

**MINUTES OF THE  
SENATE COMMITTEE ON HEALTH AND EDUCATION**

**Seventy-fifth Session  
April 7, 2009**

The Senate Committee on Health and Education was called to order by Chair Valerie Wiener at 5:21 p.m. on Tuesday, April 7, 2009, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Valerie Wiener, Chair  
Senator Joyce Woodhouse, Vice Chair  
Senator Shirley A. Breeden  
Senator Barbara K. Cegavske  
Senator Dennis Nolan

**COMMITTEE MEMBERS ABSENT:**

Senator Steven A. Horsford (Excused)  
Senator Maurice E. Washington (Excused)

**GUEST LEGISLATORS PRESENT:**

Senator Allison Copening, Clark County Senatorial District No. 6

**STAFF MEMBERS PRESENT:**

Marsheilah D. Lyons, Committee Policy Analyst  
Mindy Martini, Committee Policy Analyst  
Sara Partida, Committee Counsel  
Maureen Duarte, Committee Secretary

**OTHERS PRESENT:**

Bobbette Bond, Health Services Coalition  
Bill Welch, Nevada Hospital Association  
Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County Health Department

Senate Committee on Health and Education  
April 7, 2009  
Page 2

Ann Lynch, Sunrise Health System

CHAIR WIENER:

We will open the meeting with Senate Bill (S.B.) 229.

**SENATE BILL 229:** Establishes the Physician Visa Waiver Program in the Health Division of the Department of Health and Human Services. (BDR 40-368)

MARSHEILA D. LYONS (Committee Policy Analyst):

We just heard the bill a couple of days ago, on Friday, and there is a mistake in the work session document (Exhibit C, original is on file in the Research Library). It says there were no amendments; there were two amendments proposed for the measure, if you recall from the hearing, and they are attached at the back of the work session document. One amendment is proposed by Lynn O'Mara of the Bureau of Health Statistics, Planning, and Emergency Response, Health Division, Department of Health and Human Services (Exhibit D), which is intended to ensure the proposed fee is nonrefundable and unused fees are not reverted to the General Fund. The recommended language is there. One amendment is proposed by the Board of Medical Examiners (Exhibit E).

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 229.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

Ms. LYONS:

I do want to point out there was a second amendment from the Board of Medical Examiners. I understand that the motion included both amendments.

CHAIR WIENER:

That is correct. We will now close the hearing on S.B. 229 and open the hearing on S.B. 306.

**SENATE BILL 306:** Authorizes the Health Division of the Department of Health and Human Services to establish a grant program to support the expansion of various health care services. (BDR 40-1052)

Senate Committee on Health and Education  
April 7, 2009  
Page 3

CHAIR WIENER:

Proposed mock-up amendment 3834 to S.B. 306 from Senator Carlton is located on page 9 of ([Exhibit C](#)). We heard testimony on this yesterday. We will roll this bill to a future meeting and open the hearing on S.B. 319.

**SENATE BILL 319**: Revises provisions governing certain reports of sentinel events and related events. (BDR 40-828)

MS. LYONS:

An amendment was provided by Senator Breeden and may be found on page 12 of [Exhibit C](#).

SENATOR BREEDEN:

I would like to share with members of the Committee that because there was so much opposition, we wanted to work with everyone. I am not sure everyone is here, and I have not looked at the votes of all who attended. I will submit the names of those attendees on the record ([Exhibit F](#)). I was there, listening.

BOBBETTE BOND (Health Services Coalition):

We have been working with Senator Breeden, trying to create a sentinel events program. I will just go through what we capped in the bill, because there was substantial change.

We decided that the beginning of the bill was about trying to create a way to track near-miss events and to start identifying them as events. The reason for that, and a little testimony that almost got missed, was the way to figure out what we must do to create safety procedures and safety programs.

Listening to hospital testimonies and concerns, we decided as a group that instead of reporting and tracking near-miss events, hospitals would work with the State and create a committee to define a near-miss event. This committee would report to the next Legislative Session with an idea of how to best track and report near-miss events and then to work on the near-miss events. In between now and then, they would report their progress to the interim Legislative Committee on Health Care. At some point, they would include more groups than only the hospitals and the State; at the appropriate time, when there is a model that works, they would get input from groups like us.

The second important item was to continue to report sentinel events. Our proposal in the original bill was if hospitals are penalized for not reporting those sentinel events, we wanted those penalties publicly reported. The hospitals determined, and the State concurred in discussion, that is already something they are able to do. If those sentinel events are not reported, and there are penalties in place, then they do have ability to post that. We are going to push to have that publicly reported.

The third item was that we wanted the Centers for Disease Control and Prevention (CDC) computer program that creates hospital databases for the tracking of infectious disease and control. We wanted that in the bill, and everyone agreed that should move forward. The hospitals are going to register for that program, and the State is going to set regulations about which hospitals and which facilities will participate. The State will also set regulations for which issues are to be tracked and, based on Senator Cegavske's bill on methicillin-resistant *Staphylococcus aureus* (MRSA), what is happening in the communities with MRSA, and the high prevalence of MRSA. We are hoping that is the issue that gets tracked, but at least issues will be handled through the CDC Website and the database on infectious diseases.

That might be all we were able to get this Session. I am happy with it because this gives us a chance to start defining near-misses and really start working on infectious disease control without providing an undue burden on the hospitals.

CHAIR WIENER:

On page 14, lines 11-12, [Exhibit C](#), regarding the annual report of sentinel events: "reported ... by a medical facility located in a county whose population is 100,000 or more ... are we doing any tracking for those under 100,000? What are we doing to monitor those?"

MS. BOND:

My understanding from what the hospitals and the State would say is those sentinel events still have to be reported to the State, but the summary of what is reported to the State would only happen for the two strongest counties, Washoe and Clark. In the smaller counties, the events are so few and the database cell size so small there is a high chance they will raise concerns that are not legitimate; concerns because of the cell size that can skew the data. We are happy to start with this, and we will see if there are any issues.

SENATOR NOLAN:

The quality assurance statutes we have provide some level of confidentiality. Health-care providers can internally analyze these types of events and take appropriate caution without the fear of retribution or liability. How does the bill, as written and amended, affect those events? I feel very strongly that the quality assurance statutes are in place for the reason we fought over several sessions; to provide that type of quality-care protection. I just want to make sure that those statutes are still intact and in place, even with this statute.

BILL WELCH (Nevada Hospital Association):

Yes, in fact that was one of our primary objectives to ensure confidentiality with discoverability. That would assure the incentive of individuals reporting those events was protected. This legislation represents reference to statutes that provide for the protection and confidentiality of which you are concerned. We are very much concerned with it, and the way this bill is written, the protection continues to be there for the individual health-care worker.

CHAIR WIENER:

I want to thank everybody who came to the gathering place to work on a piece of legislation that was probably very difficult for everyone.

SENATOR NOLAN:

Currently, sentinel events are reported, the data is gathered, and that information has been, for quite a while, analyzed, reviewed and disseminated for review. If we are adding near-miss events, and we can define them as unplanned events that did not result in injury, illness or damage, one wants to know about them because enough of those little things add up to become a sentinel event.

My experience, having worked in clinics and hospitals in the role of a paramedic, is that those near-miss events happen. Sometimes, the only person who knows about them is the individual doing it, who suddenly realizes, "oh, oh." It might be an intravenous start or a medication error or something like that. If there is a medical problem, which of course the near-miss does not encapsulate, if they develop an injury or an illness as the result of a medication error, then of course those things are hopefully going to be captured.

For the near-miss event, and for the individuals, I just do not know how many of those are actually going to be reported when somebody identifies something

that did go wrong. They know they did wrong and self-corrected. If they did something wrong and did not know it was wrong, and they were not witnessed and did not report it, it would never be reported. We should capture some of them. Because somebody is going to stand there and say, "Oops, you know what, you just started an IV in an artery instead of a vein." A lot of those things can be captured.

Ms. BOND:

With the difficulty of trying to define a near-miss event, the original bill had a pretty broad definition. We came up with a much more narrow definition along with the Joint Commission on Hospital Accreditation's definition. The conversation that we just had with the group is exactly the conversation that made us all decide that near-miss events this time will not be reportable. The hospitals and the Health Division are going to work together to figure out a process for defining them, identifying them and then the best way to report them, so that we do attack the issue of near-misses. This is where the problem is.

So that we do not overwhelm the hospitals with individual reports that do not go anywhere and just cause a burden, they are going to work on that. We have asked to be part of that at the point where it can be a public, or a more public, process. The hospitals and the Division of Health are going to be reporting to the interim Legislative Committee on Health Care on a quarterly or monthly basis. I will get the dates on that and come back to this group next Session with the plan for managing near-misses.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS S.B. 319.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CEGAVSKE VOTED NO.)

\*\*\*\*\*

Ms. BOND:

I am so sorry; Senator Breedon asked me to help with this, and I would feel irresponsible not talking about the final thing that was captured in S.B. 319. We were successful in agreeing that the State Nursing Board, the State Board of Osteopathic Medicine and the Board of Medical Examiners would report the

sentinel events to the Health Division. That was an issue that was identified during the hepatitis outbreak; there were people finding out about issues, but there was no central communications group. That is captured in this bill.

CHAIR WIENER:

We will now close the hearing on S.B. 319 and open the hearing on S.B. 340.

**SENATE BILL 340**: Revises provisions governing the allocation of certain money from the Fund for a Healthy Nevada. (BDR 40-1133)

Ms. LYONS:

I would direct your attention to page 26, [Exhibit C](#). This bill was heard on Friday, as well. There are two amendments that were proposed for the bill: Washoe County Health District's amendment on page 27, [Exhibit C](#), and the Department of Health and Human Services' (DHHS) amendment on page 31 of [Exhibit C](#). On page 30, [Exhibit C](#), is the amendment proposed by the Washoe County Health Division. Jennifer Stoll-Hadayia presented the amendment.

JENNIFER STOLL-HADAYIA (Public Health Program Manager, Washoe County Health District):

I do want to make a point of clarification as well. That amendment does represent a collaborative effort and support of the Southern Nevada Health District as well as the Health Division. It is not solely Washoe County Health District's amendment.

The amendment further clarifies how the tobacco prevention and control allocation and the Fund for a Healthy Nevada will flow. It will go from the Director's office of the DHHS to the Health Division where it will then flow to those district boards of health and counties that are 100,000 population, or more, for the establishment of regional tobacco prevention and control programming. The funds will also go to those programs in counties with less than 100,000 populations to provide services to our rural communities, again focused on tobacco prevention and control from a regional perspective. Last, but not least, it also allows for the Health Division to provide for statewide programs that are essential to tobacco prevention and control, evaluation, cessation, counseling and oversight for all of the funding as well.

Senate Committee on Health and Education  
April 7, 2009  
Page 8

The amendment simply provides more specificity for how those funds will flow, which is a match to the conversations we have been having over the past few months about a best-practice structure for these funds.

CHAIR WIENER:

The other amendment changes the effective date to July 1, 2010. Are there any questions or comments to the Committee? I will entertain a motion.

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS S.B. 340 WITH BOTH PROPOSED AMENDMENTS.

SENATOR BREEDEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

CHAIR WIENER:

Senator Copening, please join us. Before us is S.B. 185. We do not need to repeat testimony, but would you share with us what you have accomplished with your amendment? We will close S.B. 340 and open hearings on S.B. 185.

SENATE BILL 185: Requires school districts to use environmentally sensitive cleaning and maintenance products. (BDR 34-742)

SENATOR ALLISON COPENING (Clark County Senatorial District No. 6):

I am pleased to be able to come back with these amendments because it is what I would call a win-win situation with all of the parties involved. Some parties testified to an issue with S.B. 185: the Department of Education (DOE), Clark County and Washoe County School Districts and an organization called Consumer Specialty Products Association.

The concern of the DOE was the magnitude of developing a list of what we will call green cleaners. They were concerned about their lack of expertise in the areas of green products. There were concerns about the costs that were associated with green products. There were concerns that only one expert group might be used in developing a list that was from the Consumer Specialty Products Association. They wanted more than one group to be considered.



There were concerns that perhaps some green products may not adequately kill some strains of bacteria, viruses, and things like that. We addressed every single one of the concerns, and I have talked to all three of those stakeholders. Everybody seems to be very happy.

On page 4 of [Exhibit C](#), in section 3, subsection 1 of S.B. 185, you will notice that we have proposed new language to read "... the cleaning of all floor surfaces." This is what we call baby steps. It seemed a little overwhelming to the stakeholders at this time. So, we are going to start with just floor cleaners, which would be for hardwood floors, tile, ceramic and carpet. We decided on that because those are surfaces that every single child and all school personnel will touch and be in contact with at any given time. This is what we start with; the sample-products list will be made up of sample products that address floor cleaners.

On page 5 of [Exhibit C](#), in section 3, subsection 3, the next step states although the DOE will review the list every two years, they may amend the list. There is not a mandate saying they have to amend it. They may amend it if they want to add new products to the list, but they do not necessarily have to.

In subsection 5 of that same section, we have addressed the number of expert groups that may participate, or allow the school district to consult with any persons that they consider knowledgeable and experienced in environmentally sensitive cleaning products (ESCP), to help them make the list.

In section 3, subsection 7, page 5, [Exhibit C](#), we address the costs that were in the original bill as well, but if it were not considered more economically feasible they could apply for a waiver. The really great news is the Southern Nevada Water Authority and Water District is one organization that has gone green. They reported back to me just today. I did not have a printer handy, but they said they have actually saved substantial dollars by eliminating all of these various products they were using, basically using about four different products. They stated they have saved substantially by using an ESCP.

In section 3, subsection 9, page 5, [Exhibit C](#), it states that if the trustees of the school district want to use an ESCP on surfaces other than just the floor, they are more than welcome. We actually encourage it.

Lastly, section 3, subsection 10, page 5, [Exhibit C](#) states that if an ESCP does not clean to the standards that they feel it needs, and this could be determined by the expert groups they meet with such as the Environmental Protection Agency, they can use a different product that does not necessarily have to be environmentally sensitive.

This is for the good of the kids. If there is some sort of bacteria out there that has shown it cannot be killed with an ESCP, they can use chemically based products. That pretty much addressed everyone's concerns, and they told me they are all very happy with this.

CHAIR WIENER:

Thank you for bringing people to the table to take this on. There were some challenges, and you have addressed them. We appreciate your collaboration with people to come to this outcome.

SENATOR NOLAN:

Senator Copeney addressed some of my concerns also; whether it is a laboratory, the nurse's office or in some of the vocational technical schools, there are things that you need to kill pathogens.

CHAIR WIENER:

Are there any other questions for the sponsor of S.B. 185? Are there any comments from the school districts? They are giving a thumbs-up.

SENATOR NOLAN MOVED TO AMEND AND DO PASS S.B. 185.

SENATOR WOODHOUSE SECONDED THE MOTION.

CHAIR WIENER:

Is there any additional discussion other than a thumbs-up from the two largest school districts?

THE MOTION CARRIED UNANIMOUSLY.

\* \* \* \* \*

CHAIR WIENER:

We will close hearings on S.B. 185 and open hearings on S.B. 325.

**SENATE BILL 325**: Requires hospitals to establish a program concerning methicillin-resistant *Staphylococcus aureus*. (BDR 40-42)

SENATOR CEGAVSKE:

I recommend we do this as the resolution we have proposed. I would like to ask if Ann Lynch would come up. She has proposed that we need to amend the language to S.B. 325, on page 25, item d, Exhibit C. She has a good amendment that will work for us because I do not want to mandate this; I want us to study it. So with the recommended language from Ms. Lynch that will take care of our issue. I would ask for the Committee's support.

ANN LYNCH (Sunrise Health System):

As I recall in our discussion, it was decided because of some previous experience with reporting on MRSA that we were trying to find ways to avoid trouble with the Health Insurance Portability and Accountability Act of 1997 and out-of-state patients. It is quite a convoluted reporting system that was developed and abandoned through the health district in Clark County. While we have talked about this, we would really like to get out and get it done.

The Division of Health and the Nevada Hospital Association have promised support (Exhibit G), on page 25. I am proposing to amend item "d" to read, ... "d. Cooperate with the Nevada Hospital Association and the Division of Health in developing a model for reporting cases in a timely manner. A report will be made of the reporting method to the 2011 Legislative Session."

CHAIR WIENER:

Do you have that written or are you just making that up as you go?

MS. LYNCH:

I have it written but nobody can read it, and I will hand it to you, Exhibit G. I will give it to you.

CHAIR WIENER:

Senator Cegavske, as the sponsor of the legislation converted to a resolution, does that work for you as well?

Senate Committee on Health and Education  
April 7, 2009  
Page 12

SENATOR CEGAVSKE:

Absolutely. This is so much more win-win for us to do it this way, and with the correction in item d., I think this will get us where we want to go. I will look forward to the report in 2011.

CHAIR WIENER:

As this is new territory, I would ask Counsel to make sure that we make the motion, amend and do pass. Did it matter that we converted it?

SENATOR CEGAVSKE MOVED TO AMEND AND DO PASS S.B. 325.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

\*\*\*\*\*

CHAIR WIENER:

That looks like what we can accomplish on work session today, am I correct Ms. Lyons? Senator Cegavske, would you like to record your vote?

SARA PARTIDA (Committee Counsel):

On S.B. 325 which just had an amend and do pass, I want to clarify that it will not actually be a resolution; it will just be "Whereas" in the preamble, and then it is transitory, not an actual resolution.

SENATOR CEGAVSKE:

On S.B. 306, I would be willing to vote with the Committee to rerefer it to the Senate Committee on Finance. Because of the amount of money, it is going to be determined by them whether the bill could go. If it did not have the money, we could vote it out.

CHAIR WIENER:

I had known that we would rerefer, but we should wait because I do not know if we want to send it out without recommendation.

MS. LYONS:

We need to receive the amendments. If you have received amendments in your office for bills that are before the Committee, we need those so they can be

Senate Committee on Health and Education  
April 7, 2009  
Page 13

included in the work session on Wednesday. That is preferable for the Chair so you have additional time to look at them, or if there is a need to, by Friday.

CHAIR WIENER:

Is there any further public comment? There being no one coming forward for public comment, this hearing is adjourned at 6:08 p.m.

RESPECTFULLY SUBMITTED:

---

Maureen Duarte,  
Committee Secretary

APPROVED BY:

---

Senator Valerie Wiener, Chair

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