

SENATE COMMITTEE

007

ON

LEGISLATIVE FUNCTIONS

MINUTES OF MEETING  
Thursday February 6, 1975

Meeting was called to order on February 6, 1975 at 12:12 Noon

Senator Warren L. Monroe was in the Chair

PRESENT: Chairman Monroe  
Vice Chairman Close  
Senator Brown  
Senator Echols  
Senator Gibson  
Senator Young

ABSENT: Senator Lamb

OTHERS: Dr. David L. Roberts, Washoe Medical Assoc.  
Dr. Neil Swissman, President Clark County Medical Assoc.  
Dick Rottman, Commissioner of Insurance

After a brief discussion, a meeting date of Wednesday, February 12, 1975 was set for Senate Bills #49 and 19, - 4:00 p.m.

While waiting for other witnesses, a brief discussion was held on resolutions adopted by other states, Delaware, Montana, and Nebraska.

Senator Monroe introduced Dr. Roberts on A.C.R.1 which calls for a study by three members of Assembly on a possible solution to the malpractice problem.

Dr. Roberts said that he was there at the request of Dr. Steffans, President of the U.S. Medical Association and lobbyist Mr. Pugh, State Medical Association. He started with a brief presentation and discussion on what a medical fee represents, in relation to time, a commodity of time, body of knowledge, availability of skill, etc.

Senator Gibson asked how A.C.R.1 tied into the fee. Senator Monroe asked that they wait for Commissioner Rottman before discussing fees as there was a need for more study on malpractice. Dr. Roberts said he had spent several hours with Mr. Peters and Comm. Rottman's figures and his figures were not totally consistent, but the principle was still the same. Went on to say that across the board insurance companies are not going to renew for malpractice coverage in the State of Nevada for Class 1 to Class 5, category of Motorists and Highways. Said that his group with the insurance company will not be renewed by their present carrier. The Argonot Insurance Co. has provided them with group coverage, but will break the contract as of May 1, 1975. They will insure only those doctors on their option and

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at their rates, which is a 384% increase and puts Argonot out of business unless they get their own way.

Question arose on any other insurance companies that write malpractice and Mr. Roberts mentioned the Hartford Company. They write selective only, and will not write for a non-board certified position. They will not write for board eligible internal medicine specialists or any other non-certified specialists. He went on to explain the difference. He said that there about 240 doctors in the Reno area 25 or 30 are in general practice. Out of 18 internists only 8 are certified and out of two cardiologists only one is certified. Dr. Roberts went on to explain examinations compared to passing the bar examinations etc. and types of tests by the boards. Senator Close questioned difference between just a doctor and board eligible doctor. Dr. Roberts explained that a doctor is not eligible if he has not completed program in any area of speciality, which takes two or three years depending on requirements. Said that Hartford will not write non-board doctors because I.N.A. stopped them.

Senator Close asked if these companies are out of market only in Nevada or in other states. Dr. Roberts answered that it is national-across the line. He went on to discuss other insurance companies in other states. Went on to discuss Claims & Made Basis, an insurance that is bought for one year only and after a year unless the company decides to cover he has no coverage at all.

Senator Echols asked what was causing the problem. Dr. Roberts said it was an increase in suits and that one doctor in ten was involved. He also discussed low risk and high risk in classes I to IV. Some of the rates mentioned in the classes were \$1,000 for one million coverage per year and as high as \$6,000 for high risk, such as Plastic Surgery, Psychiatrists etc. A brief discussion was held on number of suits with Argonot in the past nineteen months period.

Senator Echols asked Dr. Roberts what legislative relief he sees coming out of budget? He said he had discussed it with Mr. Rottman and the Washoe Valley delegation has submitted proposals to the state medical commission that will restrict or reduce exposure. He said that any malpractice action against a physician must be heard before a committee of attorneys and physicians. Discussed cases settled out of court and went on to discuss Breach of Contract- explained that it must be in writing, and discussed contingency fees.

Dr. Niel Swissman was introduced and discussed fees and malpractice- he said they were related but not tied together. Discussion followed on malpractice in this state. He said that it has now become a national epidemic- no insurance presents health care problem for the state. He wondered if practicing physicians in this state would

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continue to practice and cause a problem of attracting new physicians in this state, training and other areas. He said that physicians will look to areas where they could get coverage. Monroe questioned this because it is a national problem and doesn't only exist here. Swissman said the problem can be stopped and mentioned a law was passed and went on to explain a compensation type of schedule similar to our N.I.C. He said that some of the things added were limitation of liability, limitations of exposure and disposure and also utilized a strong screening panel. He discussed carriers in this state with raised rates of over \$400% over last year. There is no guarantee that they will be available. They want out. Argonot was bought out by Teledyne and he mentioned the added fees to a physician on coverage and discussed Class I to IV in relation to coverage. Said that he is asking this committee to recognize the need to have a steady committee as one set up in California. He also said that one answer might be a Self Insurance Program and went on to explain about Indiana legislation and proposals. A question came up on the California committee and Dr. Swissman said it was called the Waxman Committee, they have been in existence for about three years and are in a crucial problem and their work has not been completed. Senator Close asked if they had come up with anything at all that has been adopted by California? Dr. Swissman said that they did not have a total complete package. Senator Brown asked if there was only one Medical Society in Clark County and Dr. Swissman said there was only one. The question of what percentage belonged to the Society was asked and he answered about 90% and said he could not give a firm figure. Senator Echols questioned the malpractice suits in Nevada compared to other states and the Doctor answered that it was much less but that there should be liability protection. A case where there was an excessive settlement was discussed and a problem where there are several insurance coverages and payment for same damages on one case. Senator Echols referred back to the screening committee referred to earlier by Dr. Swissman. He explained that it is a committee set up with the cooperation of bar association and local medical society. Dr. Swissman said that some good things came out of that committee and other areas have the same committees. Representation is equal and they keep each other honest. Members are four each.

Dick Rottman, Insurance Commissioner was introduced and discussed setting up of a study. The Commissioner said that he did not have very good data available on which to recommend legislation, but that they have broken down the problem into two phases. One was to attempt a stop-gap measure to extend over a period of two or three years. Said he thought that legislation would help and it would be much more lasting and have a definite bearing on the problem. He said it will be tougher unless legislation takes a no-fault or compensation system. Senator Close questioned how it would solve the problem, referring to the no-fault system. He answered that it would solve an availability problem and told Senator he could make it available, but the pressing problem is that no-fault or compensation would be extremely high and they have to develop a

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good enough data based written up opposed claim file study to get to the source otherwise most systems will result in a run-away cost situation.

Senator Close questioned the no-fault and asked if he meant patient insuring himself against the doctor. Mr. Rottman answered that it was entirely different. The Senator also asked if Nevada was large enough to have its own rating areas? The answer was no, on a data based standpoint, it was a convenience to Nevada Medical Society. Initial steps were taken to sever that tie. He had notified Argonot. Secondly, the number of doctors in the state is not a good data base, but if you combine that with other measures, then it is feasible.

Senator Young asked if it was possible to indicate to say, Hartford or another insurance to write malpractice and Mr. Rottman answered that they could not tell insurance companies what to write but they try to keep a close rate control. It is a specialized area and what is feasible on a short term measure is to develop a joint underwriting association so that those carriers writing general liability insurance would have to participate in the pool- that they would not have to get involved and the pool would contract with one of the current carriers and use their expertise. Senator Brown asked if there were any other carriers operating in the United States who also carried malpractice insurance? Mr. Rottman said there were nine throughout the country, six in Nevada (only two actively) others are still renewing their existing clients and went on to discuss what the others are doing. The question arose as to whether the committee was to go along on that nature and Rottman said he hoped so but however they would take measures within the insurance division to attempt to do that and he will give full cooperation to the committee to provide resources for what ever is necessary to assist in arriving at a solution. Senator Echols suggested a study of Indiana Legislation.

Sharon Green introduced herself.

Gave a report on how many hospitals and group plans had been cancelled, and what the situation was. She had reviewed the Indiana law and was surprised that it was passed. She commented that we need to have a study commission. She discussed three bills introduced in Washington on insurance study. She said that a study committee would be costly, and would not recommend it.

The Senate adopted the resolution for the study but Senator Monroe said that he wanted some action by the doctors on fees and especially in Las Vegas, where they are refusing to treat welfare patients. He said that we're going to hold back on this until

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we get some action from the doctors.

Senator Brown, said the State Welfare Division supplied figures that showed doctors in Nevada were getting 50 per cent higher rates than in eleven other western states.

The Anesthesiologists in Las Vegas have refused to treat welfare cases except in emergency because of a dispute with the State Welfare Division over fees. The doctors say they are being underpaid and the welfare division contends the physicians are getting adequate fees. Dr. Swissman said his side has been trying to remedy this problem for five years. Swissman said the fee schedule presented by the welfare division gives weighted and false figures.

Dr. Roberts said the figures were preposterous.

Motion was made to pass the resolution.

Resolution was passed.

Meeting adjourned 1:05 p.m.

Respectfully submitted:

Stephanie Buick  
Secretary

APPROVED:

Warren L. Monroe  
Senator Warren Monroe, Chairman

A. C. R. 1

ASSEMBLY CONCURRENT RESOLUTION NO. 1—ASSEMBLY—  
MEN MANN, HAYES, CRADDOCK, JEFFREY, MOODY,  
SENA, PRICE, SCHOFIELD, LOWMAN, HARMON, HEANEY,  
BANNER, MAY, POLISH, DINI, FORD, VERGIELS, YOUNG,  
BENKOVICH, CHRISTENSEN, COULTER, HICKEY, WAG-  
NER, MELLO, ROBINSON AND DREYER

JANUARY 27, 1975

Referred to Committee on Legislative Functions

SUMMARY—Directs joint committee composed of the Senate Health, Welfare  
and State Institutions Committee and the Assembly Health and Welfare  
Committee to study problem concerning medical liability insurance in Nevada.  
(BDR 666)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is  
material to be omitted.

ASSEMBLY CONCURRENT RESOLUTION—Directing a joint committee com-  
prised of the Senate Health, Welfare and State Institutions Committee and the  
Assembly Health and Welfare Committee to study the problem concerning  
medical liability insurance in Nevada and to report their findings to the 58th  
session of the legislature by March 17, 1975.

- 1 WHEREAS, Nevada physicians have experienced difficulty over the past
- 2 several years in obtaining medical liability insurance coverage; and
- 3 WHEREAS, Within the past year many insurance companies which had
- 4 previously written medical liability insurance coverage have either ceased
- 5 business operations or stopped writing such coverage for Nevada physi-
- 6 cians; and
- 7 WHEREAS, Only two major insurance carriers in Nevada are pres-
- 8 ently writing medical liability insurance coverage; and
- 9 WHEREAS, One carrier has indicated an unwillingness to write new poli-
- 10 cies in Nevada and the other major carrier has projected a 300 percent
- 11 rate increase which, in effect, mandates that physicians in high risk cate-
- 12 gories pay as much as \$18,000 per year for medical liability insurance
- 13 coverage; and
- 14 WHEREAS, There exists the grave possibility that physicians in Nevada
- 15 will be unable to obtain medical liability insurance coverage at any cost in
- 16 the near future, with resulting impairment or possible cessation of medical
- 17 care to Nevadans; now, therefore, be it
- 18 *Resolved by the Assembly of the State of Nevada, the Senate con-*
- 19 *curring,* That a committee composed of the Senate Committee on Health,