

**MINUTES OF THE  
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY**

**Seventy-Eighth Session  
May 8, 2015**

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 8:35 a.m. on Friday, May 8, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator James A. Settelmeyer, Chair  
Senator Patricia Farley, Vice Chair  
Senator Joe P. Hardy  
Senator Becky Harris  
Senator Mark A. Manendo  
Senator Kelvin Atkinson  
Senator Pat Spearman

**GUEST LEGISLATORS PRESENT:**

Assemblyman James Oscarson, Assembly District No. 36

**STAFF MEMBERS PRESENT:**

Marji Paslov Thomas, Policy Analyst  
Dan Yu, Counsel  
Renee Fletcher, Committee Secretary

**OTHERS PRESENT:**

Alfredo Alonso, United Health Care Services, Inc.  
Joan Hall, Nevada Rural Hospital Partners Foundation  
Jim Wadhams, Nevada Hospital Association; Nevada State Association of Health Underwriters; Nevada Association of Insurance and Financial Advisors; Anthem, Inc.  
Keith Lee, Nevada Association of Health Plans; Board of Medical Examiners

Senate Committee on Commerce, Labor and Energy  
May 8, 2015  
Page 2

Laura Drucker, Nevada Psychological Association  
Dan Musgrove, Anthem, Inc. and Amerigroup Nevada; Anthem Blue Cross; The Valley Health System  
Chelsea Szklany, O.T.R./L., Deputy Administrator for Clinical Services, Division of Public and Behavioral Health, Department of Health and Human Services  
Paula Berkley, Board of Occupational Therapy; State Board of Physical Therapy Examiners  
Aaron Heide, M.D., Saint Mary's Medical Group  
Erik Jimenez, Universal Health Services of Delaware  
Russell Rowe, Boyd Gaming Corporation  
Erin McMullen, Nevada Resort Association  
Bill Welch, Nevada Hospital Association  
Denise Selleck, Nevada Osteopathic Medical Association  
Yolanda King, Clark County; University Medical Center  
Justin Harrison, Las Vegas Metro Chamber of Commerce  
Jessica Ferrato, Nevada Nurses Association  
Parker Stremmel, Dignity Health-Saint Rose Dominican Hospitals  
Chelsea Capurro, Health Services Coalition  
Bruce Gilbert, Executive Director, Silver State Health Insurance Exchange  
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates  
Edward O. Cousineau, Executive Director, Board of Medical Examiners

**Chair Settlemeyer:**

I will open the work session with the following bills and their work session documents: Assembly Bill (A.B.) 4 ([Exhibit C](#)), A.B. 246 ([Exhibit D](#)), A.B. 270 ([Exhibit E](#)), and A.B. 454 ([Exhibit F](#)).

**ASSEMBLY BILL 4 (1st Reprint)**: Revises provisions relating to the operation of a winery in this State. (BDR 52-228)

**ASSEMBLY BILL 246 (1st Reprint)**: Revises provisions governing cosmetology. (BDR 54-267)

**ASSEMBLY BILL 270 (1st Reprint)**: Revises provisions relating to manufactured homes. (BDR 10-1143)

**ASSEMBLY BILL 454 (1st Reprint)**: Revises provisions governing continuing education of managers and assistant managers of manufactured home parks. (BDR 10-1127)

SENATOR HARDY MOVED TO DO PASS A.B. 4, A.B. 246, A.B.270 AND A.B. 454.

SENATOR FARLEY SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Settlemeyer:**

I will now open the work session on A.B. 126.

**ASSEMBLY BILL 126 (1st Reprint)**: Revises provisions governing massage therapy. (BDR 54-207)

**Marji Paslov Thomas:**

I will read the summary of the bill from the work session document and one proposed amendment ([Exhibit G](#)).

**Senator Atkinson:**

I have questions that have not been answered to my satisfaction.

**Senator Hardy:**

The word "may" within the amendment allows the Board of Massage Therapists flexibility, which is critical; therefore, I am in support of A.B. 126.

**Chair Settlemeyer:**

I will now close the work session on A.B. 126 and open the work session on A.B. 173.

**ASSEMBLY BILL 173 (1st Reprint)**: Revises provisions governing private investigators. (BDR 54-758)

**Marji Paslov Thomas:**

I will read the summary of the bill from the work session document and six proposed amendments ([Exhibit H](#)).

SENATOR HARDY MOVED TO AMEND WITH THE PROPOSED AMENDMENTS AND DO PASS AS AMENDED A.B. 173.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Settlemeyer:**

I will now open the hearing on A.B. 292.

**ASSEMBLY BILL 292 (1st Reprint)**: Revises provisions relating to providers of health care who provide services through telehealth and various other provisions relating to insurance coverage for such services. (BDR 54-606)

**Assemblyman James Oscarson (Assembly District No. 36):**

I will now read from my written testimony ([Exhibit I](#)). Nevada lacks adequate health care services, especially in rural areas; therefore, offering services through telehealth would alleviate most issues with our State's critical shortage of medical professionals.

**Senator Harris:**

Nevada has great difficulty recruiting and maintaining mental health professionals in the prison system. Can telehealth services be utilized to provide mental health resources to the corrections facilities?

**Assemblyman Oscarson:**

The corrections system has been engaged in conversations regarding the telehealth system, as well as the broadband networks that would be necessary to access the telehealth system. The Nevada Psychological Association has submitted a letter of support ([Exhibit J](#)). Assembly Bill 292 will extend access to mental health services to consumers and correction facilities.

**Senator Harris:**

Psychologists working in correction facilities do not need to be licensed under this bill. Is Nevada going to require these psychologists to be licensed?

**Assemblyman Oscarson:**

The licensing process for psychologists in the corrections system will continue to be handled through the Department of Corrections. Medical licensing boards will govern licensure requirements.

**Senator Spearman:**

How will the telehealth system benefit active military personnel and veterans?

**Assemblyman Oscarson:**

The VA was a large part of the discussions regarding how its telehealth system works and how it can be improved. We have also had discussions with hospitals and rural clinics to capitalize on opportunities to add resources through the telehealth system.

**Senator Spearman:**

Have there been any discussions to expedite the interoperability between the VA system and the telehealth system in Nevada?

**Assemblyman Oscarson:**

A large portion of VA services is provided through TRICARE. There will be opportunities for telehealth services to be provided through the VA.

**Senator Hardy:**

Will part of the medical boards' regulations require patients to sign a telehealth system acknowledgement of participation?

**Assemblyman Oscarson:**

Each medical professional board will fine-tune regulations for the telehealth system to include a patient acknowledgement of the terms and conditions.

**Chair Settlemeyer:**

Does A.B. 292 have any provisions prohibiting individuals from taking their medical records to a specialist? What are the rules for reimbursement as set forth in *Nevada Revised Statutes* (NRS) pertaining to physical therapists, psychologists and other care providers?

**Assemblyman Oscarson:**

The reimbursement structure was not addressed in NRS, since this aspect will be coordinated between medical professionals and service providers.

**Alfredo Alonso (United Health Care Services, Inc.):**

United Health Care supports A.B. 292. We like the flexibility in the bill and Nevada will be better served.

**Joan Hall (Nevada Rural Hospital Partners Foundation):**

I was a member of the interim task force for A.B. 292, which allowed for a healthy discussion and different perspectives from the members of the task force. Health care is evolving and Nevada lacks doctors, community paramedicine, community health workers, mental health providers and more. As technology advances at a rapid rate, it leads to a new set of challenges and solutions. Nevada is not the only state discussing telehealth issues. The American Telemedicine Association performs a gap analysis each year. Two years ago, this gap analysis rated Nevada at a grade of D; now because of the telemedicine bill which passed last Session, Nevada is rated at a grade of B. We still have a ways to go.

In response to Senator Spearman's question regarding the VA, from the rural perspective, we try to emulate the VA's practices because they are so far ahead of the rest of the Nation in areas such as licensing, which are not limited by state borders. In our rural clinics, we would like to integrate VA practices in areas such as post-traumatic stress disorder counseling. Responding to Senator Harris's question regarding mental health, we have been studying the aspect of telemedicine for our jail system and rural clinics. Most of the State clinics have limited broadband service, which limits their ability to receive telehealth services.

Nevada Rural Hospital Partners was awarded a grant from the Health Resources and Services Administration, U.S. Department of Health and Human Services, to integrate mental health and behavioral health into rural health services. We are looking for solutions to the limited bandwidth issue. There is a technology out of Stanford Venture Capital that adapts video for delivery over limited bandwidths, which will be a great success for correction and mental health facilities. From a rural perspective, A.B. 292 has positive topics defining the originating site. From a federal standard, the originating site can only be a rural health clinic or rural hospital. This bill will expand originating sites to home health, hospice centers,

schools, jails, dialysis centers, long-term care centers and more. There will now be insurance coverage parity for telehealth services. There is a requirement in section 28 for the Commissioner of Insurance to consider telemedicine when making the adequacy of network determinations, which is vital to rural Nevada.

**Jim Wadhams (Nevada Hospital Association):**

The Nevada Hospital Association is in support of A.B. 292, reflecting that all of the stakeholders are in agreement, which was critical. Telehealth is a simple concept, yet there are some complications. This bill is a work-in-progress. Our work with the regulatory boards has been comforting and we expect their continued cooperation.

**Senator Spearman:**

Is there an opportunity to expedite VA interoperability with the telehealth system to help veterans who do not participate in the TRICARE system?

**Ms. Hall:**

A new process allows rural sites to provide care to veterans. The telehealth system is working with the VA to allow veterans to be seen at these rural sites.

**Keith Lee (Nevada Association of Health Plans; Board of Medical Examiners):**

The Nevada Association of Health Plans and the Board of Medical Examiners have been involved with A.B. 292 and are in support of the bill. This bill allows continued regulatory authority to keep up with technology. It is important to understand how to deal with privacy issues and the federal Health Insurance Portability and Accountability Act laws and new technology. The Board of Medical Examiners does not mandate any change to the regulation of Nevada licensees. This bill gives us better definitions of the telehealth system and expands the ability to adopt regulations.

**Laura Drucker (Nevada Psychological Association):**

The Nevada Psychological Association is in support of A.B. 292. We are excited that Nevada is addressing the need to provide services across physical and mental health areas for underserved populations. We would like to recognize the sponsors for their work to include all providers and reimbursement schedules. As mentioned by Assemblyman Oscarson, the Nevada Psychological Association has submitted a letter of support, [Exhibit J](#).

**Dan Musgrove (Anthem, Inc., and Amerigroup Nevada; The Valley Health System):**

Amerigroup, Anthem Blue Cross and The Valley Health System agree with all earlier comments and support A.B. 292.

**Chelsea Szklany, O.T.R./L. (Deputy Administrator for Clinical Services, Division of Public and Behavioral Health, Department of Health and Human Services):**

The Division of Public and Behavioral Health supports A.B. 292. Passing this bill will improve the access to and coverage for health care for Nevadans. This bill supports a more effective use of providers and will ensure additional education for providers. Passage of A.B. 292 would entice providers to practice in Nevada.

**Paula Berkley (Board of Occupational Therapy; State Board of Physical Therapy Examiners):**

The physical and occupational therapies boards agree with all statements and support A.B. 292.

**Aaron Heide, M.D. (Saint Mary's Medical Group):**

I am the Director of Neurology, Stroke and Telemedicine Services at Saint Mary's Regional Medical Center in Reno. I have been practicing vascular neurological telemedicine through companies over the past 10 years and have been a practitioner of telemedicine in Nevada since 2008. I am an advocate for this bill and the telehealth system, as I have performed more than 5,000 telemedicine consults.

Telemedicine is best used for expediency, such as for strokes, when time is of the essence, and for access to providers when none are available. When I teleconsulted from out-of-state, I found that telemedicine works best with a local partner. From a personal and professional standpoint, I am an advocate of the telehealth system; A.B. 292 provides consumer protection, education, accountability and efficiency.

**Erik Jimenez (Universal Health Services of Delaware):**

Universal Health Services of Delaware, representing the four behavioral health hospitals throughout Nevada, supports A.B. 292.



**Russell Rowe (Boyd Gaming Corporation):**

Increasing access for our nearly 10,000 employees to primary care is a key objective; therefore, we support A.B. 292.

**Erin McMullen (Nevada Resort Association):**

The Nevada Resort Association concurs with all supportive statements and supports A.B. 292.

**Bill Welch (Nevada Hospital Association):**

There are several components to the delivery of the telehealth system. One component is the legal and regulatory oversight and authority. Another component is the broadband and fiber-optic capabilities of the telehealth technology. The Nevada Hospital Association has been working over the last 4 years to expand fiber-optic capabilities for rural communities as well as between Reno and Las Vegas. This project is intended to be complete by August, then the connectivity aspect will be resolved. As a result of this Legislation, Nevada will see a robust telehealth system.

**Denise Selleck (Nevada Osteopathic Medical Association):**

The Nevada Osteopathic Medical Association's concern is putting the patient first, and A.B. 292 will do that; therefore, we are in support of this bill.

**Yolanda King (Clark County; University Medical Center):**

We are in support of A.B. 292.

**Justin Harrison (Las Vegas Metro Chamber of Commerce):**

We are in support of A.B. 292.

**Jessica Ferrato (Nevada Nurses Association):**

We are in support of A.B. 292.

**Parker Stremmel (Dignity Health-Saint Rose Dominican Hospitals):**

We are in support of A.B. 292.

**Chelsea Capurro (Health Services Coalition):**

We are in support of A.B. 292.

**Senator Spearman:**

The article, "Telehealth: Seven Strategies To Successfully Implement Disruptive Technology And Transform Health Care" by Lee H. Schwamm in *Health Affairs*, 33, no. 2, is relevant to the discussion of telehealth. The abstract of the article states:

Telehealth is a disruptive technology that appears to threaten traditional health care delivery but has the potential to reform and transform the industry by reducing costs and increasing quality and patient satisfaction.

The reason this article calls telehealth disruptive is that telemedicine challenges the way health care has always been provided.

**Chair Settlemeyer:**

I will now close the hearing on A.B. 292.

SENATOR SPEARMAN MOVED TO DO PASS A.B. 292.

SENATOR MANENDO SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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**Chair Settlemeyer:**

I will now open the hearing on A.B. 86.

**ASSEMBLY BILL 86 (2nd Reprint)**: Revises provisions governing the Silver State Health Insurance Exchange. (BDR 57-390)

**Bruce Gilbert (Executive Director, Silver State Health Insurance Exchange):**

Assembly Bill 86 primarily addresses several housekeeping issues and makes a change to permit insurance industry representation on the Silver State Health Insurance Exchange (SSHIX) Board. Section 1 strikes the term "state based," and resolves statutory redundancy. Our agency and its federal partners at the Centers for Medicare and Medicaid Services agree that any exchange that is established by state statute is, by definition, a state-based exchange.

Section 2 allows insurance industry representation, which is a measured approach allowing all stakeholders and industry experts the opportunity to be included in the policy-making process, particularly considering A.B. 86 contains protections that limit the number of members in the influence of any single group. Section 3 allows the members of the SSHIX Board to receive the same standard compensation for services as other board members in Nevada. This compensation is built into the SSHIX budget and can be accommodated without any issues. Section 4 reduces the number of required meetings from four meetings to one meeting, over the course of a year.

**Jim Wadhams (Nevada State Association of Health Underwriters; Nevada Association of Insurance and Financial Advisors; Anthem, Inc.):**

Assembly Bill 86 enhances the opportunity to ensure technology is used to make the Affordable Care Act insurance policies available and to streamline the process. We support A.B. 86 and look forward to making the telehealth portal easier to access for Nevadans.

**Elisa Cafferata (Nevada Advocates for Planned Parenthood Affiliates):**

The Nevada Advocates for Planned Parenthood Affiliates was involved with the creation of the SSHIX. We oppose section 2 of A.B. 86, which allows insurance industry representation on the SSHIX Board. Under existing law, there are conflict of interest protections for consumers that do not allow individuals to sit on the Board who have a financial interest in policies and decisions of the SSHIX Board

The federal guidance around the creation of insurance exchange boards states that it is important to the integrity and transparency of the boards' operation to maintain clear information to the public and to avoid conflicts of interest. Placing insurance representatives on the SSHIX Board will complicate the business of the Board in that the insurance representatives will need to recuse themselves from any vote or policy that could benefit their insurance companies. I have submitted written testimony ([Exhibit K](#)).

**Senator Hardy:**

Are there any differences between having insurance industry representatives on an insurance exchange board, and having dentists being on a dental board or doctors on a doctor board, or even contractors on a contractors' board?

**Ms. Cafferata:**

I am not familiar with the construction of any other board; however, it seems likely that persons with professional credentials are tasked to evaluate the actions and policies for other persons within the same professional field. Insurance providers are governed by the Division of Insurance. The SSHIX creates a marketplace portal to sell insurance coverage. The portal is a commercial enterprise; therefore, if insurance representatives sit on the SSHIX Board, those representatives can make decisions that would benefit the insurance companies where those representatives are employed. Insurance companies already have representation in the SSHIX, since the Commissioner of Insurance sits as an exofficio member of the Board.

**Senator Hardy:**

Does the SSHIX Board require a majority vote for passage of any business?

**Ms. Cafferata:**

Yes, the SSHIX operates under standard operating procedures in regards to voting regulations.

**Senator Hardy:**

Do insurance representatives have a majority vote over other Board members?

**Ms. Cafferata:**

There is a limit of two persons per area of expertise, which is a good start toward not allowing any one area to have a majority vote; however, we believe that having insurance representatives on the SSHIX Board is a conflict of interest.

**Mr. Gilbert:**

To clarify Ms. Cafferata's concern, no single board member can force the entire Board to do anything. The SSHIX Board is regulated under the Open Meeting Law. The potential for industry representation to injure the consumer is slim.

**Chair Settlemeyer:**

I will now close the hearing on A.B. 86 and open the hearing on A.B. 227.

**ASSEMBLY BILL 227 (1st Reprint)**: Revises provisions governing the practice of medicine. (BDR 54-412)

**Mr. Lee:**

The Board of Medical Examiners presents A.B. 227 to update its statutes and to clear-up issues that arose with respect to some of the language. I have submitted an overview of A.B. 227 ([Exhibit L](#)), describing each change, by section.

**Edward O. Cousineau (Executive Director, Board of Medical Examiners):**

As mentioned by Mr. Lee, we have provided an overview, [Exhibit L](#), of proposed changes, by section, which I will now read.

**Chair Settlemeyer:**

Do you remember the bill number from the 77th Session that was not heard prior to the deadline?

**Mr. Cousineau:**

Senate Bill No. 162 from the 77th Session was not heard prior to the deadline.

**Senator Hardy:**

Can you explain the terms “knowingly” and “willfully,” and their ramifications with regard to illegal, unlawful and dangerous substances that may become recreational?

**Mr. Cousineau:**

Knowingly is when there is an awareness of an action or conduct, but there is no intent to violate a law. Willfully is an intentional violation of a law. This came about when a couple licensees, represented by counsel, were ordered by the Board of Medical Examiners to appear and provide records to the Board. The licensees complied with the appearance portion, but did not comply with the order to provide the records. The Board moved to prosecute the licensees for willfully failing to follow a court directive; however, counsel testified the licensees were directed not to provide the records. Therefore, the licensees knowingly violated a court directive, but did not willfully disobey the directive.

**Senator Hardy:**

Is the Board of Medical Examiners going to hold an individual accountable for knowingly disobeying without the intent to disobey a law?

**Mr. Cousineau:**

Yes, that is correct.

**Senator Hardy:**

What if an individual knowingly or willfully writes a prescription for a dangerous drug currently listed under NRS 454 or for medical marijuana?

**Mr. Cousineau:**

State law does not allow the Board of Medical Examiners to prosecute a licensee for complying with the requirements of a State law, such as the ability to write a prescription for medical marijuana as long as the licensee follows the legal constraints.

**Senator Hardy:**

Is a licensee able to act knowingly and willfully to break a federal law even if the State law allows the action?

**Mr. Cousineau:**

Through the advisory opinion, it is clear that a licensee needs to consult with his or her legal counsel. State law prohibits the Board of Medical Examiners from prosecuting licensees for prescribing medical marijuana. We have advised licensees that such an act is prohibited by federal law; however, the Board cannot intercede.

**Ms. Selleck:**

The Nevada Osteopathic Medical Association is opposed to A.B. 227. Section 23 relates to osteopathic medicine in NRS 633. Section 23, subsection 3, shortens the time period that physicians must submit a mental or physical examination or medical competency examination to the Board. Nevada licensees are sent to Wisconsin or Colorado to complete competency exams, and rely on a third party to have results tabulated and returned. The time frame should remain at 60 days.

**Mr. Lee:**

In response to Ms. Selleck's testimony, every effort has been made to have each NRS chapter reflect the other chapter. The Board of Medical Examiners copied the period of time indicated in NRS 630 to NRS 633 for osteopathic medicine. If the Committee chooses to change the specified time back to 60 days, we would not have any issue.

**Senator Hardy:**

Is the period of time for examination submittal 30 days in NRS 630? If we left A.B. 227, section 23, subsection 3 at 60 days, would you have any issues changing NRS 630 to 60 days?

**Mr. Lee:**

The Board of Medical Examiners would prefer to leave NRS 630 at 30 days; however, if the Osteopathic Board would like to leave its requirement at 60 days, that is acceptable.

**Senator Hardy:**

Can a medical physician go out-of-state, have the examinations and the results submitted quicker than can an osteopathic physician?

**Mr. Cousineau:**

For medical physicians, there are in-state evaluators who can conduct the examinations. We are changing the language to state, "no more than 30 days," in conjunction with the 60-day summary suspension, since there needs to be time to evaluate the examination results as part of the suspension investigation. With the in-state evaluations, licensees can be evaluated within days or weeks. I am not positive where the conduct examinations for osteopathic physicians are sent for evaluation.

Senate Committee on Commerce, Labor and Energy  
May 8, 2015  
Page 16

**Chair Settlemeyer:**

I will now close the hearing on A.B. 227. With no further business to discuss, the meeting is adjourned at 9:40 a.m.

RESPECTFULLY SUBMITTED:

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Renee Fletcher,  
Committee Secretary

APPROVED BY:

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Senator James A. Settlemeyer, Chair

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



<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit / # of pages</b>		<b>Witness / Entity</b>	<b>Description</b>
	A	2		Agenda
	B	4		Attendance Roster
A.B. 4	C	1	Senator James A. Settelmeyer	Work Session Document
A.B. 246	D	1	Senator James A. Settelmeyer	Work Session Document
A.B. 270	E	1	Senator James A. Settelmeyer	Work Session Document
A.B. 454	F	1	Senator James A. Settelmeyer	Work Session Document
A.B. 126	G	4	Marji Paslov Thomas	Work Session Document
A.B.173	H	13	Marji Paslov Thomas	Work Session Document
A.B. 292	I	4	Assemblyman James Oscarson	Written Testimony
A.B. 292	J	2	Laura Drucker / Nevada Psychological Association	Letter of Support
A.B. 86	K	2	Elisa Cafferata / Nevada Advocates for PPA	Written Testimony
A.B. 227	L	2	Edward O. Cousineau / Board of Medical Examiners	Overview