some of the concerns that we have heard today.

**Sara Partida, Committee Counsel:**

In looking at the proposed amendment, the language that was supposed to be added does not show in the version that has been printed. I cannot speak to that. We have had quite a few people expressing concerns, and there are at least two amendments before me. I would have to go through all of them with a fine-tooth comb to answer that appropriately.

**Chair Atkinson:**

We will get that answered before we bring it back.

Are there any other questions from the Committee? There are none. Is there anyone else in Carson City who wishes to testify in opposition to this bill?

**Dene Chabot-Fence, Owner, Vitamin Villa Health Food Store, Carson City, Nevada:**

I have owned Vitamin Villa Health Food Store for the last 25 years. All we are talking about is information that we are trying to separate. Like the person before me, I have no opposition of any kind to the dietetics, but as a naturopathic doctor, I would like to point out that there is a registry of nutritionists available, and they are board certified. Professional members of the American Association of Nutritional Consultants (AANC) can become certified nutritional consultants (CNC). I am not saying that everyone you see with "nutrition" behind his name is certified, but I am telling you that there is a board registry. In fact, I am member number 50. The FDA registers and regulates everyone in this business.

Information has been my life and has probably been yours as well. We go to school so we can learn information and give it to others. As a young person, I received my first doctorate in atmospheric physics at the California Institute of Technology in Pasadena, California, commonly known as Caltech. No one asked me for a license. No one wanted my certification. Later on, in the private sector, I was an engineer. No one asked me for my license. I was a certified, registered engineer, so I worked for 26 years in that field. I decided that I would retire and become a health food store operator. The second day I was in my store, I learned that I did not know anything at all and I had better get myself some information. I went back to school and got the information. We have a very highly accredited university, the Bastyr University in Washington, for naturopathic doctors. You could not ask for better. There are people with doctorates of nutrition, doctorates of all types of natural medicine.

When a dietitian says we do not have any background, she is wrong. I went to school for six years to become a naturopathic doctor. I take opposition to that. For the most, we just need good information. If I was on a board asking for licensing of naturopathics, you could bet I would be on that side, just like the dietitians are on the side for their needs. I want the very best information that I can find and train my people to give to the public. Nothing less. If it was anything less, that person would not be in my organization. I hope you appreciate that and allow all of us in this business to continue with good practice methods, being regulated by the FDA. Hopefully, we will all be on the same side as time goes on.

**Chair Atkinson:**

Are there any questions from the Committee?

**Assemblywoman Carlton:**

You said you are a doctor of . . .

**Dene Chabot-Fence:**

Naturopathic medicine.

**Assemblywoman Carlton:**

Pardon my ignorance, but are you licensed under the Board of Homeopathic Medical Examiners in this state?

**Dene Chabot-Fence:**

That is very interesting. For licensing in Nevada, when I was at the university, the board was in Las Vegas. There is no Board that registers and licenses naturopaths in Nevada now. I would love to be licensed. Approaching the age of 80 at this time, I do not think I am going to worry about it a lot. I am looking forward to a real retirement, but I wish there would be something that would give this validity.

**Assemblywoman Carlton:**

So you are not licensed with the Homeopathic Board of this state, which is the recognized Board.

**Dene Chabot-Fence:**

Naturopathic medicine practices with homeopathic medicine if it is necessary. That gets back to the word "nutrition."

**Assemblywoman Carlton:**

But you call yourself a doctor even though there is no license.

**Dene Chabot-Fence:**

I am a doctor. I have a degree.

**Assemblywoman Carlton:**

You are a doctor even though there is no licensing entity in this state that licenses naturopaths?

**Dene Chabot-Fence:**

I have two doctorates, so I think that would cover it.

**Assemblywoman Carlton:**

I want to make sure people understand that there is not another board doing this same thing. That is for clarification.

**Dene Chabot-Fence:**

It is for other states, but not for Nevada.

**Assemblywoman Carlton:**

Thank you.

**Rene Johnson, Private Citizen, Nevada:**

On March 23, 2011, I sent all of you an email, along with my credentials. It was in opposition of A.B. 289.

I have a bachelor's degree in clinical nutrition that I obtained in 2001. I am a member of the American Dietetics Association as well as the Northern Nevada Dietetics Association. I work side-by-side with all of the dietitians who came today.

I find it important to discuss my opposition because I have read all 37 pages of the bill. The fiscal impact on local governments will be a financial burden for jails, detention centers, and district courts. Almost every page talks about governmental agencies and their involvement with enforcing this law. I would like these agencies to continue spending their time and resources on subjects like violent crimes and not prosecuting credible professionals for teaching nutrition because they do not have the initials "RD" (registered dietitian) after their names.

The bill also says there would be no fiscal impact at the state level but, unless it has been revised, section 19 on page 7, says, "The Board may: 1. Accept gifts or grants of money to pay for the costs of administering the provisions of this chapter. 2. Enter into contracts with other public agencies and accept payment from those agencies to pay the expenses incurred by the Board in carrying out the provisions of this chapter relating to the practice of dietetics." That clearly states that there will be a fiscal impact because it would be using funds from other state agencies, and applying for and accepting grants at the state and federal levels. That would be a fiscal impact at the state level.

The taxpayers already fund the State of Nevada Department of Education's Office of Child Nutrition and School Health website, where they can obtain nutrition information. That website is < [www.doe.nv.gov](http://www.doe.nv.gov) >. That is something that the taxpayers currently pay for, and I feel it should be used to its full capacity.

This law would result in more people losing jobs because they would be subject to the review of qualifications, and Nevada cannot afford to have more people lose jobs. The American Dietetic Association already determines the



qualifications of registered dietitians, as the dietitians mentioned earlier. Therefore, there is no need for a licensing board. The public should be able to choose whom they consult with, and determine the credibility of the nutrition information they receive. This also falls under the subject of freedom of information or health information. In addition, the practitioners who are listed as being exempt from this law, having strong presence, are the very ones who oppose this law, which is one reason why they are listed as being exempt. For example, an athletic trainer does not have a bachelor's degree to become a trainer. All that is required is a weekend class and a certificate that states the person passed the weekend class.

**Chair Atkinson:**

If you want to submit links we can go to, you can do that. I have your email and your resume. If you have any new information, we will certainly take that. You have two more minutes.

**Rene Johnson:**

I would like to point out that if you want to teach nutrition and be an athletic trainer, which the dietitians have allowed as an exemption, you can go on the Internet and sign up for 1 to 16 weeks of education. You can sit in a local class, take the test, and you are given your certificate. I do not think trainers should be exempt over someone who has a bachelor's degree in clinical nutrition, as I have, who would have to submit to a board for a qualifications review. A fitness trainer may have only taken a 12- or 16-week course. That does not make any sense.

The other profession that is exempt from having to be reviewed would be a perfusionist, who is a person who monitors the cardiopulmonary machine in a hospital during surgery. They have no nutrition knowledge whatsoever. A perfusionist and an athletic trainer would be exempt, but a person who has a degree would not. That is one of the reasons I am opposed to it.

**Hannah McIntosh, Private Citizen, Reno, Nevada:**

I am an independent consultant with Arbonne International. Arbonne is a health and wellness company, based in Switzerland, that has been in business for over 31 years. When I share my products, I do not represent myself as a dietitian or a nutritionist. I simply share a product that has helped me and my family. There are products for skin care, detoxification, and nutrition. There are shakes, energy drinks, immune boosters, and vitamin supplements. My family and I started taking these and it changed our well-being and our overall health. I started sharing them with my friends and family. Because our bond is a direct selling business, I am able to receive a paycheck. I do this as a business now; it fell into my lap. I started sharing it with everyone I know.

If this bill is passed, will it stop me from sharing these products with my friends, family, and new clients? What in the bill states that it does not stop me? When I read the bill, it seemed to say that I would be charged with a misdemeanor since I am not a registered, licensed dietitian. I do not claim to be, but I do share and sell these products.

**Chair Atkinson:**

The proponents of the bill are not at the table right now, while you are asking these questions.

**Hannah McIntosh:**

I heard them say "No."

**Chair Atkinson:**

They are there, and they said "No" earlier. You had the opportunity to talk to them as this process has moved forward to make sure that all of your concerns were clarified. You can have a conversation afterwards.

**Hannah McIntosh:**

It is a concern, and that is the reason I am opposed to this bill. There are other professionals like me who share products like Arbonne. I do not think the bill is clear.

**Chair Atkinson:**

We will try for clarification for you. Are there any questions? Is there anyone else wishing to testify in opposition? I see none. Is there anyone neutral here or in Las Vegas? I see none.

Ms. Carlton, do you want to work on this and come back to the Committee?

**Assemblywoman Carlton:**

Yes, Mr. Chairman. We have been working on it. We knew there was still work to be done. I think the opening statements were very eloquent. We know what we are trying to do, even if we have not worded it the correct way. We will work with the Legal and Research Divisions to make sure we word it correctly. The whole intent was to take the registered dietitians that we have right now and recognize them as licensed in this state. This will protect the public when they search for a licensed dietitian. It is not to impact any of the other professions who are not now registered dietitians. It was never aimed at them. I will be happy to work with Ms. Blomstrom and Mrs. Mastroluca, and we will report back to you on our progress.

**Chair Atkinson:**

We will close the hearing on A.B. 289. We will open the hearing on Assembly Bill 292.

**Assembly Bill 292:** Revises provisions governing real estate appraisal.  
(BDR 54-803)

**Assemblyman William C. Horne, Clark County Assembly District No. 34:**

Assembly Bill 292 provides for out-of-state appraisers to comply with the same rules that Nevada appraisers do. The main issue is out-of-state appraisers coming into the state and making appraisals on eminent domain proceedings. They operate on different standards.

We have experts in Las Vegas to testify on this bill. There is some opposition and some proposed amendments. As written, the bill does not reflect the intent of the group that asked me to bring this bill.

**Chair Atkinson:**

Do you have someone else who will cover the bill and go over the details? Why do we not do that now?

**Assemblyman Horne:**

I believe Mr. Keith Harper is ready in Las Vegas.

**Keith Harper, representing Las Vegas Chapter, the Appraisal Institute:**

I sent some language earlier as an amendment to the language that is currently in the bill ([Exhibit K](#)).

**Chair Atkinson:**

Some of the people in the room are saying they have not seen the amendment. I am not sure when it was submitted.

**Keith Harper:**

We originally submitted it in December. What came out as the bill draft is different from what we had originally submitted. We are asking to go back to the language that was submitted in December. I have that language here, and we emailed it to Mr. Horne's assistant this morning.

**Chair Atkinson:**

We have it now. We did not have anything from December.

**Keith Harper:**

The Las Vegas Chapter of the Appraisal Institute brought these changes in the bill draft to ensure all appraisers are held to the standard of complying with the Uniform Standards of Professional Appraisal Practice (USPAP) in providing testimony or appraisals in eminent domain proceedings. That is the intent of this change.

**Chair Atkinson:**

Are there any other questions from the Committee?

**Assemblyman Segerblom:**

Would you explain how this changes current practice?

**Keith Harper:**

Right now, there is an exemption, or provision, that appraisers who do eminent domain work and provide testimony in eminent domain proceedings cannot be taken through the state review process through the current Commission of Appraisers of Real Estate and through the process of the Appraiser's Certification Board. This change is to close that loophole.

**Chair Atkinson:**

Are there any other questions from the Committee? I see none. Is there anyone else to testify in favor of A.B. 292?

**Keith Harper:**

There was a gentleman here, Michael Cheshire, who is the President of the Commission, who asked that I state that he was here and wanted to speak on behalf of the bill. He said he would be submitting written testimony through your office since he had to go to a Commission meeting this afternoon.

**Chair Atkinson:**

We would appreciate that, and we will make sure everyone on the Committee receives it.

Is there anyone else wishing to testify in favor of A.B. 292? I see none. We will move to the opposition. Please move to the table to testify.

**Laura FitzSimmons, Attorney, Las Vegas, Nevada:**

I am testifying in opposition to Assembly Bill 292 both as drafted and with the proposed amendment. Mr. Harper indicated that the purpose of this bill was to close a loophole that insulated witnesses in active eminent domain proceedings from being disciplined by the state for their opinions. Respectfully, it is not a loophole. What this bill attempts to do is abolish a bill that was passed in

2005, Assembly Bill No. 341 of the 73rd Session. It was passed unanimously. There was one "nay" vote by former Senator Bob Coffin, who immediately wrote me an email and said he pushed the wrong button by mistake. Assembly Bill No. 341 of the 73rd Session was sponsored by then-Assemblyman David Parks, with many people signed on. It was subjected to a hearing before this Committee during that session, was passed out of this Committee, and went to the Senate Commerce and Labor Committee, where it was subjected to two very thorough hearings. At those hearings, Senator Mark Amodei testified from his personal experience.

The urgent need for this bill is to protect landowners who are seeking compensation for the government taking their property rights, from retaliatory, vindictive state disciplinary hearings. There is discussion that I have submitted to NELIS, along with the full legislative hearing of A.B. No. 341 of the 73rd Session.

**Chair Atkinson:**

What is your opposition to the current bill?

**Laura FitzSimmons:**

There are about ten appraisers in the State of Nevada who do eminent domain work. It is a very specialized field. I believe all of them are members of the Appraisal Institute. It is a competitive field. I am representing landowners, knowing that whatever happens to this bill, it puts appraisers back into the hopper, facing discipline for work they have done for landowners on behalf of a client vetted by opposing counsel. These appraisers are cross-examined by counsel; their views are deposed by opposing experts. The admissibility, limits, and veracity of their work are regulated directly by a judge to certain extents. And who is right and who is wrong is decided by a jury. That is how it has to work. Without getting into what happened historically, it makes sense under current law that these few appraisers in these complex and hotly contested cases are treated the same way as every other expert witness. They are accountable by their oath to tell the truth, to what the judge tells them they can do, to rigorous cross-examination by lawyers, and to the smell test that juries can provide.

The reason I object to this bill is that things other than the truth come into constitutional proceedings. People are afraid of saying something that is unpopular. We run the risk that is often seen with other boards. This is not an issue of protecting the public like so many other boards, although the Appraisal Board does very well here. Lenders also need to be protected. Buyers need to be protected. Eminent domain appraisals do not go through a court system with everyone "fly-specking" everything. The Board's

disciplinary machinery is very much needed, and we should concentrate on that. It should not be derailed by personalities and the differences of opinions that we have seen among the eminent domain appraisers.

**Chair Atkinson:**

Are there any other questions from the Committee? I see none.

**Tami Campa, Appraiser, Las Vegas, Nevada:**

This bill has a very limited impact, as Ms. FitzSimmons said. It impacts about 10 to 15 of us. I am one of the appraisers who, for the last 12 years, has focused primarily on doing evaluations of property in eminent domain actions. I have worked for landowners, as well as government entities, such as the City of Las Vegas and Clark County. Prior to this bill, I would not take cases against certain governmental agencies, nor would many of the few appraisers that do this kind of work, because we were afraid of being disciplined as a result of sore-loser complaints. We are still subject to the USPAP as members of the Appraisal Institute, as is every appraiser that I have ever testified against in eminent domain action.

I am opposed to this bill. I believe it was brought about as the result of a few out-of-state appraisers who did appraisals that they said were USPAP compliant. I also believe Assembly Bill No. 341 of the 73rd Session has worked. Both governmental agencies and landowners have used it. It has been effective. It has introduced new people as expert witnesses who previously were not allowed to testify. It has given us more competition, but I think it has made for a better outcome. I think this bill tries to kill the last bill. It will put us appraisers, who actually work in this field, back in the hot seat as we were before, and will produce a chilling effect on landowners trying to get just compensation in eminent domain actions.

**Chair Atkinson:**

I want to ensure those who are opposed to the bill have had an opportunity to talk to the sponsor to see where he was headed.

**Laura FitzSimmons:**

Is Mr. Horne the sponsor?

**Chair Atkinson:**

Yes.

**Laura FitzSimmons:**

Yes, absolutely.

**Chair Atkinson:**

Are there any other questions from the Committee? I see none, so we will go to Las Vegas.

**James J. Leavitt, Attorney, Law Office of Kermitt L. Waters, Las Vegas, Nevada:**

The Law Office of Kermitt L. Waters practices primarily in the area of eminent domain. Mr. Waters has represented landowners for approximately 40 years in the Nevada area. I have been with Mr. Waters for approximately 15 years, representing landowners for that entire time. During that time, Mr. Waters has tried over 50 eminent domain jury trials. I have probably tried over 25 eminent domain jury trial. We are strongly opposed to this bill.

I want to touch on one issue that Ms. FitzSimmons addressed, and that is the issue of how testimony is fettered out in an eminent domain case. The process that occurs in these cases is to first have an expert report, which is prepared by the appraiser. That expert report is subject to review by competent attorneys who are retained by both the government and landowners. It is subject to a deposition by both the landowners' and the government's counsel. It is also subject to a motion *in limine*, which can be presented to the district court. Before I came down here today, I pulled a case, *Banks v. United States*, that addresses this issue of fettering out appraisal testimony that is produced in these eminent domain cases. I want to read one small portion of this case. It says, "The United States Supreme Court has held that the trial court acts as a gatekeeper under the federal rules of evidence to ensure that an expert's testimony both results in reliable foundation and is relevant to the task at hand."

What this eminent domain case says is the district court judge, or the federal court judge, will determine what part of testimony that an appraiser gives is reliable, and whether that testimony is relevant. The reason I bring this up is because I am strongly opposed to this bill. We already have protections in eminent domain actions to ensure the appraisal testimony that is presented to the jury is proper, reliable, and relevant to the proceeding. Therefore, adding this additional layer where these appraisers could be subject to discipline by the State of Nevada is, in my opinion, entirely unnecessary. If the judge determines this evidence is reliable and should be admitted to the jury, the jury gets to hear the evidence and determine what relevance to give it, and whether to believe the appraiser. If the jury enters an award that is favorable to one party or the other, the losing party can appeal that issue to the Nevada Supreme Court. We have numerous layers of protection in these eminent domain proceedings to make sure the appraisal testimony is once again both reliable and relevant.

As Ms. FitzSimmons stated, I believe this current system works, and I do not think there is any reason to change it as long as both of the parties are represented by competent legal counsel. That process of fettering out this appraisal testimony works very well in these proceedings. It has worked for 100 years, and there is no reason to change it at this point in time.

I also want to say that this does put a landowner at a great disadvantage. Unfortunately, sometimes these cases get very hotly contested. If there is an award which is adverse to the government, it sometimes takes exception to those awards. The government has a process to appeal to the Nevada Supreme Court. The government should not be given the advantage of disciplining the landowner's appraiser because it disagrees with what the landowner's appraiser may have said during the eminent domain jury trial. For that reason, I personally, and the Law Office of Kermitt Waters, strongly oppose A.B. 292.

**Chair Atkinson:**

Are there any other questions from the Committee? I see none. Does anyone else wish to testify in opposition to this bill? Is there anyone neutral?

**Brenda Kindred-Kipling, Appraisal Officer, Real Estate Division, Department of Business and Industry:**

The purpose of my testimony, which will be very brief, is to clarify what occurs when a complaint is filed with the Real Estate Division concerning an appraisal prepared by a Nevada appraiser or an out-of-state appraiser who holds a temporary-practice permit. The act of filing a complaint does not mean that the matter will be brought up before the Commission for an alleged violation of the law of USPAP.

[Spoke from prepared text ([Exhibit L](#))].

**Chair Atkinson:**

Are there any other questions from the Committee? I see none.

**Assemblyman Horne:**

First of all, anyone who knows me knows that I do not take lightly property owner's rights. I do not submit anything that would jeopardize their ability to get just compensation for their property. I think my history here in this body is clear. Earlier, I received a letter from attorney Brian Padgett, who could not be here because he was taking a deposition. I do not know if you would like this to be put in the record, but I would like to read it into the record if I may ([Exhibit M](#)).



**Chair Atkinson:**  
How long is it?

**Assemblyman Horne:**  
It is 1 1/2 pages long.

**Chair Atkinson:**  
We will have you submit it as an exhibit. Do you want to hit the highs and lows of it?

**Assemblyman Horne:**  
This is an area in which I do not practice, but it appears from Mr. Padgett's letter that what he had hoped to get out of A.B. 292 was a compromise. That is why I proposed to read his concerns into the record. I will start at the second paragraph.

[Spoke from prepared text ([Exhibit M](#))].

I will forward that to your committee manager.

**Chair Atkinson:**  
I appreciate that. We will make sure the members get a copy of it, and it is a part of our NELIS records for today.

Ms. FitzSimmons, we will ensure you get that, and we will give you more time to work with Assemblyman Horne in the interim to see if it is something we can bring back and that everyone can live with. We will give you time to work it out. Are there any other questions or comments? Seeing none, we will close the hearing on Assembly Bill 292.

We will now open the hearing on Assembly Bill 296 for our other colleague, Mr. Daly.

**Assembly Bill 296:** Revises provisions relating to long-term care administrators.  
(BDR 54-1087)

**Assemblyman Richard (Skip) Daly, Washoe County Assembly District No. 31:**  
Hopefully, this will go smoothly. I am not aware of any opposition, and there are no amendments. This bill is not in my area of expertise; however, I do have backup in my colleague from Assembly District No. 1, who brought this to me.

The bill is straightforward. This allows the Board of Examiners for Long-Term Care Administrators to provide a notice and an opportunity for a hearing. Later in the bill it says that the licensee, the person who has received a citation, can request a hearing. An analogy would be like getting a traffic ticket. You have a choice to pay it and not go to court if you have no disagreement with it, or you can disagree with it and go to court. Streamlining this process allows them to do the same thing. The way it is now, you must go before the Board for a hearing. You do not have options as in traffic court. This will streamline the process, make government more efficient, and make the Board more efficient in the process.

**Chair Atkinson:**

Do you want to cover anything else first, and then we will ask questions?

**Carol Sala, Board Member, Board of Examiners for Long-Term Care Administrators:**

I am the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services. However, by virtue of *Nevada Revised Statutes* (NRS) 654.050, which created the Board of Examiners for Long-Term Care Administrators, known as BELTCA, I am a member of that Board, so I am testifying as a member of that Board. I am here to provide information for you.

[Spoke from prepared text ([Exhibit N](#))].

The Board consists of six members. I am the only member who is not paid because I am a state employee. The rest of the members of the Board are all community volunteers. We meet quarterly. We have had more and more licensees come before our Board. At any meeting, we probably have at least nine hearings before us.

**Assemblywoman Carlton:**

My only concern when I hear "agreed upon fines" and "not having a hearing" is the transparency of the whole issue. I would be apprehensive if someone came in and said, "We will pay this fine; just do not put these things out to the public. We do not want anyone to know." Can you give us a level of comfort that the things that you fine and discuss will still have the same transparency level that they have now?

**Carol Sala:**

There is a requirement that our Board, and I believe all licensing boards, has to do a quarterly report for the Legislative Counsel Bureau (LCB) on any disciplinary actions that the Board has taken against a licensee. Our executive secretary

compiles that report and LCB posts it on its website. Actions against a person's license would still be a disciplinary action; it just would not go to hearing. The hearing would have to go on the quarterly report, which would outline what action was taken.

To answer the second part of your question where you asked what kind of things are coming before our Board, we are receiving referrals. We usually receive referrals from the Bureau of Health Care Quality and Compliance under the Health Division due to a survey that they have done. Issues are items such as medications not being locked up. There is a whole myriad of things, but some of the most concerning are where medications are within easy access of anyone living in that facility. We are getting quite a few licensees coming before us from the group home setting, but not as much as from the nursing home setting.

**Assemblywoman Carlton:**

My concern is if the person being brought before the Board with a citation waives his hearing. Will the public know what was going on, and be able to access that type of information? I would hate to see someone who is a bad actor pay the fine, move on, and not get public scrutiny or transparency.

**Chair Atkinson:**

I think Assemblywoman Kirkpatrick believes she can help, so let us go there.

**Assemblywoman Kirkpatrick:**

During the hearings for the Legislative Commission's Interim Committee to Study Group Homes, we looked for things that we could do better. The Attorney General signed off on this bill because she was getting complaints about unlicensed people, medication errors, logs not being filled out, heat that is too hot, and refrigerators at wrong temperatures, and these issues were just backlogging the system. Some of the complaints were taking over a year to get processed, and then fines were still getting dropped to lower amounts. The discussion during the group home part of the interim Committee was to help them get back on track. There are plenty of reporting mechanisms.

In my office, I have four big binders of different things that the Attorney General's Office does to try to process complaints. I have been fighting group homes since I got here in 2005. I have 41 in my district. I am not letting them off the hook by any stretch of the imagination. This allows us to keep processing these complaints. If anyone requests, I can email the Attorney General's Office because I spoke with them at great length before Mr. Daly submitted the bill. This helps all parties to keep going forward. I am happy to provide any information. There are four other bills that will be

introduced tonight that will be ancillary to this one piece, but the bills will help the Attorney General's Office to do its job better, to keep clients safe and protected, but to have a process where the public gets to see it.

**Assemblyman Grady:**

How many times can a person say, "I will accept the fine rather than being embarrassed by going to a hearing"? Is this one fine, a graduated fine if they are back a number of times, or how does this work?

[Chair Atkinson left the room. Assemblywoman Kirkpatrick assumed the Chair.]

**Carol Sala:**

The Board has the ability to revoke or suspend licenses. We have a very extensively defined *Nevada Administrative Code* (NAC) for all of the steps. We can also request that an administrator come before the Board and take action on his license. The intent of this, and I believe Ms. Kirkpatrick alluded to it, is to help with some of the backlog of the less egregious issues. It does not have to be a stepping stone toward an action to revoke. That could be the first step if it is a bad situation. I have been on the Board since 2003, and my first year we had one licensee action. Now, at the last meeting, we ended up revoking about five different administrator's licenses. When we do a hearing, not only can we take that action, but we can also assess an administrative fine and require him to pay the costs of the investigation and hearing.

**Acting Chair Kirkpatrick:**

Does anyone else have any questions? I see none. Is there anyone else to testify?

**Assemblyman Daly:**

They can call a person in for a hearing when they need him, similar to the court calling you in if you have too many demerits from traffic tickets. You can always go in if you have a problem.

**Acting Chair Kirkpatrick:**

Is there anyone else who would like to testify in support?

**Carol Sala:**

I would like to put on the record that Charles Perry with the Nevada Health Care Association (NHCA) had planned to be here today, but he had a conflict. He sent an email to Margaret McConnell, who is the Chair of BELTCA, and she forwarded it to me. I would like to read this into the record. He said they had discussed the bill on March 25, 2011, which was Friday, ". . . and if we cannot

attend, we have no problem with your stating that the Nevada Health Care Association supports the legislation."

**Acting Chair Kirkpatrick:**

Is there anyone who would like to testify in opposition? I see none. Is there anyone who is neutral? [There was no one.] Is there anything else you would like to say, Mr. Daly? [He indicated no.] We will close the hearing on A.B. 296. Is there any public testimony? I see none.

With that, we are adjourned [at 4:35 p.m.].

RESPECTFULLY SUBMITTED:

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Jordon Grow  
Recording Secretary

RESPECTFULLY SUBMITTED:

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Karyn Werner  
Transcribing Secretary

APPROVED BY:

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Assemblyman Kelvin Atkinson, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Commerce and Labor

**Date:** March 28, 2011

**Time of Meeting:** 1:38 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 221	C	Marji Paslov Thomas	Work Session Document
A.B. 273	D	Marji Paslov Thomas	Work Session Document
A.B. 289	E	Cheryl Blomstrom	Proposed Amendment from Occupational Therapists
A.B. 289	F	Michele Cowee	Written Testimony
A.B. 289	G	Karon Sande Felton	Written Testimony
A.B. 289	H	Pamela Wagner	Written Testimony
A.B. 289	I	Jim Jenks	Written Testimony
A.B. 289	J	Hans Frischeisen	Written Testimony
A.B. 292	K	Keith Harper	Proposed Amendment
A.B. 292	L	Brenda Kindred-Kipling	Written Testimony
A.B. 292	M	Assemblyman William Horne	Letter dated March 28, 2011, from Brian Padgett
A.B. 296	N	Carol Sala	Written Testimony