MINUTES OF THE
SENATE COMMITTEE ON COMMERCE, LABOR AND ENERGY

Seventy-Eighth Session
March 2, 2015

The Senate Committee on Commerce, Labor and Energy was called to order by Chair James A. Settelmeyer at 9 a.m. on Monday, March 2, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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

STAFF MEMBERS PRESENT:

Marji Paslov Thomas, Policy Analyst
Renee Fletcher, Committee Secretary

OTHERS PRESENT:

Dean Polce, D.O., President, Nevada State Society of Anesthesiologists
Robert Wagner, M.M.Sc., AA-C., Director, American Academy of Anesthesiologist Assistants; Chair, Department of Anesthesia, Nova Southeastern University
Jerry Matsumura, M.D., President, Nevada Anesthesia Patient Safety PAC; Director, Nevada State Society of Anesthesiologists
Joey Parrish
Denise Selleck, Executive Director, Nevada Osteopathic Medical Association
Michael Hillerby, Renown Health
Mindy McKay, Records Bureau Chief, General Services Division, Department of Public Safety

Joanne Heins, President, Nevada Association of Nurse Anesthetists
Steven Sertich, Nevada Association of Nurse Anesthetists
Susanna West, Nevada Association of Nurse Anesthetists; American Association of Nurse Anesthetists

Chair Settelmeyer:
We will begin the hearing on Senate Bill (S.B.) 181.

SENATE BILL 181: Provides for the licensure of certified anesthesiology assistants. (BDR 54-240)

Senator Joe P. Hardy (Senatorial District 12):
Senate Bill 181 will help anesthesiologist assistants in Nevada.

Dean Polce, D.O. (President, Nevada State Society of Anesthesiologists):
I have provided my written testimony (Exhibit C). Existing law provides licensure and regulation of physicians assistants by the Board of Medical Examiners and the State Board of Osteopathic Medicine. Senate Bill 181 adds licensure and regulation of anesthesiologist assistants (AAs) to the existing law. Anesthesiologists' assistants are highly trained and qualified anesthesia providers who would work under the direct supervision of licensed anesthesiologists.

Medicaid payments to anesthesiologists were decreased by 43 percent due to budget cuts made during the 26th Special Session in 2010. Anesthesiologists did not stop caring for Medicaid patients, although individual practices could choose to opt out. There are approximately 300 licensed anesthesiologists in Nevada with diverse practices. Pediatric anesthesiology is a specialty practice for which very few anesthesiologists provide care. The younger a child, the fewer willing anesthesiologists there are, as additional credentials are required.

With the cuts made in 2010, the number of providers decreased. As the number of pediatric Medicaid patients grows, the burden of these cases falls disproportionately on the few pediatric anesthesiologists that remain, and they lose money on Medicaid cases. The use of AAs will enable a practice to shift costs so certified anesthesiologists would not need to limit their pediatric exposure.

Pursuant to the Affordable Care Act, Nevada expanded Medicaid coverage. While the national expansion average was roughly 15 percent, Nevada expanded Medicaid enrollees by 60 percent. It is extremely difficult to request a highly specialized physician to accept a larger workload without any increase in payments. Given funding and budgetary cuts, an economic solution exists for anesthesiologists with the use of AAs.

Granting AAs licensure is not a cure-all nor will it change anesthesia patient care. There is no mandate for any practice to change its mode of operation or to be required to hire AAs. Senate Bill 181 allows the option to the anesthesia care team to use AAs at the discretion of the supervising anesthesiologist.

Board-certified specialist physicians have a minimum of four nonphysician health care providers usable at any one time. Anesthesiologists in Nevada have only one option. Anesthesiologists in 17 other states have options to use resident anesthesiologists, certified registered nurse anesthetists (CRNAs) or AAs within their anesthesia care teams. Anesthesiologists in Nevada have only one option.

My research as a taxpayer has uncovered the following statistics: 22 percent of Nevadans hold a bachelor's degree, which ranks forty-sixth in the Nation; 7.6 percent of Nevadans have an advanced degree, ranking forty-second nationwide. Nevada's median household income is just over $51,000. Senate Bill 181 would attract workers to Nevada who have at least a master's degree, and who earn salaries more than double Nevada's median without costing taxpayers one dime.

I would like to point out a few items in our proposed amendment (Exhibit D). In section 6, the statement referencing resident anesthesiologists working in an academic environment needs to be deleted, as this does not exist. If an individual is board-certified, that person cannot be a resident. Board eligible refers to a resident whom must wait several months to a year to acquire certification.

Robert Wagner, M.M.Sc., AA-C., (Director, American Academy of Anesthesiologist Assistants; Chair, Department of Anesthesia, Nova Southeastern University):

There are a number of students transferring to programs in other states to attend programs to achieve certification as an AA because Nevada does not offer these classes. There are three providers of anesthesia recognized by the

federal government: a certified anesthetist, an AA and a CRNA. The federal registry defines an anesthetist as a nurse anesthetist or an AA.

To become an AA, an individual must obtain a bachelor's degree and meet all premed prerequisites. An AA's education is a 24- to 28-month, master's level, specialized program. After the program, an AA must pass a certification test given by the State Board of Medical Examiners, and an AA must be recertified every 6 years. An AA education program is very in-depth and intense.

A certified anesthesiologist must still be present within a hospital for an AA to render care. Senate Bill 181 does not take away the role of a certified anesthesiologist. An AA cannot work independently. An AA is certified to administer any type of anesthetic dictated by the anesthesiologist, from pediatric, obstetric, cardiac, regional, invasive monitoring and more.

The AA profession has existed for approximately 40 to 45 years, growing from the original two programs to ten programs. Each program must be affiliated with either a medical school or osteopathic medical school, both of which must have a certified anesthesiologist as the medical director. The American Society of Anesthesiologists, consisting of more than 48,000 members, supports AAs and their education.

Senator Farley:
Do AAs have personal insurance, or are they insured under the supervising physician's practice?

Mr. Wagner:
If the AA is employed by an anesthesia group, the AA is covered under the group plan. If an AA is employed by a hospital, the hospital covers the AA's insurance. Anesthesiology assistants can obtain malpractice insurance on their own if they are working on their own to fill temporary vacancies.

Senator Harris:
Regarding language in section 5 of S.B. 181, what does "immediately available" mean? How close to a working AA must the supervisor be? What is meant by "effectively re-establish direct contact" to meet any urgent or emergent problems?

Dr. Polce:
A condition of Medicare, both Parts A and B, states an AA must have a direct supervisor within the hospital. This is a stipulation that no other physician needs to abide by. Language in the current bill was adopted from federal regulations that must be stated. Direct contact with a patient could be re-established by the supervising anesthesiologist immediately if necessary.

Senator Harris:
Is direct contact person-to-person, or possible via computer?

Dr. Polce:
There must be direct contact with a patient.

Mr. Wagner:
A certified anesthesiologist can supervise up to four nonphysician providers, which can be any combination of AAs and CRNAs. Direct supervision stipulates that a certified anesthesiologist must be present within the hospital.

Jerry Matsumura, M.D. (President, Nevada Anesthesia Patient Safety PAC; Director, Nevada State Society of Anesthesiologists):
The associations I represent support S.B. 181. There has been large population growth, which is hard for anesthesia providers to keep up. There are few quality anesthesia providers that are interested in moving to this area, and Nevada does not have a resident training program. It has been hard to attract anesthesiologists to train for certification in Nevada.

If a certified anesthesiologist is hired from another state, it tends to be difficult to keep them in Nevada if there are no family ties. It would be successful if Nevada had an anesthesiology residency program to appeal to those students who have ties to the community. I have met or spoken with many AAs who would like to move to this area if Nevada created this category.

Joey Parrish:
I am 21 years old and a lifetime resident of Nevada. I am attending the University of Nevada, Reno majoring in neuroscience, and working as a tissue recovery coordinator at Renown Regional Medical Center. Nevada is my home; however, I have to move to another state to further my career in anesthesiology since that program is not offered at any college in Nevada.

The superhero I have always wanted to be was a doctor. Doctors were the superheroes in my life. I spent most of my childhood in the hospital due to a rare liver disease called biliary atresia. My first medical procedure was performed at 10 weeks of age to help keep me alive until I could receive a liver transplant. By 2 years of age, I had such an excess of fluid built up on my abdomen causing me to eat every meal standing up so I could breathe while eating. I fought for my life for 6 years until I received a liver transplant. I was given a second chance at life, and with this life, it is my passion to give back by doing all I can to save other lives. I would like nothing more than to be an AA in Nevada.

Denise Selleck (Executive Director, Nevada Osteopathic Medical Association):
The Nevada Osteopathic Medical Association supports S.B. 181. Section 44 of the proposed amendment, Exhibit D, requires an anesthesiologist be certified by the American Board of Anesthesiology. We request the statute be clarified to state certification can also be offered by the American Osteopathic Board of Anesthesiology.

Michael Hillerby (Renown Heath):
Renown Health supports S.B. 181. The anesthesiology profession plays an important part in patient access; therefore, anything that can be done to improve the availability of anesthesiologists would be good for Renown.

Mindy McKay (Records Bureau Chief, General Services Division, Nevada Department of Public Safety):
I am testifying neutral on S.B. 181. Due to fingerprint submission requirements pursuant to sections 8 and 46, a review by the FBI to determine if S.B. 181 meets the requirements of Public Law 92-544 as it relates to fingerprint submissions to the FBI for licensing AAs in Nevada will be necessary. The General Services Division will facilitate this requirement. Once we get a final determination from the FBI, my office will advise Chair Settelmeyer.

Joanne Heins (President, Nevada Association of Nurse Anesthetists):
I have submitted my written testimony (Exhibit E). The Association of Nurse Anesthetists is very concerned about S.B. 181, which will allow AAs to provide anesthesia to patients in the State. Currently, there are two types of anesthesia providers: CRNAs and physicians, both have excellent records of patient safety and access to care. Anesthesiologist assistants do not have a proven record,

nor do AAs decrease health care spending, and there is not a shortage of anesthesia providers in Nevada.

I worked many years as a critical care registered nurse before attending graduate courses to obtain my CRNA status. For the record, "CRNAs have been providing anesthesia in the United States for 150 years. In 2014, CRNAs administered 34 million anesthetics." Certified registered nurse anesthetists are licensed to practice in all 50 states, where AAs are only licensed in 16 states. There are no peer-reviewed studies in any scientific journals regarding quality of care or outcomes from AAs. Certified registered nurse anesthetists have more flexibility. I have administered anesthesia in the cities of Mesquite and Pahrump; both cities are underserved anesthesia locations. I also filled a contract for the United States Air Force during Operation Desert Storm. Anesthesiologist assistants are not certified to work in either of these situations.

There is no shortage of anesthesia providers. I know a number of CRNAs who would prefer to practice in Nevada; however, they are practicing in California, Oregon, Arizona and New Mexico since it is difficult to secure employment in Nevada.

Senator Hardy:
Are there no peer-reviewed studies in Nevada, the United States or the world?

Ms. Heins:
There are no peer-reviewed studies in the United States.

Senator Harris:
Do CRNAs assist in pediatric cases?

Ms. Heins:
Yes, CRNAs do give pediatric anesthesia, as well as to smaller and at-risk children in the neonatal intensive care units.

Senator Spearman:
How will the passage of S.B. 181 change or harm CRNAs?

Ms. Heins:
It is possible that CRNAs could be run out of practice or quietly prohibited from practicing. Anesthesiologist assistants work only in supervised settings, which

could potentially eliminate CRNAs. I do not have any hard data to substantiate this claim. The rural health care setting loads a CRNA's work in underserved areas such as Ely or Elko, Pahrump or Mesquite; however, CRNAs also work in urban areas that AAs could eliminate.

Senator Farley:
Are you concerned about the quality of education for an AA, their ability to perform their duties or just competition for available jobs?

Ms. Heins:
I am concerned about the quality of an AA's education and competition for available jobs.

Senator Farley:
If an AA works under a certified doctor who is covering the AA's insurance, does the doctor check the schooling and background of the AA being hired?

Ms. Heins:
I do not have any data on bad outcomes with AAs. I can state that AAs are not as well prepared as a CRNA, and AAs cannot practice independently like a CRNA.

Senator Spearman:
The proponents of S.B. 181 stated that AAs would increase patient safety since the AA must work under the supervision of a physician. Are you addressing the issue of quality care or are the objections more of a competition nature?

Ms. Heins:
It is very difficult for CRNAs to find jobs in Reno. Many CRNA applicants are denied jobs due to few vacancies for their expertise; however, AAs are being offered positions. Training for both occupations differs, yet CRNAs are trained to manage patient care from the time an individual walks into a hospital until the time of departure, without the need for supervision.

Senator Harris:
What is the difference in the roles of CRNAs and AAs? Are CRNAs under direct supervision or do CRNAs work independently?

Ms. Heins:
Supervision is dependent on the circumstance. In one setting where I am not under supervision, I would provide anesthesia while a surgeon performs hand surgery. In another setting, I do work in a supervised capacity where I may be advised to perform pre-op or the physician may want to perform the pre-op procedure. There are the same options for recovery and follow-up care. The advantage of CRNAs is they have a broader range of training and scope of practice and can manage care and anesthesia without direct supervision.

Chair Settelmeyer:
Is there any evidence or data, from the states that employ AAs, showing a decline or extinction of CRNAs?

Ms. Heins:
I have personal knowledge of CRNAs who lost their employment when AAs were hired. Although I do not have any hard data, I will look for specific information or studies showing this information to provide to the Committee.

Senator Spearman:
Can both medical professions work together to complement each other rather than replacing one another?

Ms. Heins:
Some locations employ both CRNAs and AAs. The need arose out of a health care provider shortage; however, that is not the case in Nevada. I have friends who are highly qualified, yet unable to find employment in Nevada due to an excess of CRNAs. There are CRNAs who live here and want to work here, yet will commute to California or New Mexico.

Steven Sertich (Nevada Association of Nurse Anesthetists):
I am supplying my written testimony (Exhibit F) as well as an AA and CRNA comparison sheet (Exhibit G) and an AA fact sheet (Exhibit H). The care team approach to anesthesia is a certified anesthesiologist supervising CRNAs or AAs, or supervising both. A few hospitals in Nevada use this approach. Nevada employs approximately 100 CRNAs. There are CRNAs wanting to work in Nevada if there are job opportunities. A 2010 Rand Corporation study shows Nevada as one of 11 states with a surplus of anesthesia providers. Another Rand Corporation study conducted in 2013 stated there would be nationwide shortage of anesthesia providers by 2026.

The question is, will we have an actual shortage of anesthesiologists or a shortage of people not willing to do specific procedures. If a certified anesthesiologist does not want to perform certain procedures, it is beneficial and less costly to bring in a CRNA. In many cases, there is one anesthesiologist taking care of one patient at a time. Senate Bill 181 proposes to have one anesthesiologist "watch" four others administer anesthesia.

In accordance with federal regulation 42 CFR 415.110 Conditions for payment: Medically directed anesthesia services, for billing purposes the supervising anesthesiologist must perform and document seven specific procedures. Senate Bill 181 is requesting that AAs be granted this ability. If Medicare is billed without these seven steps being performed by a licensed physician, it is considered fraud. Medicare pays an anesthesiology provider one amount, whether the service is provided by a certified anesthesiologist, a CRNA or an AA. The Medicare payment system is one of the reasons many anesthesiologists do not want to perform the procedure. A CRNA can perform any type of procedures on anyone from the youngest to the oldest patient. They are trained to work independently and can work on military bases.

There are a few sections of S.B. 181 that are concerning. Sections 5 and 6 have already been discussed, so I will not reiterate them. In section 7, subsection 1, paragraph (i), says that AAs will be allowed to perform epidurals and spinal anesthetic procedures. The American Society of Anesthesiologists and the American Association of Nurse Anesthetists have been opposed to having AAs perform epidural and spinal anesthetic procedures.

Section 11, subsection 2 states that requirements for supervision are waived during emergencies or disasters. Emergencies and disasters are when we see the most traumatic injuries. This is not the time to have unsupervised AAs performing procedures.

The United States Supreme Court case *North Carolina State Board of Dental Examiners v. Federal Trade Commission,* No. 13-534, 2015 WL 773331 (U.S. Feb. 25, 2015), held that medical state boards can be sued for antitrust. Any number of lawsuits could be filed if there is a displacement of certified anesthesiologists or CRNAs.

Chair Settelmeyer:
Within either Rand Corporation study, was there any indication of shortages in rural areas, such as northern Nevada?

Mr. Sertich:
The study was statewide, which stated that anesthesiologists were located 95 percent in urban areas, and CRNAs were located 44 percent in urban areas. Neither study specified rural locations.

Senator Hardy:
The reference made earlier to section 11, in a hospital emergency that requires intubation, is the CRNA or AA trained in intubation the most skilled responder?

Mr. Sertich:
In the emergency department, it is the emergency physician on duty who is the most skilled and contracted to respond to all codes. The anesthesia providers respond to codes if they are requested to be present. The language in section 11 of S.B. 181 talks about an emergency or disaster. The language is unclear since you spoke about a hospital setting, and I am thinking along the lines of a disaster. The language needs to be more specific.

Chair Settelmeyer:
Section 11 does state "an emergency or disaster, as declared by a governmental entity," and the provision only applies for the duration of the emergency or disaster.

Mr. Sertich:
During such an emergency or disaster, would you want someone performing procedures that are only allowed to work under direct supervision?

Senator Harris:
What percentage of your CRNA's practice is spent with Medicaid patients?

Mr. Sertich:
I work as a contractor at Nellis Air Force Base, which does not see Medicaid patients. The facility sees active duty and retired military patients, as well as veterans. Medicaid patients are seen through Tricare; however, I do not have any data on Medicaid patients seen through public practices.

Ms. Heins:
As a CRNA employee, I do not do any billing; however, our practices do see Medicaid and Medicare patients, which are approximately 30 percent of our patients.

Dr. Polce:
I would like to read a letter of support submitted by Charles Duarte, CEO of Community Health Alliance (Exhibit I), stating the need for AAs as they would expand access to vital anesthesia services needed for medical and dental patients.

Senator Farley:
Why are CRNAs not utilized more? What is so different between AAs and CRNAs?

Dr. Polce:
We do use CRNAs. The advocates for S.B. 181 are the same people who wrote the delineation of prologists for nurse anesthetists in the tertiary care centers that currently use a care team model, or who plan to use this model in the future. We are looking for additional options for an area that has no training programs to put AAs into the system. It took 1 year to secure the contract we now have in southern Nevada to get AAs employed. We are following the national guideline on access-to-care and care team models.

Susanna West (Nevada Association of Nurse Anesthetists; American Association of Nurse Anesthetists):
My family's business has been in Nevada for over 30 years. My father is a podiatrist with a surgery center in Carson City. I wanted to practice in Nevada since my family is here; however, it took 8 years to secure a CRNA position. My family's surgical center has been unable to get an anesthesiologist contract, so the only way to keep the doors open is to employ CRNAs. Nevada's environment is not conducive for CRNAs to secure employment. Many CRNAs would like to work in Nevada.

I am concerned about S.B. 181 because it would displace qualified CRNAs who want to come to Nevada, but are finding it difficult to locate available employment. Nurse anesthetists provide most of the anesthesia for patients in rural Nevada. There is a threat to access care if we displace CRNAs with AAs.

Chair Settelmeyer:
I would like to note the following information was submitted by Barry Duncan, representing the Nevada State Society of Anesthesiologists: An AA fact sheet (Exhibit J), a letter from J.P. Abenstein, President of the American Society of Anesthesiologists (Exhibit K), Educational requirements for AAs (Exhibit L) and a U.S. map of AA work states (Exhibit M).

I will close the hearing on S.B. 181. With no further comments or business before the Committee, the meeting is adjourned at 9:57 a.m.

RESPECTFULLY SUBMITTED:

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Renee Fletcher,
Committee Secretary

APPROVED BY:

_____
Senator James A. Settelmeyer, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	**Exhibit**		**Witness or Agency**	**Description**
	A	1		Agenda
	B	3		Attendance Roster
S.B. 181	C	2	Dean Polce	Written Testimony
S.B. 181	D	4	Dean Polce	Proposed Amendment
S.B. 181	E	1	Joanne Heins	Written Testimony
S.B. 181	F	7	Steven Sertich	Written Testimony
S.B. 181	G	7	Steven Sertich	Comparison Between CRNAs and AAs
S.B. 181	H	15	Steven Sertich	Fact Sheet Regarding AAs
S.B. 181	I	1	Dean Polce	Letter From Charles Duarte
S.B. 181	J	3	Senator James A. Settelmeyer	AA fact sheet
S.B. 181	K	2	Senator James A. Settelmeyer	Letter from J.P. Abenstein
S.B. 181	L	2	Senator James A. Settelmeyer	Educational Program for AAs
S.B. 181	M	1	Senator James A. Settelmeyer	Map