



NEVADA LEGISLATURE
SUBCOMMITTEE OF THE LEGISLATIVE COMMITTEE
ON HEALTH CARE TO REVIEW THE LAWS AND
REGULATIONS GOVERNING PROVIDERS OF
HEALTH CARE, THE USE OF LASERS AND
INTENSE PULSED LIGHT THERAPY, AND THE
USE OF INJECTIONS OF COSMETIC SUBSTANCES
(Senate Bill 4, Chapter 4, *Statutes of Nevada 2007, 23rd Special Session*)

SUMMARY MINUTES AND ACTION REPORT

The second meeting of the Nevada Legislature's Subcommittee of the Legislative Committee on Health Care to Review the Laws and Regulations Governing Providers of Health Care, the Use of Lasers and Intense Pulsed Light Therapy, and the Use of Injections of Cosmetic Substances (Senate Bill 4, Chapter 4, *Statutes of Nevada 2007, 23rd Special Session*) was held on May 2, 2008, at 1 p.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at www.leg.state.nv.us/74th/Interim. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

SUBCOMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Maggie Carlton, Chair
Assemblyman Joe Hardy (appointed as a temporary substitute for Senator Heck)

SUBCOMMITTEE MEMBERS ABSENT/EXCUSED:

Senator Joseph J. Heck
Assemblywoman Susan I. Gerhardt

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Kelly S. Gregory, Senior Research Analyst, Research Division
William L. Keane, Senior Principal Deputy Legislative Counsel, Legal Division
Anne Vorderbruggen, Senior Research Secretary, Research Division

OPENING REMARKS

Senator Maggie Carlton, Chairwoman, called the meeting to order and welcomed Subcommittee members, presenters, and the public to the second meeting of the Subcommittee of the Legislative Committee on Health Care to Review the Laws and Regulations Governing Providers of Health Care, the Use of Lasers and Intense Pulsed Light Therapy, and the Use of Injections of Cosmetic Substances. Chairwoman Carlton announced that at this meeting the Subcommittee will not be discussing the use of lasers and intense pulsed light therapy and the use of injections of cosmetic substances. Those subjects will be discussed at the Subcommittee's meeting in early June, following a short work session.

Chairwoman Carlton stated that Assemblyman Hardy is sitting on the Subcommittee for Senator Heck in his absence.

APPROVAL OF MINUTES OF THE JANUARY 10, 2008, MEETING

- Chairwoman Carlton requested that the date of December 28, 2007, on page 6 of the minutes be changed to January 2008 to reflect the correct date that she began employment with Great Basin Primary Care Association. The Chairwoman called for approval of the minutes.
- The Subcommittee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN HARDY MOVED TO AMEND AND APPROVE THE MINUTES OF THE MEETING OF JANUARY 10, 2008, HELD IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY CHAIRWOMAN CARLTON AND PASSED UNANIMOUSLY.

PRESENTATION REGARDING THE PRIMARY CARE ADVISORY COUNCIL AND THE J-1 PHYSICIAN VISA WAIVER PROGRAM

- Lynn O'Mara, Health Planning Program Manager, Bureau of Health Planning and Statistics, Health Division, Department of Health and Human Services, gave a Microsoft PowerPoint Presentation on the J-1 Visa Waiver Program for foreign physicians ([Exhibit B](#)) and an associated handout on the restoration and integration of the J-1 Visa Waiver Program and reengineering of the J-1 Physician Waiver Program ([Exhibit B-1](#)). Ms. O'Mara also provided three newspaper articles from the *Las Vegas Sun* relative to the J-1 Visa Program and the Primary Care Advisory Council ([Exhibit B-2](#), [Exhibit B-3](#), and [Exhibit B-4](#)). Ms. O'Mara noted that this presentation is an update to presentations previously made to the Legislative Committee on Health Care.

Ms. O'Mara presented information on the following topics: (1) J-1 Visa Program background information; (2) program problems and organizational change; (3) current program status; (4) the Primary Care Advisory Council, of which Chairwoman Carlton is a member; (5) future program plans; and (6) barriers to the program.

- Assemblyman Hardy asked if there is a mechanism in place whereby a physician could be relocated to another prequalified employer if an employer is taking undue advantage of a physician employee.
- Ms. O'Mara responded that there is nothing in place to address such a situation; however, the Bureau is working with the Office of the Attorney General. She noted that the physicians sign an employment contract that has specific requirements having to do with termination. Ms. O'Mara said they would prefer to have a process in place that allows the State to relocate physician employees, but they would have to be mindful of contract law.
- Assemblyman Hardy suggested there be a clause in each contract that states if it has been justifiably proven that an employer has taken undue advantage of a physician employee, the fallback employer would be the Nevada Health Centers or some other federally qualified clinic.
- Ms. O'Mara said that some states have regulations in place addressing this; however, Nevada does not. She noted that the Bureau will be looking at the possibility of legislation.
- Assemblyman Hardy asked how the number of J-1 Physician Visa Waiver applications received this year compares with the previous year.
- Ms. O'Mara responded that, on average, between 10 and 17 applications are processed a year. Prior to April 11, 2008, 11 applications were processed, 2 were reviewed and voted on at the April 11 meeting of the Health Division's Primary Care Advisory Council, 3 more have been received, and it is her understanding there may be another 1 or 2 before the end of the federal fiscal year.
- Chairwoman Carlton noted that one of the things discussed was the possibility of penalizing an employer that had broken the rules by using a penalty already in State law, instead of allowing the J-1 Visa doctor to leave. Chairwoman Carlton asked about going through the Board of Medical Examiners.
- Ms. O'Mara stated that anyone can bring a complaint under the existing law; however, solid evidence of the complaint would be needed. She noted that other areas the Bureau is looking at are whether labor laws are being broken or if the employer is in breach of the contract by being abusive.

- Chairwoman Carlton said the Subcommittee would want to make sure there are protections for the J-1 Visa physicians who come forward.
- Ms. O'Mara reported that whistleblower protection has been considered. She noted the J-1 Visa physicians are under the jurisdiction of the U.S. Department of State and they may be able to assist. Ms. O'Mara further stated that by prequalifying employers the Bureau hopes to eliminate inappropriate employers.
- Chairwoman Carlton stated she heard the Health Division would like the boards to keep track of where the physicians practice. This would provide valid data about the health professional shortage areas to support the Division's recommendations and requests to the Health Resources and Services Administration, U.S. Department of Health and Human Services.
- Ms O'Mara said that data would be helpful in justifying requests to the federal government and would provide a record of the full-time equivalents where the physicians are practicing, and more areas in the State might qualify for J-1 physicians.
- Chairwoman Carlton requested that the Bureau provide the names of a small group of boards that would be most pertinent to begin providing information about where the physicians are practicing.
- Carl Heard, M.D., Chief Medical Officer and Interim Chief Executive Officer, Nevada Health Centers, stated that the J-1 Visa Waiver Program has been a tremendous benefit for the isolated and underserved populations within the State. He pointed out that Nevada is at a recruiting disadvantage when it comes to foreign graduates because there is a requirement in its statutes that every physician must be proven to be able to legally reside and work in the United States before a license is issued. Only Nevada and Tennessee have this requirement, which adds months of difficulty in obtaining a license and several thousand dollars of additional cost to the candidates. Dr. Heard asked that the Subcommittee consider how Nevada can effectively compete for these professionals, and request minor modifications to statutes to encourage their entry into the State.
- Chairwoman Carlton thanked Dr. Heard for his recommendations and stated they will be addressed.

OVERVIEW OF RESPONSES TO THE SURVEY OF BOARDS REGULATING HEALTH CARE PROFESSIONS REGARDING LICENSURE

- Kelly S. Gregory, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), reported that following the January 10, 2008, meeting of the Subcommittee, survey questions were sent to the health care boards with the intention of finding out some of the processes and practices going on within the boards that might result in barriers to entry for the different professions. A summary of the responses

was forwarded to the Subcommittee members in March and follow-up questions were put together as a result of those responses. She noted that some of the boards were present at the meeting to respond to the follow-up questions and other boards have provided their responses in writing. The written responses that have been received are from the Chiropractic Physicians' Board of Nevada ([Exhibit C](#)), the State Board of Podiatry ([Exhibit D](#)), the State Board of Physical Therapy Examiners ([Exhibit E](#)), the State Board of Athletic Trainers ([Exhibit F](#)), and the Board of Occupational Therapy ([Exhibit G](#)). Ms. Gregory asked that written responses to the follow-up survey questions be provided no later than Monday, May 19, 2008, so the Subcommittee has an opportunity to review them prior to its next meeting.

Continuing, Ms. Gregory stated that Bill Welch, President/Chief Executive Officer of the Nevada Hospital Association, provided for the Subcommittee a document titled "Inventory of Workforce and Licensure Resources" ([Exhibit H](#)).

- Assemblyman Hardy asked what could be done to make obtaining a license in Nevada more inviting and less prohibitive and shorten the length of time between application and practice. To illustrate, he noted a discussion with a doctor from Connecticut who said it took two weeks to obtain a license in that state. Assemblyman Hardy questioned if there would be an opportunity for the boards to pool resources, share employees and investigators, and be more accessible to the public with one location for boards.
- Chairwoman Carlton stated that there is nothing in the statutes that would restrict a board from entering into a memorandum of understanding with another board.
- Rosalind Tuana, Executive Director, Board of Examiners for Social Workers (BEFSW), reported that several years ago their board was contemplating leaving the Office of the Attorney General and hiring their own attorney. They requested and were given an opinion from the Office of the Attorney General that the BEFSW could enter into a memorandum of understanding with another board; however, the BEFSW would not be allowed to leave the Office of the Attorney General.

In response to a question from Chairwoman Carlton about whether their board would like to be allowed to hire outside counsel, Ms. Tuana responded they would.

- Ms. Tuana pointed out that most of the social workers are over 50 years of age and the BEFSW and other boards need the ability to attract more people into their professions.
- Debra Scott, M.S.N., R.N., A.P.N., Executive Director, State Board of Nursing, stated that she has provided the State Board of Nursing's written answers to the follow-up survey questions ([Exhibit I](#)). Ms. Scott said their board has one suggestion and that is to expedite the fingerprinting process because it takes up to four months to get the reports back.

A discussion ensued regarding temporary licenses, what is required for a temporary license, how a complaint is handled, whether there have been any problems with the temporary licensees, and reciprocity with other states.

- Ms. Scott stated that Nevada is not a part of the Nurses Licensure Compact and that the board would not support joining the compact until all of Nevada's licensing requirements are met.
- Chairwoman Carlton asked if there are any barriers to a future licensee having their fingerprints completed ahead of time.
- Ms. Scott responded there are none. She said applications are sent out every day to other countries and states and the applicants can have their fingerprinting done and sent directly to the board prior to even applying for a license in Nevada.
- Allison Tresca, Executive Director, State Board of Physical Therapy Examiners, reported they are a small board with about 1,400 licensees. They have three inspectors who are licensed physical therapists who work on a seasonal employee basis. The inspectors are utilized for annual inspections and complaints. Ms. Tresca stated that the biggest barrier to licensure was getting the results of fingerprinting. Because their board receives reports from both the Federal Bureau of Investigation (FBI) and the Central Repository for Nevada Records of Criminal History, the FBI was contacted several years ago to determine if their report includes occurrences from Nevada. She noted the FBI report does include Nevada and it is received in as short a time as 12 days. Ms. Tresca stated they have a letter from the FBI confirming this. Therefore, the board now licenses applicants based on receiving the FBI report and does not wait for the Nevada report.
- In response to a question from Chairwoman Carlton about what percentage of their budget is used for inspections, Ms. Tresca said their inspectors are paid \$40 an hour and receive per diem and mileage, with no benefits. She noted the cost is not prohibitive.
- Chairwoman Carlton asked what the board does if their inspections reveal a problem.
- Ms. Tresca described the process for investigating a problem and filing a complaint by their board.
- Chairwoman Carlton requested that the State Board of Physical Therapy Examiners share with the Subcommittee the opinion they had received on being able to issue a license based on the FBI fingerprinting report without having to wait for the Nevada report.

In response to a question from Chairwoman Carlton about whether their board would allow applicants to submit their fingerprints before they locate to Nevada, Ms. Tresca said they encourage applicants to do so.

- Debra Shaffer, Deputy Executive Director, Board of Dental Examiners of Nevada, reported their board has developed a system of using licensed dentists as investigators. The board appoints 22 investigators each year and the system has been cost effective. She stated that complaints are usually finished within 90 to 120 days. Applicants for licensure are required to take a jurisprudence exam at which time they are fingerprinted and background checks are required. The process takes about four to five weeks and fingerprint reports have not been a problem.
- Ms. Shaffer responded to a question from Chairwoman Carlton about whether they investigate pending matters and said they get monthly notices from the American Association of Dental Examiners. They ask for certified copies of transcripts and “pending action” is a question on their application.
- Assemblyman Hardy stated there are many new dentists and it is a lot harder to start a practice. He asked if the Board of Dental Examiners has looked at what is being done to protect business health as well as public health, and has quality been sacrificed for quantity.
- Ms. Shaffer responded that their board has 88 pending investigations and it is a combination of the influx of dentists and the growth of Nevada. She noted that over-diagnosing is a problem and is the biggest complaint at this time.

A discussion ensued regarding the reasons why over-diagnosing is a problem and what the board is doing to address it.

- Assemblyman Hardy asked what the Legislature should do to help with the over-diagnosing problem. Ms. Shafer replied that at this point the board is handling it; however if it becomes a larger issue, the board may have to come to the Legislature.
- Assemblyman Hardy asked about the State’s ranking with current coverage by dental professionals.
- Ms. Shaffer responded that approximately 475 dentists were licensed through licensure by credentials from October 2001 to June 2006, at which time the State began accepting the examination results of the Western Regional Examining Board. Ms. Shaffer discussed the licensing process and gave the approximate numbers of actively licensed dentists.
- Assemblyman Hardy requested that a written report regarding dental coverage in Nevada be submitted to the Subcommittee.

- Ms. Gregory reported the following information from Kathleen Kelly, Executive Director of the Board of Dental Examiners of Nevada, had been submitted: there are (1) 1,364 licensees that have an unrestricted general dental license; (2) 261 specialty licenses by credentialing; (3) 44 unlimited dental licenses; and (4) 4 geographically restricted licenses. She noted it is hard to make a comparison with the national numbers because the national numbers date back to 2004.
- Chairwoman Carlton said the research she has reviewed indicates Nevada was ranked at the bottom of the nation and is now just below the national average. She noted she is looking forward to getting the current numbers.
- Chairwoman Carlton asked Ms. Shaffer to address dental assistants and whether they are licensed in other states.
- Ms. Shaffer responded that the Board of Dental Examiners of Nevada has provided information regarding whether other states license dental assistants ([Exhibit J](#)). She noted that in Nevada the dentists list dental assistants on their renewals but there is no current database regarding dental assistants.

Discussion ensued regarding dental assistants and whether there have been any problems.

- Ms. Tuana stated that there is a problem with social workers moving out of the State due to lack of support from their agencies, high caseloads, unethical practices, and pay scales. When asked to define unethical issues, Ms. Tuana said that she has had reports of agencies asking social workers to take on higher caseloads than they can manage, change documentation, supervise unlicensed practitioners, and do medical procedures typically done by a nurse.
- Chairwoman Carlton asked what the board can do if complaints are being filed and if the board can issue a letter of scope of practice to the licensee.
- Ms. Tuana responded that the board has no authority over the agencies. The social workers are told who to contact and are encouraged to go back to their administration. Ms. Tuana said letters of scope of practice have been issued. She conveyed that the offenders have been primarily State agencies and private nursing homes.
- Chairwoman Carlton summarized that the Subcommittee has received a lot of answers, and it is clear that each board has its own special challenges and responsibilities and would never get into a “one size fits all.” She stated that at the next meeting the members will look at credentialing language and address the comments made by Dr. Heard and others. She suggested that rather than try to replace language in the statutes, a provision be added to allow a reputable practitioner to come in from another state by lessening the barriers. Chairwoman Carlton asked that staff begin working on

draft language for the Subcommittee's consideration that can be presented to the full Legislative Committee on Health Care.

- Assemblyman Hardy commented that the Subcommittee has heard some good suggestions. He said the questions that should be addressed are what can be done to protect the health of the people in Nevada with adequate numbers and quality of practitioners, and what is the State doing to train our own people and retain them in Nevada.

SOLICITATION OF RECOMMENDATIONS FROM MEMBERS OF THE PUBLIC REGARDING TOPICS RELATED TO LICENSURE OF HEALTH CARE PROFESSIONALS AND SUBCOMMITTEE DISCUSSION OF POSSIBLE RECOMMENDATIONS IN ADVANCE OF THE JUNE 2008 SUBCOMMITTEE MEETING AND WORK SESSION

- Amber Tsang stated that as a local business operator she would like to submit some data regarding injections of cosmetic substances for the Subcommittee to review at their June 3, 2008, meeting.

PUBLIC COMMENT

- Mark Nichols, National Association of Social Workers-Nevada, Las Vegas, Nevada, reported there is a critical shortage of social workers in Nevada. Nationally, there are about 200 social workers per 100,000 population; in Nevada there are about 85 social workers per 100,000 population and 58 social workers per 100,000 population in Las Vegas. He stated that in the next Legislative Session they will attempt to address the shortage of social workers.
- Colleen Peterson, Ph.D., President, Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors, Las Vegas, Nevada, reported that they are in the process of changing their regulations. The final workshops and hearings on the regulations for clinical professional counselors will be held on May 12 and 13, 2008, and the proposed regulations are currently at the LCB.
- Chairwoman Carlton announced that the next Subcommittee meeting will be held on Tuesday, June 3, 2008. The meeting will begin with a work session and the remainder of the day will be spent on the use of lasers and intense pulsed light therapy and the use of injections of cosmetic substances, with the intention of finishing the Subcommittee's work on that day. She requested that anyone who has recommendations for the Subcommittee to consider to please provide them to Ms. Gregory by May 19, 2008.

ADJOURNMENT

There being no further business to come before the Subcommittee, the meeting was adjourned at 3:04 p.m.

Respectfully submitted,

Anne Vorderbruggen
Senior Research Secretary

Kelly S. Gregory
Senior Research Analyst

APPROVED BY:

Senator Maggie Carlton, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Kelly S. Gregory, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB), Carson City.

[Exhibit B](#) is a Microsoft PowerPoint presentation titled “J-1 Visa Waiver Program for Foreign Physicians,” dated May 2, 2008, presented by Lynn O’Mara, MBA, Health Planning Program Manager, Bureau of Health Planning and Statistics, Health Division, Department of Health and Human Services (DHHS).

[Exhibit B-1](#) is a document titled “Restoration and Integration of the J-1 Visa Waiver Program and Primary Care Office Within the Bureau of Health Planning and Statistics (BHP&S) and Re-Engineering of J-1 Physician Waiver Program,” dated May 1, 2008, provided by Lynn O’Mara, MBA, Health Planning Program Manager, Bureau of Health Planning and Statistics, Health Division, DHHS.

[Exhibit B-2](#) is a copy of an article from the *Las Vegas Sun* titled “Foreign doctors get new guardians,” dated April 11, 2008, submitted by Lynn O’Mara, MBA, Health Planning Program Manager, Bureau of Health Planning and Statistics, Health Division, DHHS.

[Exhibit B-3](#) is a copy of an article from the *Las Vegas Sun* titled “Program on the mend,” dated April 13, 2008, submitted by Lynn O’Mara, MBA, Health Planning Program Manager, Bureau of Health Planning and Statistics, Health Division, DHHS.

[Exhibit B-4](#) is a copy of an article from the *Las Vegas Sun* titled “At first blush, a tough J-1 board,” dated April 15, 2008, submitted by Lynn O’Mara, MBA, Health Planning Program Manager, Bureau of Health Planning and Statistics, Health Division, DHHS.

[Exhibit C](#) is the response to the Subcommittee from the Chiropractic Physicians’ Board of Nevada to the follow-up questions to the survey of the boards regulating health care providers dated May 2, 2008.

[Exhibit D](#) is a memorandum to Kelly Gregory from Susan L. Fisher titled “Follow-up Questions to Survey Responses” dated May 2, 2008.

[Exhibit E](#) is the response to the Subcommittee from the State Board of Physical Therapy Examiners to the follow-up questions to the survey of the boards regulating health care providers, dated May 2, 2008.

[Exhibit F](#) is the response of the State Board of Athletic Trainers to the follow-up questions to the survey of the boards regulating health care providers.

[Exhibit G](#) is the response to the Subcommittee submitted by the Board of Occupational Therapy to the follow-up questions to the survey of the boards regulating health care providers.

[Exhibit H](#) is a document titled “Inventory of Workforce and Licensure Resources” provided by Bill Welch, President/Chief Executive Officer, Nevada Hospital Association, dated April 30, 2008.

[Exhibit I](#) is the State Board of Nursing’s response to the follow-up questions to the survey of the boards regulating health care providers, submitted by Debra Scott, M.S.N., R.N., A.P.N., Executive Director, State Board of Nursing.

[Exhibit J](#) is a chart which contains information on the states’ regulation of dental assistants, provided by Debra Shaffer, Deputy Executive Director, Board of Dental Examiners of Nevada.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.