

May 8, 2023

Senate Health and Human Services Committee
Nevada State Legislature
401 South Carson Street
Carson City, NV 89701

Sent electronically to: SenHHS@sen.state.nv.us.

RE: AB11 – Physician Employment

Dear Chair Doñate and Members of the Committee:

The Nevada Hospital Association opposes AB11. The Patient Protection Commission’s original bill precluded private hospitals from employing physicians. It was subsequently amended to include contractual restrictions in agreements with independent physicians. We oppose both parts of the bill.

National Trends

AB11 runs counter to national trends in physician employment and threatens the supply of physicians in our state. More than half of the patient-care physicians in the U.S. are employed outside of the private practice of medicine. In 2020, almost **30% of physicians worked directly for a hospital** or for a practice that was at least partially owned by a hospital or health system.¹

The American Medical Association (AMA) recently published a report stating that physicians should be free to contract with hospitals for employment.¹

Nevada has a severe physician shortage. We need a variety of employment and practice options available to recruit physicians to the state.

Access to Care

Nevada ranks near the bottom in the nation for access to healthcare.² AB11 will keep us there.

Accessing a physician is already difficult. Consider the following statistics:

1. Nevada ranks near the bottom, 45th, for active physicians in the country³
2. Nevada needs an additional 1,589 physicians just to meet the national average of physicians per capita.³
3. Nevada is **below the national average** in 33 of 39 physician specialties statewide.³

Physician retention and recruitment

AB11 will negatively impact Nevada's retention and recruitment of physicians.

- AB11 requires private hospitals to terminate the physicians they currently employ. If this happens, we stand to lose some great physicians! Some of the terminated physicians will leave the state. These individuals have already chosen to work for a hospital, so it's reasonable to believe they will want to continue that. Other employed physicians will contract with hospitals. They will incur substantial overhead expenses such as medical malpractice insurance, accounting, billing, and compliance expenses in their new practice environment. When they contract with the hospital, they will want to cover these expenses. Hospitals will end up **paying more** for the same service. This will increase healthcare costs. Finally, some hospitals may lose important programs because the specialized physicians in those programs are employed.
- AB11 will impair the recruitment of physicians to Nevada. Hospitals are one of the primary recruiters and employers of physicians, especially physicians who are specialists and subspecialists. Removing private hospitals from recruitment efforts will have a material impact.
- Passage of AB11 will hinder our physician recruitment efforts because many physicians want employment options. Additionally, many *new* medical school graduates prefer employment because they want to practice medicine, not run a business. The Nevada State Legislature has introduced several great bills this session incentivizing medical students, and other physicians, to come to Nevada. AB 11 would reverse all of the good work being done in this area.

Hospitals serve their communities.

Hospitals survey the communities they serve and work to fill gaps in care. When older physicians retire, hospitals search for replacements. Hospitals create and support specialized care such as pediatrics, pulmonology, and other specialized services. These could be lost if hospitals don't recruit physicians and provide them with stable incomes.

Hospitals also treat every person, documented or undocumented, who walks through their emergency department doors receives care. For some Nevadans, hospitals are the best option they have to receive care.

Physicians are independent actors.

Hospitals do not control the clinical judgment of physicians. Hospitals separate the business functions of the hospital from the clinical functions using medical staff committees. These committees are organized bodies of licensed physicians and other healthcare providers who are permitted by law and by a hospital to provide medical care within the hospital. Physicians are involved in all clinical aspects of the hospital and the Joint Commission on Accreditation of Healthcare Organizations reviews this separation.

We are unaware of any complaints filed or actions taken against a Nevada hospital or physician in the last 30 years related to interference with clinical judgment.

We are also unaware of any examples of hospital employment impairing a physician's clinical judgment occurring in Nevada. Physicians are required by law to place the interests of the patient first. The first rule of a physician's professional conduct addresses this issue.

The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

(a) Directly or indirectly receiving from any person, corporation, or other business organization any fee, commission, rebate or other form of compensation which is intended or tends to influence the physician's objective evaluation or treatment of a patient.

NRS630.305 1(a)

Moreover, the designation of the hospital does not matter. Both private hospitals and public hospitals must have revenues that exceed their expenses to survive.

Contractual restrictions

AB11 places numerous contractual restrictions on the hospital / physician relationship. None of the restrictions are necessary, but the most harmful is the prohibition against placing noncompete clauses in contracts. Hospitals spend tens of thousands of dollars to recruit physicians to their communities. They pay for such things as:

- recruiters or hospital staff members to recruit physicians
- publications of open positions
- travel for physicians and spouses to visit the community
- relocation expenses
- housing assistance
- sign on bonus



- income subsidies and more

These costs can exceed a hundred thousand dollars per physician. It's unfair to ask a hospital to incur these costs and then have the physician leave the hospital after a short time for a position across town that can pay a few more dollars because they didn't incur any recruitment costs.

Conclusion

AB11 is a bill in search of a problem. We are unaware of good reasons for its passage, and Nevada does not need it. It will make our access problem worse. Please oppose AB 11. Thank you.

Regards,

A handwritten signature in black ink, appearing to read "Patrick Kelly".

Patrick Kelly
President & CEO
Nevada Hospital Association

Enclosure



Footnotes:

1. *AMA Policy Research Perspectives – Recent Changes in Physician Practice Arrangements: Private Practice Dropped to Less than 50 Percent of Physicians in 2020*, [PRP: Recent Changes in Physician Practice Arrangements: Private Practice Dropped to Less Than 50 percent of Physicians in 2020 \(ama-assn.org\)](#)
2. [U.S. News & World Report, Health Care Rankings, Nevada Rankings and Facts](#) | US News Best States
3. Nevada Health Workforce Research Center, [Physician Workforce in Nevada: A Chartbook - 2002](#)