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MINUTES OF MEETING - ASSEMBLY COMMITTEE ON JUDICIARY, 55th Session  
March 20, 1969

Meeting was called to order at 3:30 P.M. by Chairman Torvinen.

Present: Torvinen, Kean, Fry, Prince, Schouweiler, Reid, Bryan, Lowman

Absent: Swackhamer:

MR. TORVINEN: This is the time set to hear the following bills: AB 603, AB 604, AB 605, AB 606, AB 671.

AB 603: Provides methods for proving standards of medical practice.

MR. MCKISSICK: I received this bill from a friend of mine who wanted it introduced. I thought it would be a good idea because then we could hear both sides.

This is on the standards of the locality. Local standards means that if you are injured or there is some type of accident which occurs because of medical treatment in the community and you can't get a doctor there to testify and we call in one from San Francisco they would say, where do you practice, doctor? He would say San Francisco and then they would ask do you have the same standards as here? Obviously, the answer would be no so he would be prevented from testifying. He could not make a personal comparison.

It seems to me that with modern medicine being what it is there shouldn't be too much difference where he practices.

EUGENE WAIT: Attorney, Reno: I have written a letter to the committee which fully states my feelings and experience in this matter. (Copies of letter attached to these minutes.)

MR. REID: I have had a limited experience in this field and it would be my feeling that any obstetrician, or any other specialist, should have the same standards here as in any other place.

MR. LOWMAN: Page 2 of Mr. Wait's letter: I would rather doubt that we have any of these certified people in Gabbs. I am not sure the argument is well taken in that regard.

MR. MCKISSICK: Let me give you the case of Dr. Jack P. Sargent who is here with us today. Two years ago they were paying \$1300 to \$1400 for malpractice insurance for the five doctors in their clinic. This year they are paying \$10,000. Among the 400 doctors in Nevada there is a total of \$600,000 per year being paid for premiums on malpractice insurance.

Nevada doesn't have the loss record that California has. I think they are lumping us in an area with California, or at least the San Francisco Bay area and maybe including Los Angeles, and raising our premiums according to the verdicts being rendered over there which are sky-high. I don't think this is justified.

I think part of the reason for this might be that we don't have anything on the books to help the doctors. For instance, Medical Treatise. This means if you can't get a doctor, you can go to court and read from medical

books. We haven't done this, and that might be one reason for our high rates.

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Mr. McKissick then read from an article which had appeared in a Reno paper the day before. (Article attached to the minutes.)

MR. MCKISSICK: To avoid being sued, doctors are likely not to take risks during an operation that perhaps should be taken for the benefit of the patient.

Incidentally, I know of no case that has gone to the Supreme Court confirming these high verdicts.

AB 604 abolishes *res ipsa loquitur*. The phrase means "the thing speaks for itself." The use of this shifts the proof to the doctor, which I do not think is right.

AB 605 requires casualty insurance companies to write policies on reasonable rates based on Nevada's loss record.

AB 606 establishes possibility of forming reciprocal insurance.

Maybe we should have one more bill which could do away with or limit the little nuisance suits. Or maybe we could have one limiting recovery to \$20,000, but I don't really think that is an answer.

We are attempting to find a solution. How do we get more companies to write this insurance and why are the rates so high. The doctors who have to pay such high costs have to pass these along to their patients.

This threat of suits hurts on collection of doctors bills. The doctors don't dare push to collect for fear the patient will retaliate and sue on some trumped up thing. This is how serious the thing has become.

DR. JACK P. SARGENT: Orthopedic surgeon from Reno:  
Mr. McKissick has covered our problem as well as I could.

There are two areas of grave concern here. One, we have to be able to get malpractice insurance somewhere. Second, when we can get it we have to pay such high rates for it. In 1967 the total premium for the five doctors in our clinic for our insurance was \$1800. In 1968 we paid \$5,568. This year we are paying \$9,500.

All but a very few carriers have bailed out of malpractice insurance. Some still carry it but will not take any new doctors that apply. In May of 1968 there were suits in California totaling \$2,480,000 in that one month alone. New York in 1968 had two verdicts exceeding one million dollars each. Obviously, this has increased the rates and decreased the availability.

The malpractice laws which exist today affect the costs of medicine in many ways. I find myself being over-cautious and calling consultations and taking X-Rays and the patient may leave with a bill of \$200 because of the way we are forced to practice medicine.

Why is this insurance unattractive to carriers today? Because the courts are making it increasingly harder for doctors to defend themselves. This is not true so much in Nevada as in other places.

A broad application of *res ipsa loquitur* in medical malpractice could make it apply to a completely unexpected result which occurs, but not from the doctor's negligence, unless the doctor can prove otherwise. I was told of a trial where an anesthetic caused paralysis and it could never be determined why it happened. There was a settlement of \$300,000. One judge dissented. He said the courts have singled out a class, the medical profession, and it is not just. It is our duty to do the best we can. You have to see that the patient suffers no ill effects if we can.

Another area is the use of evidentiary statutes. Another is "informed consent." The doctor must explain to his patient all of the risks involved. Failure to do this may involve him in a suit. Another thing is that we are asked to make decisions. We have very good hind sight but being human do not always have 100% foresight. One last area is the inflationary trend of the juries.

California has attempted to solve these problems by developing liaison between attorneys, medical and insurance, and Legislatures. They have done a number of things: One, is a modified application of *res ipsa loquitur*; another is to permit the carrier to pay the bills without limit liability; another is to place a statutory limit of \$50,000 for all suits; another is a statute of limitations of one year after discovery; another is a cost bond of \$500 to be supplied by the plaintiff; another concerns privileged communications, what the attorney can do with this information, where we can air the situation in a factual manner and see if the case has merit, privileged communications which cannot be subpoenaed.

These are the things I have been unable to uncover why the insurance companies don't want to carry and if they do charge such high rates. I think the situation rests with the courts and their decisions in the malpractice suits.

MR. TORVINEN: Let's talk about 605 and 606, this reciprocal insurance.

MR. REID: Have any other states abolished *res ipsa* in medical malpractice?

MR. TORVINEN: I would also like to ask Dr. Sargent a question. Do you have any of this California proposed legislation? Especially on *res ipsa*? I can see where this is necessary sometimes and a damn nuisance in other cases. We might do away with it and then there would be a case where a patient really needs it.

DR. V.A. SALVADORINI: Pathologist from Reno and President of the State Medical Association.

The trend seems to be in the direction that they are using this in places where it is very unfair. We would like some recourse on this.

MR. WAIT: You might consider a statute where you would define the application of *res ipsa loquitur*. Like in cases where only a doctor knows whether a nerve should be severed, but in cases where even the man in the street could see that they removed the wrong arm or a hip was burned during an operation, then that is a case for *res ipsa loquitur*. You might try to define it as a situation where even a layman could see what happened.

DR. SALVADORINI: Is it possible to lay some groundwork rules and just leave it hanging in the air?

MR. MCKISSICK: Doctors make the worst defendants in the world. Maybe if we pass something to put on the books such as a plaintiff bond or modified res ipsa loquitur etc. maybe these people who dream up these high rates can see we are not soft on malpractice in Nevada.

MR. BRYAN: Are any statistics available to the committee concerning the number of malpractice suits in Nevada and the amounts of the recoveries?

WILLIAM R. MORSE: Attorney, Las Vegas.

I don't think the number of malpractice suits has anything to do with it. People make these claims against the doctors and many times the doctors settle to avoid bad publicity. I am in sympathy with the doctors but I don't believe the res ipsa loquitur is the solution.

A patient files a suit and lawyers from San Francisco fill 15 pages with every legal thing against the doctor they can dream up, for the jury to decide if there is grounds. One which I saw was on the "abandoned theory." They jury decided they would not "abandon" the doctor.

If a doctor gets any judgment against him, then his insurance company may drop him and he will have a lot of trouble trying to get another carrier to write him and when he does it will be at a much higher rate.

Doctors are in the same boat with drivers. It is strictly on an individual basis with most companies whether they will write the doctors. I don't think the answer is to force companies to write malpractice insurance. It is a specialty, as some companies have found to their sorrow. I can seldom find why they let these things go to trial. For instance, that big one in Los Angeles. At one time the plaintiff would have settled for a little over \$500,000 but the insurance company wouldn't settle and BOOM! they got hit with this huge settlement.

MR. REID: Question: Naturally we are trying to look out for the people that are supposedly injured by doctors. Do you think all the high rates and lawsuits hurt the treatment you give your patients?

DR. SARGENT: There are errors of omission and errors of commission. You have to be sure you order something and lots of it. We order all these extra things to make sure we are well covered. I order many X-Rays which I wouldn't order if it were not for this threat.

DR. JOHN BROPHY: Physician, Reno: You consider things very carefully especially trauma cases. A man comes in with a broken nose. I can see exactly what it is but I order X-Rays which do him no good but protect me. We have to X-Ray all fractures. In surgery almost subconsciously you are thinking of this legal medical thing. It affects everything you do. You get to thinking of yourself instead of the patient. We live in fear of these judgments all the time. I have never had a suit but I still live in fear of it.

I pay \$900 a year for my malpractice insurance.

You were talking about "informed patients." This means that if I am going to do a tonsillectomy I must tell them that it may cause death, because there have been deaths from this here and there. If I tell him that, he will find another doctor who won't tell him that and he will think the other doctor is better.

MR. BRYAN: Don't the problems stem from the fact that your rates in Nevada may very well be pegged to rates in California? Let's find out about this and then do something about it.

MR. TORVINEN: I don't know whether we can get the information we want before the session is over, but if we could get figures on the amount paid by doctors in Nevada in premiums and the claims paid that would be extremely helpful to the Legislature.

MR. MCKISSICK: I would suggest that Dr. Salvadorini send out 400 questionnaires immediately. Tell them we can't move until they answer.

MR. WAIT: The Insurance Commissioner is with us today and does have some experience with the rates and expense. You might want to give him some authority to look into this.

MR. TORVINEN: Mr. Mastos and I don't usually see eye to eye on things. He has asked for further money for his Department so he will come into this with his rate analysis. That is one place where he and I may agree.

Let's have some additional verbiage on these bills so we can kill them in good faith.

JAMES LORIGAN: Farmers Insurance Group. We have withdrawn most of our insurance on doctors. We just write hospitals now. The doctors have used the word "practice." I think it is still a practice. They cannot do what they have to do with exactitude.

Dr. Sargent works with four other doctors. Five into \$9,500 gives \$1900 per doctor, including employees. That is a good deal.

Nevada is an excellent state, outstanding malpractice-wise, but we can't divorce ourselves from the bad guys next door. We don't have a large number of doctors in Nevada so we have to group with our neighbors. There was a \$900,000 judgment in California last year and another one got \$200,000. That has to be spread around.

If Mr. McKissick is successful in passing this legislation, then we can give coverage that would be more realistic. Unfortunately, a doctor is a bad defendant for the insurance companies. There is always someone on the jury who has had what he thought was a bad experience with a doctor or a bill that he thought was too high and we have to take that into consideration.

You might say we can divorce ourselves from California but we can't do that unless we divorce ourselves from some of these bad things that are happening.

MR. REID: Would these laws we are considering, such as 605, drive some of the insurance companies out of Nevada?



MR. LORIGAN: If you were to pass 605 it is possible that all casualty insurance companies might leave Nevada.

MR. REID: If law saying premiums and rates in Nevada should be based on our Nevada statistics, could they do that?

MR. LORIGAN: Yes, just maybe they could do that. But you would have to build in better safeguards.

MR. REID: I have had doctors call me and tell me they just can't get any insurance. And they say, what are we going to do?

DR. SALVADORINI: There are only two companies writing it in Nevada now.

MR. MASTOS: Nevada Insurance Commissioner: With 605 you tighten up the doctors' liability so he is not so wide open and you get a break on the rates. If the risk is high you have a high basic premium.

605 language is so broad you might whittle it down to 85 insurance companies licensed in Nevada, from the hundreds licensed now. We have one in receivership right now because the company was wrecked with a malpractice suit.

All companies are not licensed for all types of insurance. All companies cannot get reinsurance markets. It is a specialty field.

We have companies withdraw because of insufficient markets.

As to the rates on malpractice: In a limited way we have tried to analyze the rates. We need this for farmers also.

All companies not having credible experience in Nevada are allowed to use rates from neighboring areas. Also, they are allowed to bring in their own experience.

Mr. Torvinen has asked me to comment on 606. It does not meet the requirements we have instituted in SB 39, so I cannot recommend it. These people, with this legislation, have not sat down with anyone in the insurance to find out what these laws will do.

MR. REID: \$1900 a year may not be too bad in terms of what you make.

DR. SARGENT: This is not the main problem. When the day comes that we cannot get this insurance I will have to turn the key. I would like to get some liaison worked out in Nevada between legal, medical and insurance companies.

MR. MASTOS: Insurance companies are in business to make a profit. If they don't see a profit, they will pull out.

DR. SALVADORINI: We all have a responsibility to try to keep medical costs down. They are going up in hospitals and with the doctors. Everything is going up and this forces the cost of medical care to go up. This is a very clear picture we have to keep in mind.

MR. KEAN: Doctor, have you studied 606 to any extent?

DR. SALVADORINI: I have read it, yes.

MR. KEAN: This is the plan for the doctors to all get together. Mastos says it won't work. I agree that \$100,000 is not the right amount. If we amended that to be commensurate with what it should be, would that help?

DR. SARGENT: Where is the big loss? If it is in the lower area, maybe we could work up some type of reciprocal insurance arrangement. Would this make it more attractive from then on out?

MR. TORVINEN: \$400,000 the first years premium. Reciprocal insurance would act for a deductible, to act as an umbrella.

MR. KEAN: Do you have a deductible policy now?

DR. SARGENT: No. This is available. Most doctors have had good experience so far and have been able to get insurance without deductible.

MR. KEAN: I am thinking about a three-step policy: 1. deductible of \$1,000, 2. reciprocal, and 3. umbrella. Does this strike you as a solution for your insurance problem? Does this sound reasonable to you?

DR. SARGENT: If I can be certain I can get the coverage. I would be happy to work with any program.

MR. KEAN: You doctors get together and study this.

DR. SARGENT: We will be happy to. I believe this might become practical and an approach that could be used now.

MR. REID: What do you feel would have to be there, other than \$100,000?

MR. MASTOS: \$300,000. There are a lot of problems in being in the insurance business yourselves that you have not even thought of. If there is a proper loophole plug where everybody doesn't think the insurance company is the "big daddy", that is what you have to look for and then you will find companies willing to write coverage.

DR. SALVADORINI: On AB 671. This has to do with the discovery of certain medical committees. In our practice we have all kinds of committees that we use to see that the work in the hospitals is going properly. In these committee meetings we discuss in depth all the things going on in the hospital. These are now supenable and can be used in a court of law. We ask that these committees be given some type of immunity so that we can proceed in detail without fear that these proceedings will be made public. This is needed especially in studies of morbidity and death. We ask for this so that we can function properly in our committees and do the work we are supposed to do and keep our proceedings to ourselves. We are not talking about the patient's record.

MR. FRY: Are these committee discussions recorded?

DR. SALVADORINI: We have used numbers instead of names when making detailed reviews.

MR. KEAN: Didn't we have this bill last session?

MR. TORVINEN: We had one just the converse.

DR. SALVADORINI: It was to make these things available for subpena.

MR. TORVINEN: At that time it was pointed out that some of these tissue committees were just for the purpose of education. Sometimes, they were accusatory.

DR. SALVADORINI: Every piece of tissue that is taken out is studied and talked about. This is a way we can police ourselves and it improves the quality of care which the people deserve.

I would like to ask you experts: Does this bill do what we would like it to do?

MR. TORVINEN: I am not sure of subsection 2.

MR. FRY: This is taken almost verbatim from California.

MR. WAIT: The defendant himself cannot wriggle out of testifying because he was at the committee meeting. That would be the function of (a)

The first part is a blanket immunity.

MR. REID: You can't go and get the tapes and reports they make in these committee meetings. I don't believe this belongs here.

DR. SALVADORINI: Doesn't this affect the legal, medical screening panel?

MR. WAIT: They couldn't haul you or the tissue committee into the thing.

MR. KEAN: I was just talking to Dennis Wright and he said he could draw it up with clearer language.

MR. TORVINEN: In my opinion, and from all I can get from the hearing we have just had, 603 we are not going to pass. 604 may have some merit in a completely different form. As written, it has no merit. It is an area for further exploration.

605 is just unacceptable. We might as well forget that.

606 may have some applicability, if we can work in with it an additional program of secondary coverage. I don't know if we will have time to get into this with the time left.

MR. WAIT: You would not have to do that - wrap it into secondary coverage, if you could pass this with an increased amount - change to \$300,000.

MR. KEAN: You could let Mastos supervise it.

MR. TORVINEN: I would like to hear more insurance testimony.

MR. MCKISSICK: If we can get the tools we need, it might not be a bad idea.

MR. TORVINEN: You mean 671 might not be a bad idea.



MR. MCKISSICK: Before the doctors walk out of here shaking their heads and wondering what good it does to come talk to the Legislature, let's give them some assurance that there will be a study.

MR. TORVINEN: It is impossible to tackle this kind of a thing in this kind of a session, I don't give a damn what you say.

AB 449: Provides right of contribution for joint tortfeasors.

MR. WAIT: We were some of the ones who asked for this. We have annotated material on this and we find that the laws of Nevada operate with grave injustice. You can sue one, or two or everybody, but with settlement from any one the rest are let off. The only thing this changes is that it makes possible a fair share of the loss be borne by each of the defendants. It will encourage early settlement. It allows the defendants to scrap among themselves.

I think this is fair. If more than one party caused the injury, it allows all responsible people to share this among themselves.

I had a client who had been injured by two parties and he should have sued both parties but he refused to press a claim against one of them because he was the best client of his best friend. It is just "I am going to take it out on you, even though more people were involved."

MR. REID: This will increase litigation.

MR. WAIT: I am not so sure it will. There may be some cross-claims, that is true.

MR. TORVINEN: I have a question for Mr. Reid. On the evening of the 18th the question was raised how many other states have this joint contribution. Your answer was that you would find out.

MR. REID: I don't have that with me, but it was 12 to 14.

MR. WAIT: This has been thought out by many people over a lot of years. Because lots of states haven't adopted it doesn't persuade me that it isn't good. This just makes good sense and is the result of a great deal of study and thinking by a great many people over a great number of years.

MR. BRYAN: Any comment on the California Act? Are you familiar with it?

MR. WAIT: The Uniform Act is better than the California Act. The California Act allows for contribution before settlement. That, in turn, provides opportunity for hanky, panky between parties before the trial. It makes the "stinky" deal possible.

MR. TORVINEN: Does 449 provide you can get out of a suit by reserving rights?

MR. WAIT: Yes, and this encourages settlement if it is a good faith settlement.

MR. KEAN: If Steen is sued and all five were common guilt, Steen has money and the judge was against all of them. Does Steen have the right to sue the others?

MR. WAIT: He would have the right to sue any of the others. That is the law now. He can go after the others who should have paid their share.

MR. MCKISSICK: The reason trial lawyers don't want this is because the way it is now one guy has marginal liability and the other has pretty good liability. Then the plaintiff can go after the other party just as much as the guilty party. The plaintiff has the whip hand and we use it for blackmail to get that marginal defendant to kick in some more money.

MR. WAIT: Presently, if you are 100% responsible, for paying, you can't ask the other guy to kick in.

MR. REID: I have a proposed bill for which I would like committee introduction.

MR. TORVINEN: All in favor.

Zel has his Resolution ready for the study of criminal justice. All those in favor of committee introduction for BDR 1899.

MR. REID: This is a bill that would make it so you could demand a \$300 nonresident cost bond. There is no provision now for the plaintiff to notify the defendant that he has filed. He can file and then right after take a default. This proposed bill requires notice.

MOTION TO INTRODUCE BDR 1899 was unanimous.

MOTION TO INTRODUCE BDR 2-1892 CARRIED.

Meeting was adjourned at 5: 15.

WAIT & SHAMBERGER

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TELEPHONE 329-9291  
AREA 702

March 18, 1969

Roy Lee Torvinen, Esq.  
Chairman, Assembly Committee on Judiciary  
Capitol Building  
Carson City, Nevada

Re: Assembly Bill No. 605  
MEDICAL MALPRACTICE INSURANCE

Dear Roy:

As you know, our practice of law is primarily restricted to insurance defense work. In our practice, we have an opportunity to talk with members of the medical profession in matters relating to our practice. It is obvious that the current situation concerning medical malpractice insurance is one which requires action by the Legislature, in order to preserve the same high standards of practice by the medical profession.

Basically, we favor the adoption of Assembly Bill No. 605 which would require casualty insurance companies to make available to the medical, and other professional health professions, malpractice casualty insurance at reasonable premium rates. We believe that this is a reasonable regulation to be enacted by the Legislature. However, we would like to recommend an amendment to this bill.

Specifically, we believe that this bill should be amended to apply only to those casualty insurance companies doing business in the State of Nevada which have an annual policy premium income in excess of \$250,000.00 or perhaps \$500,000.00, or some other figure which will limit the application of the bill to large casualty insurance carriers doing business in the State of Nevada.

We are fearful that the requirement of this bill would discourage new companies from making application to do business in the State of Nevada. However, as soon as a company has established itself in the State of Nevada to such an extent as to have a reasonable premium income, we then believe it would be reasonable to require the company to make available medical malpractice insurance

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Chairman, Assembly Committee on Judiciary  
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at reasonable premium rates.

We believe that the availability of medical mal-practice insurance at reasonable premium rates is vital to the medical profession and the existence of this insurance should be guaranteed by legislation such as Assembly Bill No. 605.

Thank you very much for giving us the opportunity to express our views on this bill.

Sincerely,



EUGENE J. WAIT, JR.

EJW:dl

cc: Howard F. McKisick, Jr., Esq.  
Speaker, Nevada State Assembly

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TELEPHONE 329-9291  
AREA 702

March 18, 1969

Roy Lee Torvinen, Esq.  
Chairman, Assembly Committee on Judiciary  
Capitol Building  
Carson City, Nevada

Re: Assembly Bill No. 603  
STANDARDS OF MEDICAL PRACTICE

Dear Roy:

In our practice in the liability insurance field, we have had an opportunity to observe the operation of the "locality rule" in medical malpractice cases in the State of Nevada. In our opinion, the "locality rule" is fundamentally important to the vital interests of the State of Nevada and should be preserved. Accordingly, we strongly oppose Assembly Bill No. 603, which would destroy the "locality rule" in the State of Nevada.

As you know, the existing law in the State of Nevada prohibits an expert witness from testifying that a hospital, physician or other practitioner of any healing art is negligent or careless, unless such expert witness has personal knowledge of the standards of practice in the community in which the hospital, physician or other practitioner is engaged in practice. This is a fair and just rule for the reason that a so-called expert should not be allowed to sit in judgment of some other person or organization and declare them to be negligent or careless, unless the so-called expert is personally familiar with the usual standard of care practiced in the community.

This rule has existed in the State of Nevada for many years. We believe that it should be preserved in its present form and should not be tampered with by legislative action.

We believe that Assembly Bill No. 603, if enacted, would open the door to the courts of the State of Nevada to

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"professional witnesses" from out of state, who would then enter our courts and proclaim that our doctors and hospitals are negligent and careless because they fail to conform to the standard of care which exists in some other city or some other state, where the conditions and facilities are not the same as those existing in the State of Nevada.

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When we refer to "professional witnesses", we mean doctors residing in other states who make their living from giving testimony against other doctors and hospitals. They make their living by finding the accused doctor or hospital guilty of negligence according to their standards, even though the standard of practice used by the accused doctor or hospital conforms in every respect to the standard of practice in the community. We do not believe that our doctors and hospitals should be subjected to this kind of "professional witness". We believe that our doctors and hospitals should be required to conform to the standard of practice existing in the community in which the doctor or hospital is practicing his or its profession. This is a fair and reasonable standard to require of any professional practicing person. It is not fair to require them to conform to some standard which exists in some foreign place where the facilities and conditions are different.

We fear that Assembly Bill No. 603, if enacted, would drive out of the State of Nevada many of the doctors practicing in small communities. For example, if a doctor practicing in Gabbs, Nevada, were required to conform to the standard of practice of the medical profession in the Mayo Clinic, we are quite certain that the doctor in Gabbs, Nevada, would completely abandon his practice of medicine or at least restrict it to the application of band-aids and the referral of all more serious cases to doctors practicing in the larger communities. In other words, a doctor practicing in a small community would be fully justified in refusing to expose himself to the danger of a lawsuit, wherein his conduct would be judged by a medical "hotshot" from Los Angeles, who had no knowledge of the standard of practice of the medical profession in Gabbs, Nevada.

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Chairman, Assembly Committee on Judiciary  
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In summary, we believe that Assembly Bill No. 603 would have an extremely prejudicial effect on the medical profession of the State of Nevada; would have an extremely prejudicial effect on the best interests of the people at large of the State of Nevada, and should be rejected.

Incidentally, I noticed that Assembly Bill No. 603 does not change the standard of practice for attorneys where attorneys are accused of malpractice. Can we justify changing the standard of care applicable to doctors when we can comfortably rely upon the "locality rule" in actions against attorneys for alleged malpractice?

Thank you very much for giving us this opportunity to express our views on this potentially disastrous bill.

Sincerely,

WAIT & SHENBERGER

By *Engene J. Wait*

ESJW:dl

cc: Howard F. McKissick, Jr., Esq.  
Speaker, Nevada State Assembly

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# Insurance Rates Up for Doctors

LOS ANGELES (AP) — An increasing number of malpractice suits in California is driving doctors' insurance premiums up and the added expense is being passed on to patients, the president of the California Medical Association said Saturday.

Dr. Malcolm C. Todd told the 98th annual meeting of his group: "As the size and frequency of malpractice awards spiral upwards, so do the premiums. A physician, like other professionals or businessmen, is forced to pass this financial burden to his patients in the form of higher fees for service."

The physicians "consider this a grave and potentially catastrophic situation," he said.

Todd, a Long Beach, Calif., surgeon, spoke to the first session of the five-day convention.

His successor, Dr. Al Miller, a San Mateo proctologist, will be installed Tuesday afternoon.

To avoid lawsuits, Todd told newsmen, doctors may refuse to take chances during surgery — even though the patient will surely die if the risk isn't taken.

To combat this trend, he said doctors must press for legislation with a "more scientific approach" to the measurement of

damages in personal injury litigation.

Resolutions dealing with the problems of personal injury litigation, sex education, abortion, and other medical problems go before the convention Wednesday.

Two conflicting resolutions on sex education have been introduced. One would put the CMA on record as opposed to the "amoral" approach taken toward sex in schools. The other would encourage sex education classes from kindergarten through 12th grade.