MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-Third Session
April 20, 2005

The Committee on Health and Human Services was called to order at 2:43 p.m., on Wednesday, April 20, 2005. Chairwoman Sheila Leslie presided in Room 3138 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 of the Grant Sawyer State Office Building, Las Vegas, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Sheila Leslie, Chairwoman
Ms. Kathy McClain, Vice Chairwoman
Mrs. Sharron Angle
Ms. Susan Gerhardt
Mr. Joe Hardy
Mr. William Horne
Mr. Garn Mabey
Ms. Bonnie Parnell
Ms. Peggy Pierce
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Mrs. Ellen Koivisto (excused)

GUEST LEGISLATORS PRESENT:

Senator Dina Titus, Clark County Senatorial District No. 7
Senator Joe Heck, Clark County Senatorial District No. 5

STAFF MEMBERS PRESENT:

Barbara Dimmitt, Committee Analyst
Joe Bushek, Committee Attaché

OTHERS PRESENT:

- Jeanette Belz, Legislative Advocate, representing the Nevada Ophthalmological Society
- Jennifer Dunaway, Health Facilities Surveyor IV, Bureau of Licensure and Certification, State Health Division, Department of Human Resources, State of Nevada
- Dr. Michael Metzler, Director of Trauma Services, Sunrise Hospital and Medical Center, Las Vegas, Nevada
- Dan Musgrove, Legislative Advocate, representing University Medical Center and Clark County, Nevada
- Alex Haartz, Administrator, State Health Division, Department of Human Resources, State of Nevada
- Diane Buckley, Nevada Chairperson, National Patient Advocate Foundation

Chairwoman Leslie:
[Meeting called to order and roll called.] We'll open the hearing of the committee on S.B. 68.

Senate Bill 68: Revises provisions concerning licensure of facilities which provide surgical treatment for refractive errors of eye. (BDR 40-263)

Senator Dina Titus, Clark County Senatorial District No. 7:
Several sessions ago the Legislature passed a bill to regulate what seemed to be a rapidly proliferating business of doing laser eye surgery, so you wouldn't have to wear glasses. A lot of those places were fly-by-night. They'd set up shop and disappear. There were some major class action suits against some of them. These are facilities that affect your eyesight; it's a medical treatment. We thought they should be regulated. The Legislature passed that and it's been working very well. What has happened is that—like in all areas of medicine—the technology has continued to develop, and so now there are some new procedures that can be done, and this bill would expand that regulation a little bit to include those new procedures. Jeanette Belz is here representing the ophthalmologists and can give you more details about the kind of procedure we're talking about.

Chairwoman Leslie:
Before we go to Jeanette, are there any questions for the Senator? I think she explained it. It's just an update to make sure we continue to regulate new procedures.

Senator Titus:
Exactly, Ms. Chairwoman.

Jeanette Belz, Legislative Advocate, representing the Nevada Ophthalmological Society:
In a lot of ways, the bill that's being provided to you and the amended language to current statute goes one step further, and it avoids us having to come here in the future.

If you look in Section 1, at the very end of that section, number 5, it says: "Any other available technology or technique which surgically treats refractive errors of the eye which has been approved by the U.S. Food and Drug Administration." That actually sets us up for the future as well, so we don't have to keep coming back and identifying specific procedures as they come up and are available. I think this is also a forward-looking bill. We came and did this already when the bill was in the other House last time. It came up for current procedures last session, to try and fix the current problem at that time. I think we've actually gone one step further, which is a good thing.

Chairwoman Leslie:
You're taking out the word "laser" in line 3 on the first page.

Jeanette Belz:
That's still in there. In number 2, it says "laser." They just moved it. It used to be inside of a list.

Chairwoman Leslie:
That's what I was getting to. So, laser is just one of the four specifics, and then you have, in number 5 on page 2, any other.

Assemblyman Mabey:
Does the FDA [U.S. Food and Drug Administration] approve procedures?

Jeanette Belz:
Actually, LCB [Legislative Counsel Bureau] did research for us on that. Apparently that is how they are approved.

Assemblyman Mabey:
I don't have a problem with the bill, but my thought would be procedures are invented or discovered and then not really part of the FDA. Let's say that some ophthalmologist wants to do a new procedure, and that procedure is recognized and may be used just like I might do a hysterectomy. Somebody might teach me a new technique for doing the hysterectomy, but that's not something that the FDA approves. It's just a technique. As physicians, under the Hippocratic oath, we try to help physicians and teach them new techniques. I'm concerned that when an ophthalmologist discovers a new technique to do some type of surgery, it would have to be approved by the FDA under this before they could use it.

Senator Titus:
I certainly appreciate that. This is supported by the ophthalmologists, so apparently they understand what this means in terms of the procedures that they're doing. I think that in the area of refractive errors of the eye, this is pretty specific, in terms of technology, because sometimes it's machinery. These names are specific types of procedures, not just the way you do those procedures. I think that might be the difference. A hysterectomy is a hysterectomy is a hysterectomy, and you may do it a little differently. That's what we're talking about here, I believe. Since they drafted this and they support it, I don't think they see that as a problem. I appreciate the concern.

Chairwoman Leslie:
The language in Section 5, the way I read it, refers to any other available technology, technique, or procedure. Then further on, it says, "and which has been approved." If you were doing one, Dr. Mabey, that had not been approved, I'm not even sure this would cover that, right?

Assemblyman Hardy:
I concur with you. I think the ophthalmologists aren't attorneys and aren't legislators, and I think that is where this is coming in. The FDA will approve devices, implants, or medications, but they don't approve left-handed versus right-handed. They don't approve the kinds of things that Dr. Mabey was talking about.

I think the language could be improved. I like the concept. I concur with the concept, and I think we'll probably get there, but I think we probably could make it—I know this sounds radical—but it may come out better after the Assembly.

Chairwoman Leslie:
We'll take a look at that language and make sure that is appropriate.

Assemblyman Mabey:
I have another question. It has nothing to do with the bill, but it is part of the law in Section 4. Do these facilities have difficulty reaching those fees? If you have less than seven employees paying a $10,000 fee, I'm just curious; between 7 and 25, they paid a fee of $50,000. That's on page 5.

Senator Titus:
I think that's a bond.

Chairwoman Leslie:
It says a "surety bond."

Assemblyman Mabey:
You're right.

Jeanette Belz:
We came up with the four new procedures, and we'd be very happy to work with the Committee. That was actually LCB language. When they put the bill draft together, that tried to get into the future and came up with that language. We'd be more than happy to come back every session to update this. If there were some way that we could avoid doing that and grab all of those refractive procedures, we'd be happy to.

Chairwoman Leslie:
We'd ask you to consult the physicians on the Committee and see if we can come up with some amended language, and then we'll take a look at it in our work session. The other person I have signed up on this bill is from the Health Division.

Jennifer Dunaway, Health Facilities Surveyor IV, Bureau of Licensure and Certification, State Health Division, Department of Human Resources, State of Nevada:
[Handed out Exhibit B.] Passage of this bill would require us to revise regulations, and we anticipate that there would be 20 additional facilities that might have to be licensed. We anticipate adding one FTE [full-time equivalent] the first year and about one-half of a FTE thereafter to do surveys every 3 years. We anticipate that the facilities would be licensed based on passage of this bill before the next legislative session.

Senator Titus:
This is the first time we have heard that this would require additional staff. I'm surprised where this has come from. Why we didn't hear about it on the Senate side, and why it would take one-half of a new person to do licenses for

20 potential facilities? Many of the places that we're talking about are already licensed, and will just now upgrade to do this technology. It won't be a whole new place opening up to do this procedure.

Jennifer Dunaway:
It would just be one FTE, not one and a half.

Chairwoman Leslie:
This will have to go to Ways and Means, if we're talking about adding a staff person.

Jennifer Dunaway:
We did submit a fiscal note for the cost of regulation revision. If there are not an excessive amount of facilities—if there are fewer than the 20 that we anticipate at this time—we could absorb that with our current staff.

Chairwoman Leslie:
That's the right answer. Is there anyone else who would like to testify for or against S.B. 68? We'll close the hearing on S.B. 68 and we'll open the hearing on S.B. 120.

Senate Bill 120 (1st Reprint): Transfers responsibility to establish program concerning treatment of trauma. (BDR 40-885)

Senator Joe Heck, Clark County Senatorial District No. 5:
This bill transfers the responsibility to establish a program for the treatment of trauma from the State Board of Health to a county or district board of health in counties with a population of 400,000 or more. NRS [*Nevada Revised Statutes*] 450B governs the provision of emergency medical services, also referred to as "pre-hospital care." Pre-hospital care is that portion of medical care that takes place from the time 911 is called to request assistance for an ill or injured person until that person is delivered to an emergency department.

Prior to 1993, the State Board of Health was the sole body that promulgated regulations in the furtherance of these statutes. In 1993, the Legislature granted regulatory authority over EMS [emergency medical services] to the county or district board of health in counties with populations of 100,000 or more.

They amended that provision in 1995 to counties with populations of 400,000 or more. The State Board of Health, however, retained regulatory authority over

that portion of emergency medical services dealing with the pre-hospital treatment and transport of patients with trauma.

[Senator Heck, continued.] The reason for this proposed transfer of authority is due to the changing health care environment in Clark County and the development of a regional trauma system. Before February of this year, Clark County had only one trauma center: University Medical Center. Subsequently, the State Health Division has granted trauma center designation to Sunrise Hospital and Medical Center, and we expect that St. Rose Siena Campus will also receive designation. The evolution of trauma care in southern Nevada requires the ability to rapidly respond to system changes, to ensure that the provision of the best possible trauma care in an integrated manner to the residents and visitors of Clark County and the surrounding area is provided. Current statutes require all decisions concerning trauma to be made by the State Board of Health, which is a more time-consuming and less responsive process than making decisions locally. In the past year, Clark County has requested two variances from the State Board of Health concerning trauma, which would not be necessary if this legislation were in place.

The first variance was to modify the triage criteria that determine which patients must be transported to a trauma center. This variance was necessary because the current State Board of Health criteria are not consistent with the most recent recommendations by the American College of Surgeons. The second variance was to designate catchment areas, or which patients would go to which trauma center based on the geographical origin of the call. The state system is based on a series of thirty-minute rings with the patient going to the highest level of care within that ring. This approach works well when the facilities are geographically disbursed as they are throughout the rest of the state.

That system will not work when you have two or more centers within that same thirty-minute ring, as is the case in Clark County, where the goal is to provide each new center with an adequate number of patients to build up their capacity without overwhelming them, while ensuring the sustained viability of UMC as the premier Level 1 center.

The initial boundaries were drawn based on volume projections, and the State Board of Health again had to grant a variance for those boundaries to be enacted. As we gain actual experience with the volume generated to each area, the boundaries may need to be redrawn. The requirement of coming to the State Board of Health each time the boundaries need to be changed to maintain the overall system is lengthy, and it does not permit timely adaptation to ensure maximum efficiency.

[Senator Heck, continued.] The importance of an integrated trauma system was underscored in the January 2005 study of the *Journal of Trauma*. That stated, "In-hospital mortality from trauma is significantly reduced in urban areas with implementation of a trauma system."

This same study noted that the state of Nevada lacks an assessment process for compliance with trauma triage criteria and lacks a trauma advisory committee. Both of these components are in place in Clark County. I would like to make note that this proposed transfer of authority will in no way affect the regulatory process or requirements for the hospital portion of trauma care, including trauma center designation, which will remain at the state level.

The Clark County Board of Health now has 12 years of experience in regulating emergency medical services. The EMS system in southern Nevada is a nationally recognized model of a high performance system due to the collaborative working relationships of the Health District and the fire-based and private EMS providers.

In light of this proven success, there's no reason to maintain this fragmented authority. The transfer of regulatory authority over the pre-hospital treatment and transport of patients with trauma will ensure that the system can respond to the needs of the fastest-growing county in the state, maintain its nationally recognized preeminence in the field, and, most importantly, save the lives of the victims of trauma.

Chairwoman Leslie:
I'm from Northern Nevada, so we only have one trauma center. We haven't had the battles that you've had in southern Nevada. But, this isn't going to change who designates where a trauma center goes. That's still going to remain a State responsibility. Is that something we should consider moving to the local level too, under your theory?

Senator Heck:
As of now, the designation status would remain with the State Health Division, as it's currently in statute. We were most concerned at this point in time in getting the authority for the pre-hospital portion of trauma. That's what is going to generate which patient goes where, what our protocols need to be, and start to establish our system. That's not to say that in the future, if the local board of health wanted to accept the responsibility to have a bigger role in designation, that will probably have a fiscal impact on the local district and the county board.

Chairwoman Leslie:
It seems like we're still going to have a bifurcated trauma system, in terms of State responsibility versus the local.

Senator Heck:
You need to divide trauma into its two components. The in-hospital component will remain with the State where it rightfully should be, because they have the Bureau of Licensure certification and are responsible for everything that happens inside the walls of the hospital. You also have the pre-hospital portion of EMS care, and that's the part that's fragmented right now, because Clark County has authority over every piece of EMS with the exception of that portion pertaining to trauma. We would like to have that entire authority so that we can build the system that we need to provide in southern Nevada, as we bring more trauma centers on line.

Chairwoman Leslie:
I would argue with you that I think designating where the trauma center goes might be covered under—the language in the current law is pretty vague: "Establish a program concerning the treatment of trauma." What is a "program concerning the treatment of trauma?"

Senator Heck:
In that, it's referring to some of the EMS components. It's also referring to the hospital component and the independent trauma registry component. In the next paragraph of that statute, it says that designation is a function of the State Health Division.

Chairwoman Leslie:
We'll hear from other people, but is it your understanding that both trauma centers are in agreement with this?

Senator Heck:
Both trauma centers did testify in favor of the legislation. Dr. Metzler, who is the trauma chief at Sunrise [Hospital and Medical Center], is down in southern Nevada. I have representatives from University Medical Center here locally as well.

Dr. Michael Metzler, Director of Trauma Services, Sunrise Hospital and Medical Center, Las Vegas, Nevada:
I'd like to rise in favor of S.B. 120. I think it gives you the best of both worlds by leaving the authority to outline the entire state trauma system with the State, essentially to set the bar for trauma care, but then to delegate to different regions of the state how they're going to accomplish that is really

what you'd like to do. In my prior life—prior to two years ago, when I left Missouri—I chaired the Governor's Advisory Council for EMS. That's exactly what we were doing in the state of Missouri. There's a big difference there between rural and urban populations. We were dividing the state into five areas, just for the purpose that was outlined in this bill.

Chairwoman Leslie:
Are there any questions for the doctor from any of the Committee members? Thank you for being with us today and taking the time to come down.

Senator Heck, this bill does only apply to Clark County. Washoe County is growing, of course. Pretty soon it's going to be at 400,000. Have you discussed how this bill might apply to them as well?

Senator Heck:
As I mentioned in my earlier testimony, when the Legislature first passed local authority, they set the cap at 100,000. At that time, that allowed both Washoe and Clark Counties to have their own EMS regulatory authority. Two years later, in the next session, Washoe County came back and said they'd rather be back under the State. That's when the cap was raised to 400,000. We did talk with representatives of Washoe County. At this point in time, this bill does not affect them. They have no desire for it to affect them and they're aware that after the next decennial census, either we increase the numbers throughout all *Nevada Revised Statutes* or they will then fall under this. At this point in time, they have no concerns with the bill.

Chairwoman Leslie:
Thanks for clarifying that.

Dan Musgrove, Legislative Advocate, representing University Medical Center and Clark County, Nevada:
I think the two experts, Dr. Heck and Dr. Metzler, laid out the issues very well. We appreciate Senator Heck's leadership on this and we are in complete support. At this point, what this bill directly addresses is a local issue and should be something that we develop and work amongst ourselves to put forth. We worked very, very hard over the last year to do that; the two trauma centers are working and we're looking at the numbers cognitively to make sure things are going well. We want the best interest of the patients in this trauma system to be in place. That's really the utmost in patient care. It's where we want to go, and we think that needs to be a local decision.

Chairwoman Leslie:
I will note that Scott Craigie is here from the Nevada State Medical Association. He doesn't want to speak, but he is in support of both bills.

Alex Haartz, Administrator, State Health Division, Department of Human Resources, State of Nevada:
[Handed out Exhibit C.] From the State Health Division perspective, it's always been our philosophy that local decision making for public health is best seated at the local level until such time as the local public health authority determines that they don't have the resources or the ability, or seeks additional help from that perspective, and so the State Health Division has no issue with S.B. 120 in terms of it being a local decision making process.

When this bill was heard in the Senate, the State Board of Health had not yet had a chance to meet and discuss it. However, several actions had occurred prior to that, in which I testified as secretary of the State Board of Health. One that Senator Heck talked about was that the Board of Health had granted Clark County with the variance request to be able to manage this issue at the local level. The Board of Health, at its most recent meeting, discussed the issue and, from that standpoint, does believe this is a local decision making issue and is suitable for that. It should be done at the local level, recognizing that decisions may need to be made more timely than perhaps the State Board of Health can meet.

The Board of Health did remain on record saying that they were opposed, only insomuch as they felt it was premature. They felt from their vantage point that they would like to see the entire system developed in Clark County. They felt that with the current wording in NRS, there was some flexibility that existed. Clark County could approach for a variance, and if they found that it did not work out—if local control turned out to be not the ideal situation—rather than changing the law as is what happened with the other EMS issues, they could ask that the variance be returned or revoked, and it wouldn't require a statutory change. It was more for technical reasons that the Board was opposed, not based on the outcome that would be obtained, and that would be local decision making and local authority.

Chairwoman Leslie:
It sounds to me like the Board is trying to have it every single way. I know you're just a messenger, and I won't pick on you too much. I think that's kind of weak.

Senator Heck:
I appreciate the viewpoint of Mr. Haartz and the Health Division, as well as the Board of Health. The problem in the Board of Health's rationale is that we can't build the system until we have the authority to do so. We have developed a regional trauma advisory committee that is somewhat impotent because it doesn't have the authority to do what it needs to do to build our system.

Again, I would go back to the fact that Clark County has had local control of EMS for 12 years. We have not come back to the Board of Health and said, "Please remove this mantel from our shoulders." All of the players in Clark County—whether they are the hospitals, the EMS provider agencies, or the physician community in general—very much believe that Clark County needs to develop its system—not only for the county, but for the region. Trauma centers in Clark County draw patients from northern Arizona, western Utah, and eastern California. Our system goes much further than what is being done in most of the rest of the state. And now that we are the only jurisdiction that has multiple trauma centers, we do not believe that the Board of Health should be making the decision on how best to build our system.

Chairwoman Leslie:
I don't mean to open an old wound, Alex, about the new trauma center and where it was located, but didn't you have a local needs assessment process that was moving towards putting the new trauma center on the edge of the town? All of the sudden the State stepped in and said, "We've already decided for you." I'm not going to suggest, Dr. Heck, that we amend your bill if you're not ready to do that. I'm still not convinced that having those two functions separate is such a good idea. If you want local control, let's give it to you.

Senator Heck:
That may be something that Clark County may be interested in the future. I can't speak for them because of the fiscal implications. In my personal opinion, I believe that designation at the state level is important because they have the Bureau of Licensure certification, and we would hate to have a duplicative bureaucracy in Clark County to perform the same functions that the state already does.

Chairwoman Leslie:
I understand that. I'm talking more about location rather than the ongoing licensing issue. Alex, I don't know if you want to comment on that. I'll give you the opportunity. Are there any questions for Mr. Haartz, from the Committee members, on the bill? Is there anyone else who would like to testify in favor or against this bill?

Diane Buckley, Nevada Chairperson, National Patient Advocate Foundation:
I've followed this bill since it was in the Senate. I'm concerned about what Washoe County would like. What is in the best interests for Washoe County concerning S.B. 120, in terms of the State Board of Health keeping responsibility for the trauma center in northern Nevada?

Currently, Washoe County only has one trauma center, and that's Washoe Medical Center. During the last census in 2003, Washoe County was placed at approximately 371,000 people. However, the thing that I'd like this Committee to take into consideration is that all traumas coming into Washoe County, Washoe Medical Center, are coming from the whole northern range of northern Nevada. I think that we might want to take a look at the populations heading into Washoe Valley. They come from Lake Tahoe, Douglas County, Carson City, and all points from Storey County all the way out to Fallon. They come from everywhere. So, what is going to be best for Washoe County?

I understand that Clark County wants to do what's best and have local control. Does northern Nevada want to do the same thing, or do we want to stay on the path that we're currently on?

Chairwoman Leslie:
I think we did hear from Dr. Heck that at this point in time, Washoe County is not interested in being included in this bill. I don't see their lobbyist here, so I have no reason to doubt that.

Diane Buckley:
It's just population that we were looking at.

Assemblyman Horne:
On Washoe County's needs and wants, and particularly how I read the bill, once they've reached that threshold of 400,000, there currently isn't another trauma center, so it wouldn't necessarily apply. However, if they were to create another trauma center, I read it as that it would apply, because the bill, while it references Clark County, doesn't say that it includes Clark County in there by itself.

Chairwoman Leslie:
Senator Heck, you know the bill better than we do; I thought it was a population threshold, and maybe having two trauma centers is not the deciding factor.

Senator Heck:
That is correct. In NRS 450B, the deciding factor on who has regulatory authority over emergency medical services is the population cap, which is currently set at 400,000. With the next decennial census, Washoe County will be over 400,000, and throughout the NRS, every place where it says "a county greater than 400,000" is going to have to be changed. But, at the current time in our discussions with Washoe County Health, they are fine with the bill. They do not have any desire to have local control over EMS at this point in time.

Chairwoman Leslie:
Washoe County may grow up and be a big county. Maybe we won't have to change it.

Assemblyman Horne:
It's a misunderstanding, because to me it seemed like you had the umbrella of the State, and Clark County doesn't want the State to micromanage or impose on it. If Washoe County reaches that 400,000 threshold—which is going to come soon—if one trauma center still remains even after that breach, there's nothing really to micromanage between, because I think part of the micromanaging that will be going on will be between the two trauma centers. But, if there's not one, it would be a moot issue.

Chairwoman Leslie:
Just to clarify one thing: even if they got to 400,000 tomorrow, it depends on the census. We'd have to wait for the census on the decade, but go ahead and try and answer that, Senator Heck.

Senator Heck:
What we're talking about here is EMS authority, not trauma authority. As far as emergency medical services are concerned, the current statute says that counties greater than 400,000 have home rule. Washoe County was given that authority in 1993, when the first law was passed at the cap of 100,000. After the first two years, they decided that they would rather be under the State EMS office, and that's when the cap moved back up to 400,000. We're really not talking about trauma, per se. We are talking about emergency medical services. What we'd like to do in Clark County is have jurisdiction over all emergency medical services, including trauma. The hospital portion and the inpatient care is still under, as of now, the jurisdiction of the State Health Division.

Chairwoman Leslie:
So, the fact that you have two trauma centers is not really the key driving force of the bill?

Senator Heck:
It is not. It brought the issue to the forefront, because we now have multiple issues from an EMS standpoint that we need to deal with, having the two trauma centers that we do not have the authority to deal with.

Assemblyman Hardy:
For the record, I need to disclose I'm a physician and I have something to do with pre-hospital care. I've been affiliated with the Clark County Health District as a member, and I'm on leave from that. I'm not aware of any other conflict of interest and I don't think that will affect in a positive way what I do.

Chairwoman Leslie:
I don't think you have a conflict either. Are there any other questions for Dr. Heck? Is there anyone else who would like to talk? We'll close the hearing on S.B. 120. Is there any other business to come before the Committee today? We are adjourned [at 3:19 p.m.].

RESPECTFULLY SUBMITTED:

_____
Paul Partida
Transcribing Attaché

APPROVED BY:

_____
Assemblywoman Sheila Leslie, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 20, 2005 **Time of Meeting: 2:43 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A	********	Agenda
S.B. 68	B	Jennifer Dunaway / Nevada State Heath Division	Written testimony
S.B. 120	C	Alex Haartz / State Board of Health	Written testimony