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

Seventy-Eighth Session
May 8, 2015

The Committee on Health and Human Services was called to order by Chair James Oscarson at 1:43 p.m. on Friday, May 8, 2015, 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 www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman James Oscarson, Chair
Assemblywoman Robin L. Titus, Vice Chair
Assemblyman Nelson Araujo
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Jill Dickman
Assemblyman David M. Gardner
Assemblyman John Hambrick
Assemblywoman Amber Joiner
Assemblyman Brent A. Jones
Assemblyman John Moore
Assemblywoman Ellen B. Spiegel
Assemblyman Michael C. Sprinkle
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Patricia Farley, Senate District No. 8

STAFF MEMBERS PRESENT:

Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Karyn Werner, Committee Secretary
Norma Mallett, Committee Assistant

OTHERS PRESENT:

Donna Miller, President, Life Guard International-Flying ICU
Susan Fisher, representing Air Methods
Tom Clark, representing Regional Emergency Medical Services Authority
Temple Fletcher, Program Director, Care Flight
Jessica Ferrato, representing Nevada Nurses Association
Steven Tafoya, Manager, Emergency Medical Systems Program, Division of Public and Behavioral Health, Department of Health and Human Services
John Hammond, Supervisor, Emergency Medical Services and Trauma Systems, Southern Nevada Health District
Lynn Hettrick, Deputy Director, State Department of Agriculture
Christy McGill, Executive Director, Healthy Communities Coalition of Lyon and Storey Counties
Paula Berkley, representing the Food Bank of Northern Nevada
Robert Sack, R.E.H.S., Division Director, Environmental Health Services, Washoe County Health District
Joseph L. Pollock, R.E.H.S., Program Manager, Environmental Health Services, Public Health and Clinical Services, Division of Public and Behavioral Health, Department of Health and Human Services
Dan Musgrove, representing Southern Nevada Health District

Chair Oscarson:
[Roll was taken. Committee rules and protocol were explained.] We will begin our work session with Senate Bill 48 (1st Reprint). Ms. Coulombe, please start.

Senate Bill 48 (1st Reprint): Revises provisions relating to health information exchanges. (BDR 40-323)

Kirsten Coulombe, Committee Policy Analyst:
Senate Bill 48 (1st Reprint) was heard on May 1, 2015. It was brought forth by the Department of Health and Human Services. It eliminates the requirement that the Director of the Department of Health and Human Services establish a statewide health information exchange system, including the establishment of a governing entity for the exchange. [Continued to read from work session document (Exhibit C).]

Chair Oscarson:
Is there a motion?

> ASSEMBLYMAN JONES MADE A MOTION TO DO PASS SENATE BILL 48 (1ST REPRINT).
>
> ASSEMBLYMAN GARDNER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Assemblyman Jones will do the floor statement.

There is a last minute change in our agenda today. Senate Bill 402 will be pulled from the agenda.

Senate Bill 402: Makes various changes concerning the prevention and treatment of obesity. (BDR 40-891)

The next bill will be Senate Bill 288 (1st Reprint).

Senate Bill 288 (1st Reprint): Revises provisions relating to prescribing controlled substances. (BDR 40-889)

Kirsten Coulombe, Committee Policy Analyst:
Senate Bill 288 (1st Reprint) is sponsored by Senator Denis and was heard on May 4, 2015. It requires any person who is authorized to prescribe or dispense controlled substances to receive training, and be given access to the prescription drug monitoring program database developed by the State Board of Pharmacy. [Continued to read from work session document (Exhibit D).]

Chair Oscarson:
Is there a motion?

> ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO PASS SENATE BILL 288 (1ST REPRINT).
>
> ASSEMBLYMAN GARDNER SECONDED THE MOTION.
>
> THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Titus will do the floor statement. Senate Bill 458 will be next.

Senate Bill 458: Revises provisions governing notifications to patients regarding breast density. (BDR 40-979)

Kirsten Coulombe, Committee Policy Analyst:
Senate Bill 458 was heard on May 4, 2015. It was sponsored by the Senate Committee on Health and Human Services. It provides specific language which must be used to notify a patient who has undergone mammography of the relationship between breast density, breast cancer, and the impact of breast density on the effectiveness of mammography. The sponsor had presented a mock-up, which is attached to this document (Exhibit E) and was presented at the hearing.

Chair Oscarson:
Are there any questions? [There were none.] Do I hear a motion?

> ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS SENATE BILL 458.
>
> ASSEMBLYMAN SPRINKLE SECONDED THE MOTION.

Assemblywoman Titus:
I have two statements. I was one of the folks who brought up some significant concerns about this bill because I wanted to ensure that, with the change of the language, women are still notified of the many other issues they could have above and beyond the fact that they may have dense breasts. I have reached out to multiple radiologists who do the reading and asked what the federal standards and their standards would be. I am very comfortable with this bill as it now stands.

Assemblywoman Joiner:
I want to make sure something is clear for the record. With the change of language in section 1 to "if applicable," a woman who gets a report that says she has dense breasts at any of the four levels will get a letter that explains what that means. I want to make sure that is clear and that is the intent before I vote yes.

Kirsten Coulombe:
That is my understanding, but I would defer to the Legal Division to confirm.

Risa Lang, Committee Counsel:
I believe "if applicable" means that they would get the notice if it is relevant to them.

Assemblywoman Benitez-Thompson:
For the record, I appreciate the bill sponsor's intent, which is to ensure we are sending a letter about awareness, but we are not sounding the alarm so much that we give undue concern to folks. My only concern is that we are not going too far in the other direction. The way it reads in the amendment in section 1, subsection 2, line 23, is "However, dense breast tissue can make it harder to evaluate the results of your mammogram and may also be associated with a modestly increased risk of breast cancer." I wonder if "modestly" is not enough of a concern. Hopefully this letter will cause them to take more action. I believe that is the intent of the letter: to get the patients to go see their physician. I think it would read better if it just said "associated with the increased risk of breast cancer."

Chair Oscarson:
Are you all right with moving forward or would you like to readdress that?

Assemblywoman Benitez-Thompson:
I am okay moving forward. I just want my comments on the record since I have not had a chance to talk with the bill's sponsor about this. I think it would be unkind not to continue since it is on the record.

Chair Oscarson:
That is good. I think the letter itself dials it back. I do not know if it is too much, or if there is still the notion in the letter that it could happen. Is there any other discussion? [There was none.] We will now vote.

THE MOTION PASSED UNANIMOUSLY.

Assemblyman Sprinkle, would you like to do the floor statement? [He indicated yes.] Last, but not least, we have Senate Concurrent Resolution 2.

Senate Concurrent Resolution 2: Encourages education of medical care providers and first responders regarding caring for persons with Alzheimer's disease. (BDR R-237)

Kirsten Coulombe, Committee Policy Analyst:
Senate Concurrent Resolution 2 was sponsored by Senator Hardy. It was heard on April 27, 2015. It encourages the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, professional associations of health care providers, and educational institutions to incentivize and promote awareness and education of health care providers through ongoing education and training programs relating to the care and treatment of persons with Alzheimer's disease and other forms of dementia. [Continued to read from work session document (Exhibit F).]

Chair Oscarson:
Do we have a motion?

ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO ADOPT SENATE CONCURRENT RESOLUTION 2.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Dickman will do the floor statement. That concludes our work session for today. We will open the hearing on Senate Bill 327 (1st Reprint).

Senate Bill 327 (1st Reprint): Revises certain provisions governing air ambulances. (BDR 40-1017)

Senator Patricia Farley, Senate District No. 8:
I am here to present Senate Bill 327 (1st Reprint). This bill stipulates the qualifications of the attendants aboard an air ambulance and the minimum

number of attendants that are required. Specifically, the measure requires that an air ambulance used to provide medical transportation services must be staffed with a minimum of two attendants. The first attendant is the primary attendant who must be an Emergency Medical Services-Registered Nurse (EMS-RN) with at least five years of experience as a registered nurse. That person must have at least two years of critical-care nursing experience if working on a fixed wing air ambulance or three years of critical-care nursing experience if working on a rotary wing air ambulance. The second attendant must meet the same qualifications as the primary attendant or be certified as a paramedic with at least three years of field experience as a paramedic. Both attendants must have successfully completed an air ambulance attendant course, which includes didactic and clinical components and is approved and in compliance with requirements set by the licensing board. They must demonstrate proficiency in basic prehospital skills and advanced procedures. The measure authorizes an air ambulance providing medical transportation services to be staffed with only a primary attendant if the pilot and medical director of the air ambulance determine the weight of the second attendant would compromise the performance of the air ambulance safety or patient care.

Finally, the measure revises attendant certification training requirements for the licensed physician, registered nurse, or licensed physician assistant to require training in all three rather than just one of the following areas: advanced life-support procedures for a patient who requires cardiac care, life-support procedures for pediatric patients who require cardiac care, and life-support procedures for patients with trauma that are administered before the arrival of those patients at a hospital. The bill defines emergency medical services nurses and authorizes them to perform certain procedures.

Thank you for considering my testimony and considering standardizing and clarifying the health care professionals who might work in this vital role.

Assemblyman Moore:
Are these air ambulance companies private companies or are they through the government in any way?

Senator Farley:
I will introduce Ms. Miller, who has been working with me on this bill. She will respond to that.

Donna Miller, President, Life Guard International-Flying ICU:
They are both private and nonprivate.

Assemblyman Moore:
Nonprivate meaning what?

Donna Miller:
Public.

Assemblyman Moore:
Here in the state of Nevada? Which ones are they?

Donna Miller:
I do not know if there is a nonpublic air ambulance in the state of Nevada.

Senator Farley:
Nonpublic can transport patients in Nevada.

Assemblyman Moore:
Are these government controlled?

Donna Miller:
No.

Assemblyman Moore:
Are we going to put regulations on private companies and tell them who they can and cannot hire?

Senator Farley:
What we are doing is creating a standard for air ambulances. This needs to be there because, first and foremost, it is expensive, and if you are traveling via air ambulance, you are normally in critical condition. The expectation would be that the attendant would be able to do some of these advanced procedures to help transport the patient from one point to another.

Assemblyman Moore:
Are they currently regulated? Are there any requirements? Is it a free-for-all?

Donna Miller:
Yes, they are regulated.

Senator Farley:
We are just standardizing it for the entire state.

Chair Oscarson:
What happens is that—in facilities that do not have some of the higher levels of care that these patients require—you would call in a helicopter or a fixed wing aircraft to transport them to another facility. Those patients generally require a higher level of care on the aircraft if they are on ventilators and have significant trauma. You would want the most qualified individuals on that aircraft to take care of those patients.

Assemblywoman Benitez-Thompson:
It would be helpful if the testifier would introduce herself, not just her name but her relationship to the bill.

Donna Miller:
I am the president of Life Guard International-Flying ICU. It is a Nevada owned and operated fixed wing air ambulance company. I am also a flight nurse with 17 years of critical care experience, including 14 years of air medical transportation (Exhibit G).

Chair Oscarson:
Tell us a little about the equipment that you utilize in your business.

Donna Miller:
An air ambulance is a combination of aviation and medicine. There are rotary wing air ambulances and fixed wing air ambulances. Just as you can convert a van into a ground ambulance, an aircraft is converted into an air ambulance. The rotary wing usually picks up critically injured patients from the side of the road and takes them to the closest trauma center, while the fixed wing picks up critically ill patients from a facility that does not have the capability of taking care of that patient. That patient is transported to the nearest facility that is able to provide a higher level of care.

The airplane has the equipment and expertise that needs to accompany the patient and is equivalent to what you find in a hospital intensive care unit (ICU) or emergency room (ER), which is where we transfer those patients from. If we transfer a patient from an ER to another ER, we basically become a bridge between the two ERs. If we transfer the patient from an ICU to another ICU, we become a bridge between the two ICUs.

In the air there are certain conditions that add to the patient's already vulnerable condition; therefore, the team accompanying the patient must be capable of not only continuing the care that was being provided in a hospital by a group of professional, but also providing care and addressing any changes in the patient's

condition, whether it is anticipated or not. You are already taking a patient from a stable environment—like a hospital—where you have a handful of professionals taking care of the patient. Putting the patient in a ground ambulance adds stress to the injury, then you put the patient in an air ambulance, and then another ground ambulance on the other end. You do not want to decrease the expertise because you have a chance of more complications along the way that need to be addressed by the accompanying flight team. Therefore, the lives of those patients are relying on the expertise and equipment of the team that is accompanying them. There is no other health care environment that is more isolated than up in the air at 20,000 feet.

Chair Oscarson:
How many aircraft do you have that are operating within the state?

Donna Miller:
Four aircraft: three Beechcraft King Air and a Learjet.

Assemblywoman Benitez-Thompson:
I am looking at section 5. Currently, the State Board of Medical Examiners and the State Board of Nursing are the ones who oversee the licensing requirements for counties that have populations over 700,000. The intent would be to take the authority away from them and build it into statute. Can you talk about how the conversation came about to address licensing requirements in statute versus in regulations for those persons working on an air ambulance?

Donna Miller:
I do not believe there is a change in the authority. A flight nurse, for example, must have a registered nurse license issued by the State Board of Nursing. The Board also issues an EMS certification, which means an EMS-RN certification that states the nurse is meant to work in a hospital. The nurse that has an EMS on her license is actually allowed to function in the prehospital area. With this bill, that will not change. What changes is that—currently, in order to obtain the EMS-RN certification you have a total of ten days of training—there is no current requirement for the flight nurse or the person who is pursuing the EMS-RN to have any experience or to have any critical care. All we are doing is stating that, if you have an attendant in the back of an airplane that has such high responsibility, that person should be capable of performing whatever is expected. The only way to gain that knowledge is to have the three years of experience this bill is asking for, which is the nationwide standard. By having the proper training, the patient is cared for appropriately up in the air.

Assemblyman Jones:
We do not have regulations or requirements of certain nurses on air ambulances, correct?

Senator Farley:
We do in Clark County and in certain jurisdictions, but they just do not all match.

Assemblyman Jones:
Are there any statistics that show the way it is running right now is causing harm to people? Are patients dying as a result of not having a perfectly trained person in the air with these people? Are there things going wrong because they are not qualified like the bill defines it?

Donna Miller:
There are no such statistics because no one keeps track. Once a patient leaves a hospital, there is no one who keeps track of what happens to that patient and whether the end result of the transport is favorable, especially since most of our transports actually leave the state. If you transfer a patient—a common transport for us is a patient who needs a heart transplant—that patient may be on a balloon pump when you leave and go to either southern California or to Phoenix. As far as I know, no one keeps track of where that patient went and/or what the condition of that patient was when he arrived.

Senator Farley:
That is what concerned me about the bill. There were no statistics and there were no consistent levels of qualifications. The expectation when you leave an ICU or ER and you are being transported is that you will receive the same standard of care. Potentially, you have people who are qualified to respond in a critical-crisis care situation and who know how to use the equipment on the air ambulance correctly. It is for consumer protection and ensuring that we are matching the standard of care from one destination to another.

Assemblyman Jones:
We are just guessing then that this is going to change things because we have no statistics or studies that prove there is a problem in the first place.

Senator Farley:
I am going to say that this is commonsense legislation.

Assemblyman Jones:
With that common sense and this requirement, is there an understanding or study that this will increase the cost? Since we have more required qualifications for the attendants, will the cost go up?

Donna Miller:
Most of the Nevada companies already function at this level. This is just a standardization of care.

Assemblyman Sprinkle:
Regarding page 2, lines 5 through 9, it talks about the experience of the nurses, which is two years of critical care nursing experience in a fixed wing air ambulance versus three years of critical-care nursing experience on a rotary wing air ambulance. I have the utmost respect for either of these types of nurses. My experience has been with rotary wing, and I know what they experience. Why require an extra year of experience for someone who works on a helicopter?

Donna Miller:
We took the language from a system that already works—the Southern Nevada Health District—and that is where the difference came from. There was an amendment in the Senate where we changed it to three years for both, which matches the accreditation requirements.

Assemblyman Sprinkle:
Maybe I have an older version of the bill, but I did not think I did.

Chair Oscarson:
The first reprint still says two years and three years.

Donna Miller:
I will find out why that has not been changed. That was a good point.

Assemblywoman Titus:
Having personally called for fixed wing and rotary wing assistance multiple times, and having kicked off attendants so I could ride with a critical care patient, and having flown on a fixed wing to the middle of Mexico in the middle of the night with cash in a bag to get a patient out of there and back to America, I am very experienced in these and I am concerned about this bill. When we call out for transport from my rural hospital, there might be all types of different needs for that patient. We do not have a ventilator so we send them out. When I have been bagging someone for two hours on the road because it was too windy to ship them, they ask what type of patient we are

sending, and with that information they know what our needs are before they ship the bird out to help us. If it is in statute like this, you take away the company's and the physician's/provider's understanding of what they need transport for. All transports are not high acuity levels. Some may be just the nature of the injury so they call Care Flight to the field for transport, or we may need them in Reno because we do not deliver babies anymore and Care Flight has agreed to transport our ladies in labor. We would not necessarily need this level of acuity. I think there is some expertise involved with letting the provider and the companies decide what they need to send out.

I am a little anxious about this wording. I would like to see if there has been a problem. Was someone transported who died in route because of the poor care they received? Were they less stable? I am worried that this will ruin the natural competition; this is a very competitive field. There is competition out there, and there are other companies involved in this type of business. I am anxious about that and would really like to see statistics on transports and injuries to patients. Have patients decompensated in that care? What happened that brought this bill?

Donna Miller:
This is about patient safety and not about competition. Generally speaking, most of the air ambulance companies that are based in Nevada are Commission on Accreditation of Medical Transport Systems (CAMTS) accredited. Therefore, we meet those requirements. You are correct that there were transports where the outcomes were negative, and it should not have been. That is one of the reasons that I started this bill.

The problem is when you have a person attending a patient who does not have the qualifications to attend that patient. Every once in a while we get a call from someone who realizes that he does not have the expertise to transport a patient. What happens when they do not recognize that and are up in the air with no contact with any doctors and they have to rely on their own expertise and the equipment on hand in order to save someone's life? It is about the patient's safety.

There are no statistics as far as I know. We have had this discussion in the past with regulatory agencies, and I have yet to find any statistics. If you are the only provider in the airplane and something goes wrong, that provider is not going to walk out of the airplane and say, "If only I had known how to address this." When we look at the type of patients that we transport—we are based in Tonopah for example—the quality of those patients definitely need expertise of more than two or three years. The attendant cannot be a new nurse. You do not allow a new nurse to take care of a complex, critical-care patient

in a hospital where the resources are just minutes away. When you are in the air and something goes wrong with the patient, you have no one but yourself. If it is your family member in that airplane, it is not going to cost more to have an experienced attendant, so that is what you are going to want. Most of our agencies are already functioning at that level.

Assemblywoman Titus:
I have been in this business for over 31 years. All of the attendants who show up at our door when I call them have been seasoned veterans. I do not think many companies would hire a newly graduated nurse. That has not been my experience. Maybe things are different in Clark County because I am always hearing that things are different in Clark County. It sounds like the Southern Nevada Health District already has these rules in place, do they not?

Donna Miller:
Yes, they do. I started my company, Life Guard, in 2002 and those rules were in place at that time. There are about 19 companies that are licensed in Nevada. Most of them are actually out-of-state companies. This is aviation and medicine together because the aviation industry and health districts in different states may or may not regulate the medical aspect of an air ambulance. When we have companies coming from different states, you really do not know what their requirements are, nor do you know if they have a nurse on board. We, as a state, have been requiring a nurse to be the main attendant on an air ambulance; however, if you go outside the state, that may not be the case.

Assemblyman Thompson:
Please share with us what the usual contracting process is with hospitals for air ambulance services. Is that how it works? Does every individual hospital and medical facility that would need these services have their own contracting process?

Donna Miller:
I think that is company-specific. Generally speaking, we do not have contracts with hospitals. We are usually called by case managers to transport. Most of the time it is because the patient is going to a higher level of care. The transport is covered by the insurance companies.

Assemblyman Thompson:
Do you need to have permission from a hospital to land your air ambulance on their facility? There has to be some type of communication. I would not think the hospital would be completely out of it.

Chair Oscarson:
There is a doctor-to-doctor transfer, and that is all arranged by the ER or ICU doctor. A lot of this is driven by the insurance companies because they may have a contract, or the air ambulance companies might bid on different flights. In an emergent situation they usually go with the provider with whom they have had the best experience. I know in my hospital administration life that is how we do it. We do not use fixed wings; we only use rotary as we have talked about. They have the expertise and knowledge to transport our patients. We certainly do not want to put one of our patients in a helicopter or fixed wing if the people on board do not have the experience to transport.

Assemblyman Thompson:
Then the answer to my question would be that it is the insurance companies that do the contracting and not the hospital facility. Is that correct?

Chair Oscarson:
If they have insurance.

Donna Miller:
The process is very complex. I do fixed wing air ambulances, and that is a little different. Care Flight is here with rotary wing, and it would be best to have that answered from a rotary point of view.

Assemblyman Moore:
Do you know how many air ambulance companies like this are currently operating in Nevada?

Donna Miller:
I believe there are 19 that are licensed. There are probably six locally-based companies.

Assemblyman Moore:
Are you one of the company owners?

Donna Miller:
Yes.

Assemblyman Moore:
Are your employees currently up to the standards in this bill?

Donna Miller:
Yes, because we are CAMTS-accredited, as are all the companies within the state. They meet those requirements already.

Assemblyman Moore:
Currently, all of the companies operating in Nevada meet the requirements and standards of this bill?

Donna Miller:
The ones who are CAMTS-accredited do, but I do not know about the ones who are not CAMTS-accredited.

Assemblyman Sprinkle:
Talking about staffing on a daily basis, you are not going to have multiple people sitting around waiting for a call to come in. You are going to decide who is going to go on the transport depending on the acuity level of that patient. You are going to have individuals who can meet any situation that could be presented. It could be something as simple as a severely broken ankle that needs surgery somewhere, which may not need a high level of care; or it could be someone who is on multiple drips with a lot of different medications. You need someone with that expertise. There is really no way of knowing that on a minute-to-minute basis. Is that correct?

Donna Miller:
That is correct. That is why we train our teams to be able to respond to any situation. There are a few situations for which we have specialty teams; for example, neonatal transports or high-risk transports. Outside of those specialty teams, every one of our members must be capable of responding to any situation that arises. We do not have the luxury of picking and choosing our teams, nor do we have the luxury of sending a certain team to the hospital only to find out that the patient's condition worsened while we were on our way. We can also find out that there is another more critical patient who needs to be moved first and the patient we originally went to pick up is going to take a secondary position. That is why it is important that all of our teams are prepared to function at the same level.

Assemblyman Sprinkle:
Making the standards in this bill the standard for all of the different agencies throughout the state is a good idea. Would you agree with that?

Donna Miller:
That is correct. When a patient is on an air ambulance, the medical liability for that patient stays with the sending physician. Since the sending physician is responsible for that patient, if the patient codes in our airplane, the hospitals have an interest in that. They not only protect their patient, but they also protect their liability. Knowing that any of the companies arriving at your door

is actually capable of providing the care that the patient needs is very important as a consumer instead of trying to decide which company is capable of providing care for a particular patient.

Assemblyman Gardner:
Do you know the regulations that we have for regular van ground ambulances? Would those be the same as what we are putting here for the air ambulances? If not, what are the differences?

Donna Miller:
Ground ambulances and air ambulances are different. The air ambulance is a combination of aviation and medicine. Because of the aviation factor, it makes it a lot more complicated. As an air ambulance, you are subject to federal laws. The Federal Aviation Administration (FAA) is the only entity that regulates the aviation aspects of an air ambulance. There is also a law that is called the Aviation Regulation Act that actually dictates what a state can regulate when it comes to an air ambulance. For example, the state can regulate the medical aspect, but it cannot regulate the aviation aspect. In other words, is it okay for the health district to dictate that you must have a two-engine airplane? That is against the federal law and the answer would be no. Is it okay for the state to require an airplane to have power so we can power our equipment? Even though that is an aviation requirement, because it affects patient care, the answer would be yes. Because of the FAA involvement and the Airline Deregulation Act (ADA) our regulations are very different; however, from a medical point of view, I would assume they are fairly similar.

Senator Farley:
The reality is that the insurance company charges a great deal of money when you have to transport this way. Whether they are paying a certified nurse or someone who has only two or three years of experience, you still pay the same price. The expectation is that, if we are in an air ambulance and in critical condition, we are getting the right care during transport since we are paying for it one way or the other. There is not a rate increase; they are not paying more or less for those costs. My expectation if I am transported is that someone on the airplane was qualified to assist me and use the equipment. If something went wrong, the expectation is that the attendant would be able to provide services. We need to look at it that it is already there and it is a level playing field. We are already paying for it and we should, from a consumer protection standpoint, be putting in standards that are already in place and applying them to the state so that everyone gets the same care for the same dollar.

Chair Oscarson:
We will call others in support of S.B. 327 (R1) at this time.

Susan Fisher, representing Air Methods:
We are a national corporation and publicly traded. We have over 400 air ambulances operating in 48 different states in the United States, and in Haiti. In Nevada, we are in several different locations. In southern Nevada, we have community-based helicopters as opposed to hospital-based helicopters. Our entire fleet is rotary winged. We are in Pahrump, Mesquite, and Las Vegas. In northern Nevada, we are in the Reno area as well.

Senator Farley and Ms. Miller took into account some of the recommendations we made on the Senate side as proposed amendments. There was a question raised by Dr. Titus about hospital staff or someone else going along with the ambulance besides the attendants. The provisions in section 5 of the bill, subsection 6, are already in statute. It references licensed physicians, registered nurses, et cetera. If there is a special patient that you have been working with that you bagged and want to stay with on the aircraft, it is already in statute that one of our attendants will step down and you can ride with him. By the same token, there was another amendment that was put in on the Senate side that says, if there is a weight issue and you lose horsepower, or have extra people like a guard with a prisoner, you may have to leave an attendant behind. We support that in that instance. If we had to have both attendants go with them, it would put the entire helicopter—the patient and staff—at risk as well. The southern Nevada standards that we are asking to be put in statute statewide are standards that we operate under with our entire fleet nationwide. These are our own company standards as well.

Tom Clark, representing Regional Emergency Medical Services Authority:
The Regional Emergency Medical Services Authority (REMSA) is the primary ambulance care flight and medical services transport facility in Washoe County. I am going to let Ms. Fletcher go through an amendment that we have (Exhibit H). We have worked with Ms. Miller on this amendment, and it is very simple.

Temple Fletcher, Program Director, Care Flight:
We have three bases and four aircraft. I have been with Care Flight for 29 years. We support this bill with the friendly amendment (Exhibit H) that we are presenting. We have worked with the stakeholders and would like to see the standardization of care. As Ms. Miller explained, we are CAMTS-accredited and comply with the three years of critical care. This cleans up the language to leave it at the three years.

Tom Clark:
I would like to walk through the amendment. The amended part is in section 3, subsection 1, paragraph (a), subparagraph (2). Instead of saying at least 5 years of experience as a registered nurse, we replaced that language to say "a registered nurse with experience that includes," and then we go back to Mr. Sprinkle's comments about three years on fixed wing and three years on rotary wing. The first reprint does not have the three years on the fixed, but if we need to include that in our amendment, we would be happy to submit that to the Legal Division as well.

Assemblyman Thompson:
You said that "we have been looking at a standard of care." Can you share with us who the "we" is? Has it been only the Nevada-based air ambulance services or is it a variety of them? How inclusive has the whole process been?

Temple Fletcher:
The standard across the United States is the one that we are accredited with, CAMTS. Their standardization for the composition of a team is three years critical care nurse experience, along with the second person as a paramedic or another nurse or physician. That standard is across the nation, but almost all Nevada programs comply with that. Some of them are in the process of becoming accredited.

Assemblyman Thompson:
Has the discussion taken place? I understand the standards, but has the discussion involved the majority of the companies that serve here?

Temple Fletcher:
I cannot answer whether it has been discussed with all of the other air ambulance companies.

Assemblyman Thompson:
I am just asking because you said "we," and I am trying to determine who that is.

Temple Fletcher:
There are actually only two programs in northern Nevada: one is Care Flight and the other is Summit Air Ambulance. Summit Air Ambulance is in the process of becoming CAMTS-accredited. They are in compliance and also agree with the amendment.

Assemblyman Moore:
You stated that there are already national standards in place and this mirrors those standards.

Temple Fletcher:
As far as the requirements for the nurses, yes they do.

Assemblyman Moore:
Then why do we, as a state, need to go in and require more if the national standard is sufficient for the rest of the country? Why does Nevada feel that we need to add additional requirements? Will people need to be nationally certified and then state certified as well to be able to work in that field?

Temple Fletcher:
Yes, there are standards already, but it is not standardized in Nevada. There is nothing that says they have to be accredited with that accrediting body. You may potentially have programs come in from another state that are not CAMTS-accredited or meet that standard.

Assemblyman Moore:
My thought would be, instead of adding additional requirements, why not just adopt the national standards? I do not understand the two competing standards.

Donna Miller:
That is about the ADA that I was describing earlier, the Airline Deregulation Act. It forbids us from requiring CAMTS accreditation because it is a combination of medical regulations and aviation. In southern Nevada, CAMTS accreditation was a requirement until a couple of years ago when it was removed because it interfered with the ADA.

Assemblyman Moore:
We are now going to have a state certification, as well as being nationally certified. Am I right or wrong?

Donna Miller:
The national standardization that Temple Fletcher was talking about is CAMTS. It is a voluntary accreditation body. Companies that choose to have a symbol of excellence or choose to go above and beyond what is required become CAMTS-accredited. Requiring all companies in the state to become CAMTS-accredited cannot be done because of the ADA. Companies that choose not to be CAMTS-accredited will have no requirements.

Assemblyman Moore:
So that I am clear, I could lease a couple of aircraft and put anyone I want on it and fly around and not have to be CAMTS-certified. Is that correct?

Donna Miller:
It gets worse than that. If you live in southern California, because of the ADA, certain counties and states choose not to regulate their air ambulances because they do not have the funds to defend it in front of the ADA for lawsuits and whatever may be. Air ambulance companies in San Diego County do not have regulations. If I own an airplane and put a bed in the back, I can call myself an air ambulance and come pick up the patient or transport any patient because most hospitals do not ask questions about the level of care they provide. Because of the level of care we provide here, when you see someone in a flight suit, you assume that person is capable. When you have a company like that coming to pick up patients from our state, which now they should not be able to do, you do not know what their level of care is. Those types of companies are usually run by aviation people who have very limited understanding of the medical side of it.

Assemblyman Moore:
If a company from out of state comes here, how are the requirements going to be enforced? If I am based in California, how do you know who I have on my plane?

Donna Miller:
Now, every air ambulance company that picks up patients from the state of Nevada has to be licensed. They can be licensed by the state EMS or the Southern Nevada Health District.

Assemblywoman Titus:
I am on board with this—do not get me wrong—but I want to clarify what the amendment says. Section 3, subsection 1, paragraph (a) says that the primary attendant has to be, and then it goes on. Are you suggesting that, instead of saying the primary attendant is an Emergency Medical Services-Registered Nurse (EMS-RN) and must have at least 5 years of experience, we are going to strike that and say the EMS-RN has three years of critical nursing experience whether they are in a fixed wing or rotary wing? The attendant will be an EMS-RN who has a minimum of three years of critical experience. There will not be any other five years here and two of which, and all of that. Is that what the friendly amendment is?

Tom Clark:
Yes.

Assemblywoman Titus:
Thank you. That makes good sense to me.

Jessica Ferrato, representing Nevada Nurses Association:
We are here in support of the bill. We think this is a patient-protection bill. We appreciate the standardization throughout the state. I have been a family member of two patients who have ridden air ambulances, both in state and out of state. I think in most of the scenarios, especially when we are exporting our patient out of state, it is crucial that the attendants are very qualified because it is typically very serious.

Chair Oscarson:
Is there any other testimony in support? I see no one, so we will move to testimony in opposition. [There was none.] Do we have neutral testimony?

Steven Tafoya, Manager, Emergency Medical Systems Program, Division of Public and Behavioral Health, Department of Health and Human Services:
We in the Division are neutral on this. We feel that this increase in the training requirements and having training standards for providers for air ambulances is a good thing. It will create that national standard that we are talking about. Since we cannot use the ADA portion, this is a way for our state to establish standards without the rest of it.

Chair Oscarson:
Is there someone else in Las Vegas I missed? I apologize for not seeing you.

John Hammond, Supervisor, Emergency Medical Services and Trauma Systems, Southern Nevada Health District:
I would like to testify in support of this bill as my manager did before on the Senate side. We are in support of increasing the standard and standardizing the requirements throughout the state.

Chair Oscarson:
I see no other testimony. Would you like to wrap things up, Ms. Miller? [She shook her head no.] We will close the hearing on S.B. 327 (R1). We will now open the hearing on Senate Bill 441 (1st Reprint).

Senate Bill 441 (1st Reprint): Enacts provisions relating to craft food operations. (BDR 40-988)

Lynn Hettrick, Deputy Director, State Department of Agriculture:
We are here on behalf of Senate Bill 441 (1st Reprint). I will very quickly run through the sections of the bill explaining what they do, and then make a few comments. We will be brief.

Section 1 of the bill is deleted by amendment. Section 2 is also deleted by amendment. Section 3 clarifies that a craft food operation is not a food establishment pursuant to *Nevada Revised Statutes* (NRS) Chapter 446. Section 4 amends NRS Chapter 583 with the following sections: sections 5 through 9 are definitions, and section 10 defines requirements to produce acidified foods in a craft food operation. This language is essentially identical to the cottage food bill that was passed in previous years. We simply changed it to call it craft food. Section 11 is the requirements that must be complied with pertaining to craft foods. I will give the list very quickly: the person doing the craft foods must be registered as required in this bill; maintain a log of what they produce for at least five years; and the log must include the product name, the recipe, the process used to make the pickle product, the batch date, the results of a pH test to assure the product was produced with a low enough pH to preserve it and protect against any type of potential disease. It specifies that the Department will approve the pH meters that will be used, and we will do that by regulation. And last, it specifies that you can only use recipes that are approved by the Department. Section 12, subsections 1 through 7, defines the requirements for the Department to register a person to produce acidified foods, which includes training and a required exam to obtain or renew a registration, which allows the Department to inspect and investigate issues. In addition, the fees are in this section. I want to point out that becoming a craft food operator is voluntary. This is not a tax; it is a fee for a service. We are going to supply a test and there will be a fee to cover the cost of it. The registration is minimal and required so we can do food-traceback pursuant to food safety requirements that are also common sense if we need to do them.

All of this is voluntary and we expect the numbers involved here to be very low, maybe 100 or 200 people statewide. I want to point out that this is not a tax and is truly a fee for service. It is totally voluntary on the part of the people who receive this service. Section 13 is part of the boilerplate that goes in for child support and requirements pursuant to child support to obtain a license in this state under federal law. Section 14 is more provisions regarding licenses. Section 15 includes the effective date of the bill and pertains to other provisions that are in sections 12 and 14 in the event the federal law is repealed.

Finally, I have a few brief comments. I brought in a jar of pickled green beans [which he held up for everyone to see] that I personally pickled. I do not sell my pickled green beans, but I can give them away. I am not a cooking expert. I found the recipe on the Internet that explained how to make pickled green beans. There is no magic to this. You can make clean, safe, healthy, and fun green beans.

What we are concerned with here is that we have a lot of people out there who are growing cottage foods and are going to farmers' markets and the like. When you grow a crop, the harvest comes all at once. If you cannot sell it all at once, what are you going to do with the rest of it, throw it away? It will become spoiled and something you cannot use. If you cannot sell it quickly, you can pickle it, and then sell your product. We would like to support the people in Nevada who are trying to do this in their efforts to continue to have a viable cottage-food-type industry and to produce something that is safe, healthy, and fun for a lot of people.

There are obviously some concerns about this, and we are very aware of those. People who do cottage foods and craft foods are proud of what they do. They put their names and labels on it and are very careful to produce quality and safe products. We believe this will be fun and good for the state and our cottage food producers. The Department of Agriculture is satisfied enough that we can do this safely and that we are willing to take on the administration of this new craft food program. We think it is safe and will be good for the industry.

Assemblyman Thompson:
Section 7 defines a craft food operation. Is it true that it is on the honor system? If they state they had gross sales less than $35,000 a year, is it up to the health authority to verify that?

Lynn Hettrick:
Quite frankly, I think it would be an extremely rare occasion that any cottage food or craft food producer could even approach $35,000.

Assemblyman Thompson:
You never know.

Lynn Hettrick:
I agree with that. I believe this will be more of their surplus. If they rise to that level, they are probably going to get into a commercial kitchen and be able to sell a lot more product. I do not think that will be an issue.

Assemblyman Jones:
Cottage food and craft food are not food establishments for purposes now or in existing law. I may have missed when you explained the difference. Is this going to make it easier to do, or is it going to put a bunch of new rules on people who are already doing this?

Lynn Hettrick:
Pickled foods right now are not permitted under the cottage food industry. This is a new segment. The departments of health throughout the state do not wish to deal with pickled foods and told us if we wanted to deal with pickled foods we could go right ahead, but they did not want it under the cottage foods statutes and to move it somewhere else. We changed the name to craft food and modeled their cottage food statutes. As we said previously, we are comfortable that we can do this safely. I did not show you, but there are dozens of sites that you can Google that will come up with colleges, extension services, and the United States Department of Agriculture, and they will all give you pickled food recipes and tell you how to safely pickle foods. It is something we are doing simply because they choose not to.

Assemblyman Jones:
I do not want more regulation, I want less. As long as this is to make sure people can do this and that the county guys cannot interfere since it is a state regulation. If you are following these guidelines, you can pickle as much as you want as long as you do not make more than $35,000 a year.

Lynn Hettrick:
You got it exactly right, and that is what this does.

Assemblyman Jones:
We will help all of those little grandmas out there to make money for their grandkids' toys.

Assemblywoman Titus:
I know in my district and in the rurals there are a lot of folks who enjoy the cottage food industry. This craft food industry would be an expansion of that. I think it is positive, but I have a couple of concerns.

First, these folks would already have to pay for a state business license. Do you have any idea what the fees are going to be? It is very open-ended. There was also concern about putting a liability on here, but I guess if there is no liability listed under this bill, there must not be one. I am concerned about the open-ended permission to have fees. I also wonder about the inspection.

What are you going to require? Where are the fees going to go, and what are you going to do with those fees?

Lynn Hettrick:
The fees are going to be minimal. We expect maybe 100 people. The testing will take information that is readily available on the Internet and put it all together to make sure they study it, and then give an exam that we will craft at the Department with our staff and the other folks who are involved in this. We expect it to be minimal. The fees for an investigation are only if there is an issue and we have to go out and look at the issue. The way it is worded is that it will only be enough money to cover the cost of the investigation, if one is done. We probably will not even establish those fees now. We would not even have a clue what it would cost until it occurs. I think it would be minimal. If they are using approved recipes and are trained, we are going to verify the work that was done and that they kept their records. That is about all we can do.

Assemblywoman Titus:
I have some concerns. We supported the organic farms industry, but now there are no funds for that because the fees could not keep up with what it cost to regulate them. I am concerned about going into this without knowing what this is going to cost. I like the idea and, frankly, I would like it to have one line, "You can do this." That is what I would prefer. We have a document here that is going to be codified into law with some stipulations in testing. I would like to see the industry continue and excel, and I would like the organic farming industry to continue and excel, but for lack of funds and because of regulations, it is falling to the wayside. I am concerned because I do not want this to fail. I am worried about its survival.

Lynn Hettrick:
I truly appreciate what you are saying about the organic program. That program has been in force for 18 years. We have struggled for 18 years to get the funding necessary to continue it, but that has not occurred. It has not risen to a level that it will support a person in the field. This is a different program and we do not have to put a person in the field to do this; they will come to the Department of Agriculture for testing. They will come to us for registration and renewals. In the organic program, we have someone who goes out and inspects every operation. That is a very costly thing. This is going to be a very inexpensive process; we do not foresee these fees being more than $25 or $50 or something like that.

Assemblywoman Titus:
That was my concern. This way, they can bring the sample jar to you and give it to you to test.

Lynn Hettrick:
I do not think they will have to bring us a sample. What we are going to be more concerned with is approving the recipe so we know it will reach the pH that would make that product safe. They will use a pH meter to test, and will have a record of that batch showing that they did indeed test it and were satisfied that it met the level of the standard. That is the kind of things we are going to do. We will not sample the individual products.

Assemblywoman Spiegel:
Several of my constituents benefitted from the cottage foods program that we passed last session. I have seen them at church sales and flea markets and whatnot, and they are doing very well and looking at expanding. One of them is actually looking for commercial space now so she can move on to the next phase with her business. A few constituents have come to me and asked if they could do pickled foods as well, and I think this is a great vehicle for economic development.

Lynn Hettrick:
I want to point out that this is for acidified pickled foods, not canned foods. There is a difference, and we are going to speak to that in a moment. I am glad you used that terminology because that is very important. These are pickled foods.

Assemblywoman Dickman:
Right now, it is illegal to sell your pickles at a church supper. Is that correct?

Lynn Hettrick:
Yes.

Assemblywoman Dickman:
Why the complication of this child support section? Is that something that is required?

Lynn Hettrick:
This was determined by the Legal Division to be a license, and the license provisions in state statutes have a federal requirement that says you cannot give a license without these provisions. If the federal law is repealed, you can repeal your provisions. We chose not to put them in, but the Legal Division determined that this was a license, so we had to put it in statute.

Assemblyman Sprinkle:
If this gets passed and is in statute, what are the ramifications if someone does not do this? I do not see anything in here. Typically, when we have regulations that are put in statute, there is an "if you do not do this, that is what will happen."

Lynn Hettrick:
People would most likely be marketing these products at craft or food fairs or farmers' markets. Generally, the person who puts those on verifies that the people who are selling products like that are licensed for selling the products, that they are appropriately registered, or whatever is required under state law. The only other place it can be sold is on farms directly or to individuals. There is a label requirement that says it was pickled under certain rules. If the label is not on there, they are not legally selling the product. We are not going to have inspectors in the field running around looking for someone who is selling an illegal jar of pickles, but I think it will be caught where they are selling them.

Assemblywoman Dickman:
If they are found to be doing this without the license, what is the penalty? There is no penalty?

Lynn Hettrick:
No. The Health Department also regulates these places and people. They would also look for people and see the jar of pickles without a label and they would inform the person she is illegally selling pickles. There is no penalty other than, if you hurt someone, you will have a serious problem.

Christy McGill, Executive Director, Healthy Communities Coalition of Lyon and Storey Counties:
We wanted to point out that this is a great economic development strategy for a lot of women. Pickling has been going on for 4,000 years. We want to make clear the difference between home canning and pickling. Home canning is not allowed in this bill. Home canning has more problematic things. We want to be very clear that in order to keep things safe, you must have a 4.6 acidity level. Just because we wanted to make sure that we were making good health policy, we went through almost a decade of the Centers for Disease Control and Prevention's (CDC) surveillance reports and could not find any outbreak of botulism around pickles or any kind of pickled vegetables. We did find a few with home canning. There was a case that just came up in Ohio that was in the news that was from potatoes, but they were not pickled. I think pickled potatoes is vodka. We just wanted to make it clear that they are two different things.

Also, in the news today that you may have heard about is the movement of pickling kimchi and sauerkraut and fermented foods that are really good for the gut and contribute to all sorts of things. It could be a niche for farmers or people to look at for a nice little value-added product for their produce.

Assemblyman Jones:
Pickling is at 4.6 acidity and canning goes at what?

Christy McGill:
Canning is usually pressurized, or they use heat. People have been canning forever. Because it uses heat, elevation becomes an issue. With Nevada being mountainous, you have to correct for that elevation and use a pressure cooker. That is why we just went with pickling.

Paula Berkley, representing the Food Bank of Northern Nevada:
I think we have beat this pretty well, so I would just like to thank the Department of Agriculture for being willing to step up and make this opportunity for people. I would also like to thank the Department of Health and Human Services because they picked on us for a while, but they improved our bill. We appreciate their efforts to keep us safe.

Assemblyman Jones:
As a food bank, can you accept people's pickled donations?

Paula Berkley:
As long as we do not have to buy them.

Assemblyman Jones:
Now we have private industry helping charity. Government does not have to do it.

Chair Oscarson:
Are there any other questions? I am supporting this. Is there any other testimony in support? Seeing none, is there anyone in opposition? There is no one, so we will take neutral testimony.

Robert Sack, R.E.H.S., Division Director, Environmental Health Services, Washoe County Health District:
We are neutral on the bill with the amendments that have come up, but did want to express that we still believe this needs to be a regulated activity at the commercial level where someone—a big manufacturer or someone who is going to work in one of our regulated kitchens—does pickling. It is some of the highest level of scrutiny that is required both federally and at the state level.

Because it moves into grandma's house does not mean that some of the issues associated with it are not still there.

Joseph L. Pollock, R.E.H.S., Program Manager, Environmental Health Services, Public Health and Clinical Services, Division of Public and Behavioral Health, Department of Health and Human Services:
The Division is neutral on this bill with the amendments that have been adopted, as well as the Department of Agriculture being willing to take this program on.

Dan Musgrove, representing Southern Nevada Health District:
As you know, I worked hard with our folks and I appreciate the work. We are neutral, and ditto.

Chair Oscarson:
Is there any other neutral testimony? Seeing none, we will close the hearing on S.B. 441 (R1). We will open the floor for public comment. Seeing none, this meeting is adjourned [at 3:08 p.m.].

RESPECTFULLY SUBMITTED:

_____
Karyn Werner
Committee Secretary

APPROVED BY:

_____
Assemblyman James Oscarson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Health and Human Services

Date: May 8, 2015 **Time of Meeting: 1:43 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 48 (R1)	C	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
S.B. 288 (R1)	D	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
S.B. 458	E	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
SCR 2	F	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
S.B. 327	G	Donna Miller, Life Guard International, Inc.	Written Testimony
S.B. 327	H	Tom Clark, representing Regional Emergency Medical Services Authority	Proposed Amendment