

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Eighth Session
March 23, 2015**

The Senate Committee on Health and Human Services was called to order by Chair Joe P. Hardy at 3:29 p.m. on Monday, March 23, 2015, in Room 2149 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 Joe P. Hardy, Chair
Senator Ben Kieckhefer, Vice Chair
Senator Mark Lipparelli
Senator Joyce Woodhouse
Senator Pat Spearman

GUEST LEGISLATORS PRESENT:

Senator Moises (Mo) Denis, Senatorial District No. 2

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Eric Robbins, Counsel
Debra Burns, Committee Secretary

OTHERS PRESENT:

Tracey Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services
Benjamin Schmauss, American Heart Association
Dan Musgrove, Southern Nevada Health District
Cari Herington, MBA, Executive Director, Nevada Cancer Coalition
John Griffin, Nevada Advanced Practice Nurses Association
Grayson D. Wilt, Nevada State Medical Association

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Denise Selleck, CAE, Executive Director, Nevada Osteopathic Medical Association

Chair Hardy:

We will open the hearing on Senate Bill (S.B.) 402.

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

Senator Moises (Mo) Denis (Senatorial District No. 2):

Senate Bill 402 has the powerful potential to change the way we think about obesity. It may help us find solutions to this disease which plagues society.

While attending a national conference on health care in the Hispanic community, I heard an expert speak on the topic of obesity. The information he shared was troubling on how this disease disproportionately affects minority communities.

Obesity is an all too common and costly health issue, rising to the level of a national epidemic. Our State is no exception. In Nevada, one in four adults and one in five children are obese. Obesity has critical consequences for the State's health and economy. It increases the risk for various other diseases including heart disease, stroke, diabetes and some cancers, all of which are among the leading causes of death in the United States. In 2013, the American Medical Association (AMA) recognized obesity as a disease, and as far back as 2007, the American Academy of Pediatrics recommended obesity prevention, assessment and patient counseling.

Senate Bill 402 would define obesity as a chronic disease for the first time in *Nevada Revised Statutes* (NRS). If this bill passes, Nevada will be the first state to establish such a definition, to my knowledge. While the definition may be new to NRS, it is not a new concept. Some federal agencies that refer to obesity as a chronic disease are the United States Food and Drug Administration, the Centers for Disease Control and Prevention (CDC), the National Institutes of Health, the Social Security Administration and the Internal Revenue Service. In addition, the World Health Organization (WHO) and the AMA are among the many health organizations that recognize obesity as a chronic disease.

The benefits of officially designating obesity as a chronic disease are many. This bill has the potential to change the way we think about obesity and to change the culture that surrounds it. Defining obesity as a chronic disease may encourage doctors and patients to discuss obesity as a medical issue, rather than a personal choice.

Senate Bill 402 may also reduce the stigma and discrimination associated with obesity and in doing so, may provide an opportunity for more effective treatment.

The bill requires the Division of Public and Behavioral Health to prepare an annual report for the Legislature on obesity statistics in Nevada, as well as the State's effort to reduce obesity. Having reliable data on the prevalence of the disease will help in the fight against obesity.

Senate Bill 402 makes a small change that could have a disproportionately large impact on the State. I worked with Dr. Green when I originated this concept, and we are excited about this bill.

Tracey Green, M.D. (Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services):

I would like to add that currently in Nevada, greater than 60 percent of our adults are overweight or obese. The trend reveals a continuing increase in the persistence of this disease. With the definition of obesity as a disease, there will be opportunities to obtain grants to find surrounding chronic disease and other diseases. This bill will modify the definitions section of the NRS, with the meaning of obesity and the possible identifiers defining it. For example, there are some references to Body Mass Index (BMI), waist measurement and other references involving children. The specific language is more defined in the bill.

Senator Kieckhefer:

The CDC and WHO Websites define obesity by BMI. Our definition is broad. What is the rationale behind that? Would that make data we collect incompatible with data collected at a federal level?

Dr. Green:

The National Institutes of Health and the WHO use adiposity, or the collection of fat, as part of their definition. Our bill uses the word "may" which would not divert us from collecting adequate information. We can make it parallel so if the

data collection site uses BMI, we can use our BMI data. If the site uses waist measurement or waist-to-hip measurement, we can do it that way. By using the word may, we can use any of the resources which collect data.

Senator Kieckhefer:

Will any of the various data sets skew the data one way or other? Will we capture more people by providing more data sets or would all individuals default into the BMI definition?

Dr. Green:

There exists debate surrounding the definition of obesity; when limited to BMI, bodybuilders or individuals with a significant amount of muscle mass should be measured with the waist-to-hip ratio or another accurate measurement for body fat. Our measurements would allow us to determine obesity based upon other measurements, not just BMI.

Senator Kieckhefer:

For the first time, if we are defining obesity as a disease, are there other implications? Though not envisioned in this bill, will there be required coverage in health plans or any requirements in other areas of law which may be affected?

Dr. Green:

The AMA included obesity as a disease in 2013, and in the Affordable Care Act obesity is listed as a covered benefit for prevention. We are already providing the services for obesity treatment. It may improve in the drawdowns for grants for chronic disease. It is currently a covered benefit under both Medicare and Medicaid.

Chair Hardy:

Under section 1, the first paragraph of subsection 1 ends with "may be indicated by" and paragraph (c) of that same subsection ends with the word, "or." Each paragraph, (a) through (d), is "or," so there would be no misinterpretation requiring a compilation of all four of the definitions, as any one of them may be indicated.

Senator Lipparelli:

What is the source of the information for the required report, and how will you collect this information?

Dr. Green:

We gather data on obesity in several ways; one is by taking a sampling of all children as they enter kindergarten. Another, the Youth Risk Behavior Survey screening is a self-reported index provided by the CDC and compiled from samples from all the states. We may consider continuing a BMI study we have that addresses fourth, fifth and seventh grade select populations in which we collect the weights and heights of the children and use that data. With regard to adult obesity as a chronic disease, we will continue to use the data in our programs for chronic disease and wellness, as part of our surveillance.

Senator Lipparelli:

Is there any analogue in our statutes that relate to other health conditions such as poor dental care, high cholesterol levels or other issues that would indicate long-term downside impacts? Is collecting data a first for us?

Dr. Green:

I recently learned that the “zero” section of a statute is where this information lives. Our Division collects data on oral health and other chronic diseases, including obesity.

Senator Lipparelli:

What is the purpose of collecting that information?

Dr. Green:

Defining obesity as a chronic disease moves it from a fad to a medical condition. When physicians gather individuals’ histories, surrounding other disease entities, they will now collect information about nutrition and exercise. This opens another financing arena for expanding prevention and treatment efforts through applications for grants and funding.

Senator Lipparelli:

Is there a distinction between medical condition and personal choice?

Dr. Green:

This bill moves the distinction from personal choice to a medical condition. It is truly a metabolic condition versus not merely what one eats. This bill defines the disease as a way the body is working, not an acute problem a person can put a single treatment upon and cure.

Senator Denis:

In that meeting I attended, I learned that research shows the body will try even harder to gain the weight back after a 15 percent or more total weight loss. Frequently, they see people gaining back more weight than they lost. There are multiple other medical issues involved in maintaining healthy body weight.

Benjamin Schmauss (American Heart Association):

Obesity was formerly viewed as a behavioral and environmental problem; obesity is now seen as a complex disorder and a major health risk factor. I have submitted my written testimony ([Exhibit C](#)).

My research shows 35 percent of adults living in the United States to be obese as of 2011. Projected rates for adult obesity could reach or exceed 44 percent in every state by 2030. Life expectancy decreases with a BMI exceeding 30, and adults with a BMI over 40 could lose 8 to 10 years of their life expectancy.

The obesity epidemic is spreading to our children, with 31.8 percent of children and adolescents aged 2 to 19 considered overweight or obese. Obese adolescents have a 16-fold increased risk of becoming severely obese adults. This is projected to result in 1.5 million life years lost.

In addition to human suffering and death, obesity and associated diseases impose a significant economic burden on public and private payers. The per capita percentage increase in annual costs attributable to obesity is estimated to be 36 percent for Medicare, 47 percent for Medicaid and 58 percent for private payers. We support this bill.

Dan Musgrove (Southern Nevada Health District):

The Southern Nevada Health District supports [S.B. 402](#).

Cari Herington, MBA (Executive Director, Nevada Cancer Coalition):

The Nevada Cancer Coalition supports [S.B. 402](#).

John Griffin (Nevada Advanced Practice Nurses Association):

The Nevada Advanced Practice Nurses Association supports [S.B. 402](#).

Grayson D. Wilt (Nevada State Medical Association):

The Nevada State Medical Association supports [S.B. 402](#).

Denise Selleck, CAE (Executive Director, Nevada Osteopathic Medical Association):

The Nevada Osteopathic Medical Association supports S.B. 402.

Senator Kieckhefer:

The language in section 5 regarding the burden reports is permissive. It is already permissive for several other diseases. How often do you publish burden reports?

Dr. Green:

We publish a report annually for a different disease. This bill would obligate us to do a report annually on obesity.

Senator Kieckhefer:

Is that obligation within the limits of available resources?

Dr. Green:

We are committed to doing that annual report on obesity.

Senator Kieckhefer:

In section 1, subsection 1, it states, "Except as otherwise provided by specific statute or required by the context." Why is that terminology needed? Is there another place it is defined differently?

Eric Robbins (Counsel):

That wording is before every definition in a preliminary chapter to assure that a specific definition in future would take precedence.

Chair Hardy:

Would the sponsor like to say something in support of his own bill?

Senator Denis:

I appreciate the opportunity to talk about this important bill. I would like the Committee's support.

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Chair Hardy:

There being no further business before the Committee, this meeting is adjourned at 3:51 p.m.

RESPECTFULLY SUBMITTED:

Debra Burns,
Committee Secretary

APPROVED BY:

Senator Joe P. Hardy, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	3		Attendance Roster
S.B. 402	C	2	Benjamin Schmauss	Written Testimony