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

Seventy-Seventh Session
May 22, 2013

The Committee on Health and Human Services was called to order by Chair Marilyn Dondero Loop at 1:47 p.m. on Wednesday, May 22, 2013, in Room 3138 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 nelis.leg.state.nv.us/77th2013. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn Dondero Loop, Chair
Assemblywoman Ellen B. Spiegel, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Wesley Duncan
Assemblyman Andy Eisen
Assemblywoman Michele Fiore
Assemblyman John Hambrick
Assemblyman Joseph M. Hogan
Assemblyman Andrew Martin
Assemblyman James Oscarson
Assemblyman Michael Sprinkle
Assemblyman Tyrone Thompson

COMMITTEE MEMBERS ABSENT:

Assemblyman Pat Hickey (excused)
Assemblywoman Peggy Pierce (excused)

GUEST LEGISLATORS PRESENT:

Senator Patricia Spearman, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Kirsten Bugenig, Committee Policy Analyst
Risa Lang, Committee Counsel
Janel Davis, Committee Secretary
Macy Young, Committee Assistant

OTHERS PRESENT:

Christopher Roller, representing the American Heart Association
Michelle Gorelow, representing March of Dimes Foundation
George Ross, representing Hospital Corporation of America, Inc.; Sunrise Hospital & Medical Center
Al Martinez, representing Service Employees International Union Nevada 1107
Cheryl Blomstrom, representing Nevada Nurses Association
Bill Welch, representing Nevada Hospital Association
Joan Hall, representing Nevada Rural Hospital Partners Foundation
Dan Musgrove, representing the Valley Health System of Hospitals
Sandra Layton, Private Citizen, Las Vegas, Nevada
Nicole Willis-Grimes, representing Saint Mary's Regional Medical Center; North Vista Hospital
Craig Stevens, representing Nevada State Education Association
Christine Bosse, Vice President, Government Relations, Renown Health
Laura Martin, representing the Progressive Leadership Alliance of Nevada
Jerri Strasser, Private Citizen, Las Vegas, Nevada
Raushanah (Rah) Abdullah, Vice President, Service Employees International Union Nevada 1107
Hedy Dümpel, RN, JD, National Chief Director of Nursing Practice & Patient Advocacy, National Nurses Association, National Nurses United
Elizabeth Bickle, Private Citizen, Las Vegas, Nevada
Robert Worley, Private Citizen, Reno, Nevada
Kathryn Minton-Gamer, Private Citizen, Las Vegas, Nevada
Layne Lowry, Private Citizen, Las Vegas, Nevada
Renee Ruiz, representing National Nurses United
Lisa Genio, Private Citizen, Las Vegas, Nevada

Chair Dondero Loop:
[Roll was called. Rules and protocol were explained.] I will open the hearing on Senate Bill 92 (2nd Reprint). We welcome Christopher Roller.

Senate Bill 92 (2nd Reprint): Makes certain changes related to the health of infants. (BDR 40-529)

Christopher Roller, representing the American Heart Association:
If passed, Senate Bill 92 (2nd Reprint) would ensure that newborns in Nevada are screened for critical congenital heart defects (CCHD) using pulse oximetry which could potentially save the lives of babies in Nevada. [Continued to read from prepared testimony (Exhibit C).]

Early detection not only saves lives immediately, because these defects can cause serious complications, and even death in the short term, but there can be long-term issues that can be prevented. For instance, if a child has a defect where the effects do not show up until later in life and has a sudden cardiac arrest or other issue later on, these things can be prevented as well. [Continued to read from prepared testimony (Exhibit C).]

Currently, as the bill is written, the date of implementation is October 1, 2014. We have submitted an amendment (Exhibit D) to further delay that to July 1, 2015, so that the next Legislature has a chance to review the data that is going to be submitted as a result of section 2 in the bill. We are supportive of that amendment.

Section 2 of the bill requires that hospitals already screening for CCHD using pulse oximetry report certain information related to positive screens to the state Health Division for a potential study of the effectiveness and implementation strategy around the screening. That data and potential study that the Health Division would commission would be presented to the Legislative Committee on Health Care during the interim, and they could decide if a bill would be brought forward in the 2015 Session.

I will summarize the requirements for the screening. In the process of being widely adopted, many lives have already been saved. There are several case studies that I could point to. I provided one example (Exhibit E) from the state of Virginia, which is included in the packet of documents that was submitted. Within the packet is a newborn CCHD Screening Progress information sheet (Exhibit F), a sheet from the Newborn Foundation Coalition (Exhibit G), a letter from Melanie Baldwin (Exhibit H), and various letters in support (Exhibit I). [Continued to read from (Exhibit C).] Unless there are any questions, I will turn it over to Michelle Gorelow from March of Dimes.

Michelle Gorelow, representing March of Dimes Foundation:
I would like to provide a brief history of newborn screening. A newborn screening is a public health program that began in the 1960s with

phenylketonuria (PKU) testing. [Continued to read from prepared testimony (Exhibit J).]

Critical congenital heart defects (CCHD) screening is important because Nevada's babies are at high risk for undetected CCHD. In many cases, we do not know why there is a birth defect, but we do know that there are some risk factors; one of which is late or no prenatal care. Nevada has the highest rate of late to no prenatal care at 12.8 percent. Nevada also has a high rate of childbearing women who smoke during pregnancy, which is a risk factor for heart defects. We also have a low rate of adequate prenatal care. Some women are getting prenatal care, but they are not able to go as many times as they need to. [Continued to read from (Exhibit J).] I have also submitted a sheet on the March of Dimes CCHD screening supporters (Exhibit K).

Assemblyman Sprinkle:
In general, how much does it cost to take care of one of these children after they have been born, maybe within a few days after delivery?

Michelle Gorelow:
If they end up in the neonatal intensive care unit (NICU), a NICU baby averages about $15,000 to $20,000 per day.

Christopher Roller:
The cost can widely change. I do not know if you have heard the term "million-dollar baby," but in most of those cases, it is heart-related. Not to say that every child who had a CCHD would end up costing a million dollars, but there have been cases that reach that level.

Assemblyman Sprinkle:
If I heard your testimony correctly, you mentioned a sensor for pulse oximeters was between $5 and $10. Is that right?

Christopher Roller:
Yes. Actually, it ranges anywhere from $1 to $10. We put it at an average of $5 as there is such a wide range of reusable probes versus disposable probes. Costs will end up being lower per probe if they are ordered in a high bulk amount.

Assemblyman Sprinkle:
So, a million-dollar baby plus $5?

Christopher Roller:
Right.

Assemblywoman Fiore:
I just had a granddaughter who was born and she did not receive this test and I want her to. How many children are born with this congenital heart condition?

Christopher Roller:
I know there was a number from the Centers for Disease Control (CDC). I think 18 out of every 10,000 was the number.

Michelle Gorelow:
According to a report provided to us by the Health Division, approximately 120 babies a year are born with one of the seven critical congenital heart defects.

Chair Dondero Loop:
Thank you. My grandbaby who was born two days before this session, had this problem.

Assemblyman Hambrick:
Ms. Gorelow, I will ask this to you, but you can always defer the question. Is CCHD hereditary?

Christopher Roller:
I would have to defer to a clinical expert on that question. I believe the answer is yes, some of these conditions have a genetic component, but I do not want to say for sure which ones and what the percentage of cases would be. I do not have that information.

Assemblyman Hambrick:
This is strictly hypothetical. If we find out that CCHD is hereditary, could there be a ripple effect on the parent on insurance and other issues? In today's economy, there may be some, who unfortunately, would want to use information like this other than what the bill was intended for. I am just trying to get a handle on this.

Christopher Roller:
I would not be prepared to answer that question because I have been keeping up on this issue very closely and I have not seen that question come up in any other states where we have been working on this. I am certainly willing to research it and get an answer to you later.

Assemblyman Eisen:
I can answer Mr. Hambrick's question. There are a small number of congenital conditions that have a genetic component, but none of them are strictly genetic;

meaning if a parent has it then the child will have it. This sort of implication would not be a big concern.

I also wanted to comment that I have spent an enormous amount of time with Mr. Roller in recent weeks discussing this and going over the data from around the country. I have some hesitation in terms of this becoming mandated with the data that we have today. I appreciate the efforts that have been made to move forward with gathering data and to see how we do with an opportunity to assess data before this becomes a universal mandate.

The way the bill is written, if this amendment is adopted, it would essentially make this an opt out for the 2015 Legislature to have an opportunity to look at the data collected for Nevada and what is developing around the country to make a decision about whether or not it is the appropriate step to take for this to be a statutory mandate in Nevada. I really appreciate the tremendous amount of time Mr. Roller has given me as we have worked through this.

Chair Dondero Loop:
Mr. Roller, any comments?

Christopher Roller:
I also would like to thank Dr. Eisen for the time he has put into working with us on this as well.

Chair Dondero Loop:
Are there any additional questions from the Committee? [There were none.] I appreciate your testimony today. For me personally, I recognize concerns people may have, but I think it is wonderful that we can detect things at birth for parents.

I will call forward anyone in support of S.B. 92 (R2).

George Ross, representing Hospital Corporation of America, Inc.; Sunrise Hospital & Medical Center:
Sunrise Hospital & Medical Center checks every one of its babies with a pulse oximetry test. We think it is very helpful and we believe that this bill—when we get the data in the next two years—will give us a good base to go forward. We will know all the things that people were worried about before, when the bill was coming up based on too many false positives and a number of other very pertinent comments from experienced folks. We will have some good data to move forward. I thank the proponents and Dr. Eisen for the time they have spent on this bill.

Chair Dondero Loop:
I would like to do a shameless plug for Southern Hills Hospital & Medical Center where my daughter had her baby, which I believe is a Sunrise sister.

George Ross:
It is.

Chair Dondero Loop:
Thank you. Any questions? [There were none.] We will go to opposition. Is there anyone in opposition? Is there anyone in the neutral position? [There was no response to either question.] Mr. Roller, do you have any closing remarks?

Christopher Roller:
Thank you for hearing this bill. I urge your support and appreciate your time.

Chair Dondero Loop:
I will close the hearing on S.B. 92 (R2). I will now open the hearing on Senate Bill 362 (2nd Reprint). I would like to welcome Senator Spearman.

Senate Bill 362 (2nd Reprint): Makes various changes concerning certain health care facilities that employ nurses. (BDR 40-710)

Senator Patricia Spearman, Clark County Senatorial District No. 1:
Thank you for your indulgence and those members who stayed in the audience. I want to make this short and sweet. We came into this process on December 8, 2012, when the bill draft request (BDR) was posted to the website. This bill was actually posted on March 18, 2013. We presented the first time in the Senate Health and Human Services Committee on April 2, 2013. From March 18 forward, there have been some serious and hard-fought deliberations in terms of how we will resolve these issues. We finally came to an amicable conclusion that would do a couple of things.

The intent of the bill empowers the staffing committees at each medical facility to establish the staffing ratios necessary for health care workers, particularly nurses, to provide quality patient care. It also helps them to develop necessary policies to ensure the hospitals adhere to the established ratios. It identifies how nurses and certified nurse's assistants are protected from retaliation if they exercise their right to refuse an assignment. It reiterates provisions already in *Nevada Administrative Code* (NAC) Chapter 632 that authorizes nurses and certified nursing assistants the right to refuse an assignment. It establishes penalties and fines from medical facilities that do not develop and implement the ratios.

Registered nurses (RNs) and certified nursing assistants (CNAs) who are in labor unions already have additional provisions in the negotiated contracts to accept assignment despite objection (ADO).

Senate Bill 362 (R2) gives that right to everyone, whether they are in union or not. Finally, S.B. 362 (R2) authorizes the Health Division to look at staffing committees, policies, and patient ratios as part of the medical facility's licensing process.

This conclusion has been reached and supported by labor and management. I also want to thank Assemblyman Oscarson who provided unquestionable leadership and lent his wisdom from his duty in his other life as a health care manager. I feel really good about this. We have hospitals who agree; we have labor who agree. I believe this is a bill whose time has come; it is the culmination of ten years of work. We started the first study in 2003. Some of those who were on the Committee in the Assembly are now in the Senate. I think it is time to put this to bed.

Chair Dondero Loop:
Are there any questions for Senator Spearman? [There were none.] Thank you. We agree, we are happy to have Assemblyman Oscarson in our midst. I will call forward those in support of S.B. 362 (R2).

Al Martinez, representing Service Employees International Union Nevada 1107:
Our history in defending our bedside staff and protecting our patients has been at the very principal of our organizing the health care system throughout our state. [Continued to read from prepared testimony (Exhibit L).]

Cheryl Blomstrom, representing Nevada Nurses Association:
The process of working on S.B. 362 (R2) has been incredibly collaborative. Speaking for the Nevada Nurses Association, we are grateful for the opportunity to make sure that the voice of nursing is heard in these important decisions. They and their CNAs are at the forefront of this patient care. They are the closest to the patients in every ward and every hospital in this state. It is important that their voices be heard and that the patient acuity, patient census, and the variety of conditions that happen in and out of a hospital are taken into account as these decisions for staffing are made. We very much appreciate the opportunity to participate in the process. To make a commitment to you, our hospital colleagues, Service Employees International Union (SEIU), and other colleagues in this decision, we will stay engaged in this during the interim, and we will make sure that the voices of nursing are heard.

Bill Welch, representing Nevada Hospital Association:
I would first like to thank Senator Spearman, Assemblyman Oscarson, the representatives from SEIU, the Nevada Nurses Association, and the Nevada Organization of Nurse Leaders (NONL), who have all worked diligently. All parties were invited to be at the table; all parties that chose to come to the table, did. For the last several months, we have worked to try to come to legislation that would address the concerns we are attempting to resolve.

In addition to what has been testified to by Senator Spearman, I want to emphasize this legislation further codifies current regulation, adds additional functions to the current law related to staffing committees and the role of the staffing committee, further ensures that the bedside nurse and the CNAs have a voice in staffing-related matters, and provides for specific review of the Health Care Quality and Compliance (HCQC) agency to ensure that the hospitals are facilitating the staffing committee as intended by this legislation.

This legislation also provides for penalties if a hospital is not in compliance with meeting the intent of this legislation, and it provides for additional clarification and specific clearer functions of what this committee must look at related to refusal of assignments, assignment despite objection, et cetera. So, it provides further clarity for the staffing committees that would have a balanced representation on them, both on bedside staff as well as management.

We appreciate everybody's effort to work together. We support this legislation.

Chair Dondero Loop:
Thank you. I will call up additional support.

Joan Hall, representing Nevada Rural Hospital Partners Foundation:
We are in support of this legislation as presented.

George Ross, representing Hospital Corporation of America, Inc.; Sunrise Hospital & Medical Center:
I would like to thank the sponsor of the bill as well as SEIU for their negotiations that will lend us to work with the industry to make this a better bill. We support this bill.

Dan Musgrove, representing the Valley Health System of Hospitals:
In the interest of time, ditto.

Sandra Layton, Private Citizen, Las Vegas, Nevada:
I am a member of SEIU. I work at St. Rose Dominican Hospital, Siena Campus, in the Henderson area. I have worked for St. Rose Dominican

Hospital for over 35 years as a CNA. This bill will give us more continuity of care, more support for our patients in general, and it will assist us in having protection of our licenses, not only as CNAs, but the RNs as well. We would greatly appreciate your voting for this bill.

Nicole Willis-Grimes, representing Saint Mary's Regional Medical Center; North Vista Hospital:
I would like to echo the previous speakers' comments that we are, in fact, in support of this bill as written and we thank you for the hearing.

Craig Stevens, representing Nevada State Education Association:
We are in full support of this bill, and we are here to support all nurses across Nevada. Anytime we can improve their ability to do their job, it improves health care across the state.

Christine Bosse, Vice President, Government Relations, Renown Health:
We, too, are in support in S.B. 362 (R2). We appreciate the opportunity to work with all of the stakeholders that resulted in this bill as amended. We are pleased to be able to continue our work with our staffing committees and work on the complex issue of staffing a hospital.

Laura Martin, representing the Progressive Leadership Alliance of Nevada:
We also support S.B. 362 (R2). We trust nurses with our lives every day and I think we can trust them to manage these staffing committees. I hope we can pass this bill and help a lot of Nevadans when they are in their most vulnerable positions.

Jerri Strasser, Private Citizen, Las Vegas, Nevada:
I am a staff RN in the pediatric intensive care unit at University Medical Center (UMC). I have been at UMC for 31 years. Improving patient safety and care is the most important reason to move forward with this bill. [Continued to read from prepared testimony (Exhibit M).]

Raushanah (Rah) Abdullah, Vice President, Service Employees International Union Nevada 1107:
I am also on the Leadership Council for the Nevada Nurse Alliance where we network and discuss ways to meet the challenges we face regarding our licenses and practices. As nurses, our fight to improve patient safety and staffing levels is ongoing. [Continued to read from prepared testimony (Exhibit N).]

Chair Dondero Loop:
Is there anyone else in support? [There was no one.] We will now hear opposition to S.B. 362 (R2).

Hedy Dümpel, RN, JD, National Chief Director of Nursing Practice & Patient Advocacy, National Nurses Association, National Nurses United:
I represent the National Nurses United, which is a national organization of direct care registered nurses. We represent their professional interest, as well as their collective bargaining interest. We are also here with our Nevada affiliates; we have about 3,000 members in Nevada and represent 5 hospitals here. I would like to talk about two items that are relevant to this particular piece of legislation.

First, we do not support staffing committees without ratios. I know that this is not the subject of discussion, but we need to go on record to make it clear that we do support staffing based on individual patient acuity with mandated direct care RN-to-patient ratio as the minimum. This clearly does not go far enough. In that sense, we are not in support of the staffing committees, solely because the ratios are not there.

Secondly, we have deep concerns about the written policies hospitals are to develop for the purpose of deciding when it is appropriate to refuse a staffing assignment. Registered nurses are patient advocates and know exactly when to refuse and when not to refuse an assignment, particularly if it is not in the interest of the patient—then they will refuse the assignment. Registered nurses are accountable to the Board of Nursing. The Board of Nursing regulates their practice. We do not want to have hospital policies take over the jurisdiction and responsibility and accountability of the Board of Nursing by coming up with their own policies and their own interpretation.

The other area of concern is having the Health Division overseeing the hospitals and making determinations whether or not there is a violation of the intent of the legislation, which means that there are now three parties regulating the professional practice of nursing and having jurisdiction. We believe jurisdiction belongs with the Board of Nursing and that the independent professional judgment of an RN does not need to be set into policy. We have some disruptions in collective bargaining agreements. We believe that should remain free and clear of any policies and procedures that are developed by the hospitals. It is a difficult environment that RNs and other health care workers find themselves in. We want to be sure that this environment allows them to exercise their clearly independent professional judgment to make that determination.

Chair Dondero Loop:
Did you testify on the Senate side?

Hedy Dümpel:
No.

Assemblywoman Spiegel:
Did you have an opportunity to participate in the working group?

Hedy Dümpel:
I would have to defer that to our person on the ground here. I am not familiar with the ins and outs. I know by the time we were notified, it was too late; the decision was already made and too much time had passed.

Assemblyman Eisen:
You raised a number of concerns, which are things that would concern me as well. As a physician, I have practiced in hospitals in Nevada. Jerri Strasser, who testified in southern Nevada, has worked closely with me with a number of patients. You talked about a disruption of the collective bargaining agreements that you have and the standards that you set there. I am not sure what it is in the bill that would prohibit a collective bargaining agreement that goes further than these minimum requirements. If you could direct me to that, it would help.

I understand what you are saying about this bill and it not going as far as you would like it to—and we heard some folks testify in support say the same thing—I am thinking about this from a patient advocacy standpoint. Is what is proposed worse than the current situation? While I recognize that you would like to see it go further and see specific ratios in the legislation, I am trying to understand if there is something about this bill that would put us, or patients, in a worse position than under the current system?

Hedy Dümpel:
On your second question, what is very clear is that we are deeply concerned about approximately 20 hospitals that are affected by this legislation. There will be 20 different staffing plans that will have distinct ratios for every day, every shift, for every unit. There is no consistency, continuity, or standardization. We believe that a continuation of this situation—because it is no different from prior legislation—is really more of a status quo that does not change the safety, welfare, and health of the patients.

Assemblyman Eisen:
I understand what you are saying. Again, it seems to me that this bill does not go as far as you would like it to. You have made the statement that this does

not change things from the status quo. I am not sure if I entirely agree with that characterization. I will also tell you that I am not sure if I agree that different ratios for different hospitals is inherently wrong. I think that each hospital has to have appropriate minima, but that does not mean they need to be the same at every hospital; hospitals have different situations and other staff that can contribute. For example, there may be a hospital that has intensivists 24 hours a day and another hospital that does not. I think those are things that you could consider a hospital to be a hospital.

I am trying to get back to my core question, which is, is there something about this bill that would make us go backwards? I understand that it does not go as far forward as you would like, but is there something about it that moves us backwards?

Hedy Dümpel:
For one thing, the composition of the staffing committee has changed. In other words, in the past, RNs were 50/50 as part of the composition. Now we have CNAs that have been added. This is a concern to us. If you talk about the centrality of the role of the RN when it comes down to staffing, then the presence of RNs, albeit 50/50, is going to be essential. That is going backwards.

Assemblyman Sprinkle:
Are you concerned that you are adding another voice to these? This bill is not taking any away, but now you are concerned that there is going to be a CNA added to this committee?

Hedy Dümpel:
It means that RNs are in charge of the care. They are in the driver's seat; they are the ones that actually are providing care and they assign and delegate to other health care workers some of the work they are authorized by law to do and are competent to do. We do not want to dilute the composition as it is today; we would like to see it in a better way. For instance, in the state of Texas, 60 percent are RNs and 40 percent is hospital administration. We would like to see that number. Going backward and reducing the force of RNs is of concern. That does not mean that the CNAs will not be heard; it will be a collaboration working with RNs. In the state of California, we represent the interest of CNAs all the time even though we do not represent them.

Assemblyman Sprinkle:
You talked about standardization and consistency that would no longer exist if this bill were to move forward. Are you saying that kind of standardization exists now?

Hedy Dümpel:
What I am saying is, currently there is no standardization. What I said earlier is that there is a status quo that is continued; that is why we have continued opposition to legislation without mandated ratios. Nothing has really changed as far as the staffing committee is concerned and our position of the health, welfare, and safety of patients.

Assemblyman Oscarson:
I worked with the sponsor of the bill, with all of the parties to bring this together. We are not in California; we are in Nevada, and in Nevada, we work on a centered approach with patient care. Certified nursing assistants (CNAs) are a part of that process, as are registered nurses (RNs) as are licensed practical nurses (LPNs) and the rest of the staff. Having worked in a hospital and knowing how this works, this is a tremendous step forward for things to happen in the state of Nevada for us to work together to get better ways for the nurses to be staffed appropriately with administration and staff—core line staff involved in that process.

I am a little taken aback that you cite what California does because that is not impactful to me. What is impactful to me is what happens in this state. I represent this state and there was a significant amount of work that you were not involved in, nor any of your colleagues, to participate in this discussion. We worked hard and diligently, brought all the parties together, and because you were not there, is not a fault of the sponsor of the bill—it is a fault of your own.

Elizabeth Bickle, Private Citizen, Las Vegas, Nevada:
I am a registered nurse at St. Rose San Martin in Las Vegas. I would like to start out by reading a small portion from our collective bargaining agreement. [Read passage from her employee collective bargaining agreement (Exhibit O).]

Nurses at St. Rose spent nine months bargaining with their employer to get the protection of this and to gain language. In our contract, it gives us the right and the process of which to object to a patient assignment when we, in our professional opinion, feel that the assignment is unsafe for our patients and for ourselves. We have language in our contract that speaks to ratios that the hospital shall maintain for the safety of their patients and their staff. We have language in our contract which provides for a professional practice committee that will address the safety issues and help to formulate solutions to these issues.

We believe that the language of this bill, as it now states, does not guarantee our collective bargaining agreements. Rather, the bill, the way it is written now, nullifies it. With one pen stroke, it can render this protective language useless.

Chair Dondero Loop:
I would remind you that this is not about collective bargaining. Please stick to the specifics of the bill.

Elizabeth Bickle:
There are concerns that this bill can render the protections that we already have in place useless and meaningless, if not potentially illegal. If you pass this bill, we believe that you will take away the dignity, respect, courtesy, and trust that we have with our patients. You also will send a message that their health, well-being, and safety are of no importance.

Assemblyman Eisen:
My response goes back to where I started. Having worked closely with nurses for a long time, there is nothing we can do in statute that could take away the dignity, respect, and trust from a nurse toward a patient and toward a colleague. I simply do not see that.

To the policy specifically, I am not clear—and if you can help me with this, that would be great—where is it in the bill that would prevent either the continuation of the collective bargaining agreement that you have, or the ability to do that in the future? I do not see that referred to anywhere in here that something could not be negotiated with SEIU that sets a higher standard than what is in the bill. If that is the case, I am very worried about this, I just do not see that here. If you could help me to see that, it would clear things up.

Elizabeth Bickle:
I think the concern is, that by codifying it into law and putting these things in the hands of hospital policy by law, that weakens the position of the nurses to be able to stand up for their rights and for their patients, and to be the patient advocate. It is codified into law and that weakens the collective bargaining unit.

Robert Worley, Private Citizen, Reno, Nevada:
I am a bedside critical care registered nurse (RN) from St. Mary's Hospital in Reno. I am also a registered voter in Washoe County. I would like to speak in opposition to S.B. 362 (R2) specifically regarding section 30.3. In-house language further gives reason to not support this bill in its entirety. This section and other sections redefine and contradict the licensed nurse outside the definition set up by Nevada Revised Statutes (NRS) Chapter 632, and clumps RNs and LPNs together. The NRS describes an RN as one who practices professional nursing and an LPN is defined by their license as practicing practical nursing under the supervision and guidance of RNs.

A professional is defined as an expert with specialized knowledge and excellent manual, practical, and literary skills in relation to that profession, maintains a high standard of professional and ethical behavior and work activity while carrying out one's profession. A professional owes a higher duty to a client, often a privilege of confidentiality, as well as a duty not to abandon the client just because he or she may not be able to pay or compensate that professional. Often, professionals are required to put the interest of the client ahead of his own interests. Having interest and desire to do a job, as well as holding a positive attitude toward the profession, are important elements in attaining a high level of professionalism. A professional is an expert who is a master in a specific field. I urge this Committee to vote no on this bill and not support the redefining of the professionals that fill your local hospitals who will one day be caring for you and your family members.

Kathryn Minton-Gamer, Private Citizen, Las Vegas, Nevada:
I am an RN at St. Rose Dominican Hospital in labor and delivery. I saw the original intent of this bill where it had all the staffing ratios in it. The current bill has deleted all of those sections. That is where my concern with this bill is. I also did not see anywhere in this bill where it differentiates between an RN or an LPN. This is not to say that they do not have a place; they are a part of our team in health care, but when you or your family members are in the hospital, it is your RN that is the eyes, hands, and ears of your physician. With this bill, I feel it will no longer differentiate between your professional, educated nurse and a nurse that does not have as much. I ask that we not support this bill because it could be better.

Assemblyman Oscarson:
Thank you for those comments. I would like to direct you to page 3, line 22 of the bill. It specifically sets out reasonable requirements which provide, if feasible, an opportunity for the supervisor to review a request by the licensed nurse or CNA. It spells out the licensed nurse in that language.

Chair Dondero Loop:
Thank you. I know in section 30.3, it defines licensed nurse. I believe certified nurse is also defined.

Layne Lowry, Private Citizen, Las Vegas, Nevada:
I am an RN. I work at St. Rose Dominican Hospital in Las Vegas. I do not think this bill is good for patient care. It appears that the language states that any licensed nurse can be given a role of responsibility. Licensed nurse does not mean registered nurse, does not mean licensed practical nurse; there are differences spelled out by the Nurse Practice Act. The registered nurse is taught to be autonomous, to have critical thinking, and is trained to recognize a

sick patient and a not sick patient. The RN makes the decisions and calls the doctor; the LPN does what they are told. The language in this bill would support the hospital to be able to say, "We are giving you licensed nurses." So, if it is an RN, you could be in charge of five or six patients.

I would like to make a point to Dr. Eisen. In an ICU, how many patients would an RN have? They should only have two. This bill would support that you could have five or six to be in charge with four LPNs. This is not safe; this is not supporting safe patient care.

It looks to me as if the Nevada Hospital Association is using assemblymen to reduce costs to make more money. Assemblyman Oscarson, with all due respect, we were not invited to the working group.

Chair Dondero Loop:
I will stop you right there. Everything we do is a matter of public record. Senate Bill 362 (R2) was posted on March 18, 2013. It was a BDR prior to that. Whoever your representative is, or any representative for that matter, whether it is a hospital, nurses, SEIU, or myself, everyone is responsible for monitoring bills and making sure that they are a part of the process if they would like to be; and nobody is told they cannot be a part of the process, I can guarantee you that.

Assemblyman Eisen:
I would like to request that you follow up with me by email. My email is on the public website. I would like to know where you see in the bill where that could happen. It seems to me that would still be subject to the staffing committee and the composition of the staffing committee would be subject first to the statute, and additionally, to any additional agreements within a collective bargaining agreement.

Renee Ruiz, representing National Nurses United:
I believe this was just addressed; however, we had reached out prior to the amendments to this bill. We reached out to all the players at the table; we reached out to the bill sponsor. The sponsor and the other folks involved, including SEIU and other labor folks, knew where we stood on this bill and our concerns. We have not kept our concerns to ourselves through this entire session. We have been very vocal to the parties.

Assemblyman Oscarson:
Who is your representative here?

Renee Ruiz:
That would be myself.

Assemblyman Oscarson:
Did you not register on April 26, 2013, to become a lobbyist here?

Renee Ruiz:
Yes.

Assemblyman Oscarson:
You received your credentials on May 14, 2013, correct?

Renee Ruiz:
Yes, I did finally pick up my badge.

Assemblyman Oscarson:
Thank you.

Chair Dondero Loop:
Are there any additional questions? [There were none.] Everyone is invited to this process because these bills are posted online and they are all part of public record.

Lisa Genio, Private Citizen, Las Vegas, Nevada:
I am an RN at Desert Springs Hospital in Las Vegas. Sometimes we have to remember that the reason for the existence of our hospitals is for the wellness of the patient. The wellness of the patient comes about primarily by nursing care. The reason for them being in the hospital is because they need some form of nursing care. I have been an RN for 19 years and I have worked in a lot of areas of nursing. As a NICU nurse of 10 years, I would like to voice my support for the previous bill.

My concern with S.B. 362 (R2) is it appears to limit my ability as an RN to advocate for the safety of my patient. My ability to refuse or object to an assignment is subject to hospital policy. There are times when critical judgment may need to override that. I have been in many situations where I have dealt with many sick patients. I came from a hospital where we spent many months advocating for the safety of our patients, and within 48 hours of closure because of safety violations that were management's choice, I suffered many job threats and even a death threat. To me, it is concerning to put any more limitations on my ability to object to the safety of my patient and the well-being of a patient who cannot speak for themselves. Some patients can speak for

themselves, and even those patients need advocates. That is my job as a nurse.

Assemblywoman Spiegel:
Section 15, subsection 2 clearly says that licensed nurses or certified nursing assistants will have the ability, at a minimum, to refuse a work assignment for any reason set forth in paragraph (b) of subsection 1 of NRS 449.205; and it says to file an objection to a work assignment if the work assignment violates any provision of NRS 449.241 to 449.2421, inclusive, in sections 2 to 24, inclusive of the act. I looked at the statute this morning and it definitely included that an objection to a work assignment or refusal could be done if the nurse feels that it is unsafe for the patient. I am confused about what makes you say that you would not still have the right to object or refuse if this bill were to pass into law.

Lisa Genio:
I did note that there are reasonable requirements for prior notice to the supervisor of a CNA of the request to be able to refuse that assignment. There is hospital policy involved in that. When I come from a situation where my hospital was on the verge of being shut down and my department was on the verge of being shut down, if they are the ones writing the policies that dictate what is acceptable to refuse or not refuse, then it eliminates my ability to critically judge those safety issues.

Assemblywoman Spiegel:
Thank you, but it did seem clear in the existing statute and in this bill that existing statute also covered whistle-blowing. If you felt that it was unsafe, I think you would still have the ability, and I do not think that the legislative intent of this bill is to deny you that ability.

Lisa Genio:
I can only comment on my own personal experience. I would reiterate that I suffered multiple job threats and a death threat in the past year in regard to advocating for the safety of my patients and work environment.

Chair Dondero Loop:
Are there any additional questions? [There were none.] Is there anyone in the neutral position? [There was no one.] Senator Spearman, do you have any closing remarks?

Senator Spearman:
First of all, that was painful to watch. I am really sorry that the representatives of these fine nurses did not see fit to come to the table. The first time that

Ms. Ruiz contacted me was April 23, 2013, and, if you look at the bill history as I stated in my opening comments, it was a BDR in December of 2012. In previous conversations with Ms. Ruiz, she said she looked at one of my bills in October of 2012 and saw that it had defined ratios in it. Even though I did not have an opponent in the general election, by law, I could not even submit a BDR until after the November 6 election. Whatever was online at that time was not mine.

I wish that Ms. Ruiz had gone back to take a look because if she had, perhaps the people that she represents would be better informed about this bill. This bill does nothing to take away rights. As a matter of fact, it expands rights. If you look at the assignment despite objections, right now that is part of the collective bargaining agreements. With this bill, everyone has that. One of the nurses testified today that they would not have an opportunity to object or refuse an assignment if they did not think it was safe. This bill actually punctuates NAC 632, which says that RNs and CNAs have a duty to refuse an assignment if they feel that it threatens the life of their patient or puts their license in jeopardy.

Madam Chair, to your point, after March 18, 2013, I had about 40 or 50 people come into my office. We held more than ten meetings. The bill was publicized online when it was heard in the Senate Committee on Health and Human Services on April 2, 2013. I am mentioning these dates because it is very important. With the exception of Ms. Ruiz, I have never seen anyone on the opposition side come to talk to me or ask me what is in the bill. As I stated previously, Ms. Ruiz did not contact me until April 23, 2013. By law, all of our meetings are a matter of public record.

I think everyone in this building who lobbies on the side of any organization has a duty and responsibility to their constituents to do what everybody else does; and that is go online and see if there is any legislation that affects you. Nothing about this process was private and nothing about this process was covert. If Ms. Ruiz had been registered, she could have talked to me as a lobbyist. She did not register until April 26, 2013. That was 24 days after we first presented the bill on the Senate side. It was not approved until May 14, 2013, which is less than a month before the end of the session. You do not need to be a lobbyist to come and talk to me. I talk to private citizens. We had people in Las Vegas and in Carson City.

I am not sure why the representatives of the organization in opposition never attended or testified. I will tell you that this process was long and arduous. Everybody had to come to the table willing to put patient care at the center of the process. This is not an effort by the Nevada Hospital Association to reduce

or expand the ratios. I posted several studies on the Nevada Electronic Legislative Information System (NELIS) that show when you legislate patient ratios, that ties the hands of nurses. First, a study on mandatory nurse-patient ratios (Exhibit P), an Issue Brief on California's nurse staffing ratios (Exhibit Q), an information sheet on safe staffing (Exhibit R), and a cost information sheet on RN-to-patient ratios (Exhibit S). Once it is in legislation, you cannot change it. Giving the staffing committees the power to do that also gives them the flexibility to change it if they need to. I am not sure what the hospital policy they say they are against is because the staffing committees come together and develop the policy.

A lot of hard work, sweat, and tears went into this. I am offended that someone did not take the time to come and talk to me, to call, to go to the Grant Sawyer building in Las Vegas, or to travel up here on April 2, 2013, when we initially heard this bill. I am offended that they would even have the audacity to oppose anything in the legislation when it is apparent to everyone who read the legislation that none of the previous statements were true. On behalf of nurses, CNAs, and all the medical staff and their representatives who took the time to participate in this process, I would urge you to pass this legislation.

Chair Dondero Loop:
I will close the hearing on S.B. 362 (R2). Is there any public comment? [There was none.] This meeting is adjourned [at 3:13 p.m.].

RESPECTFULLY SUBMITTED:

_____
Janel Davis
Committee Secretary

APPROVED BY:

_____
Assemblywoman Marilyn Dondero Loop, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 22, 2013 **Time of Meeting: 1:47 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 92 (R2)	C	Christopher Roller	Written Testimony
S.B. 92 (R2)	D	Christopher Roller	Proposed Amendment
S.B. 92 (R2)	E	Christopher Roller	Virginia Example Sheet
S.B. 92 (R2)	F	Christopher Roller	CCHD Screening Process
S.B. 92 (R2)	G	Christopher Roller	Newborn Foundation Screening Process
S.B. 92 (R2)	H	Melanie Baldwin	Letter in support
S.B. 92 (R2)	I	Christopher Roller	Letters in support
S.B. 92 (R2)	J	Michelle Gorelow	Written Testimony
S.B. 92 (R2)	K	Michelle Gorelow	March of Dimes Screening Supporters
S.B. 362 (R2)	L	Al Martinez	Written testimony
S.B. 362 (R2)	M	Jerri Strasser	Written testimony
S.B. 362 (R2)	N	Rah Abdullah	Written testimony
S.B. 362 (R2)	O	Elizabeth Bickle	Quote from preamble
S.B. 362 (R2)	P	Senator Pat Spearman	Report on nurse-patient ratios
S.B. 362 (R2)	Q	Senator Pat Spearman	Issue Brief
S.B. 362(R2)	R	Senator Pat Spearman	Information sheet on safe staffing
S.B. 362 (R2)	S	Senator Pat Spearman	Information sheet on RN-to-patient ratios