

SENATE JUDICIARY COMMITTEE

MINUTES OF MEETING

APRIL 12, 1977

The meeting was called to order at 8:00 a.m. Senator Close was in the Chair.

PRESENT:            Senator Close  
                  Senator Bryan  
                  Senator Dodge  
                  Senator Foote  
                  Senator Sheerin  
                  Senator Gojack  
                  Senator Ashworth

ABSENT:

AB 267 Amends various provisions of law relating to medical-legal screening panels.

Mary Fitzgerald testified in support of this measure. For her testimony, see attached Exhibit A.

Ellen Polk testified in support of this measure. For her testimony, see attached Exhibit B.

Rich Pugh, Nevada State Medical Association and Administrator of the medical portion of the Medical Screening Panel stated that they were in support of the bill but were opposed to the inclusion of nurses on the panel. The purpose of the screening panel is to review cases to see whether or not they are potential malpractice cases that should be taken to court. He informed the Committee that in the year and a half that the panel has been in effect, they have not had one case involving a charge of malpractice against a nurse.

In response to a question from Senator Ashworth, Mr. Pugh stated that there are two questions posed by the screening panel:  
1) was there malpractice performed and 2) were there damages.

Tom Cochran, attorney from Las Vegas and Chairman of the legal-medical screening panel concurred with Mr. Pugh's remarks. He stated that the way he interpreted the inclusion of nurses on the panel was that there would be two separate panels; one with 3 nurses and 3 attorneys and one with 3 doctors and 3 attorneys. He felt that the panel was working very well in its present form and did not see the need to include nurses. One portion of the bill that he strongly supported was the increase in the number of available panel members. He stated that since the hearings have become mandatory, they have heard more cases than in the 2 years when it was voluntary. Because of the amount of time required for preparation for these hearings:

AB 267 it is often difficult to get enough members to serve on the panel.

Ann Hibbs, Nevada Nurses Association testified in support of placing nurses on the screening panel. She stated that doctors and nurses are of the same cloth as far as the health care professions go and that they belong together on the panel. She felt that inasmuch as the nurse is the one who spends the most time with the patient and is the one who informs the doctor of their status, that they should be on the panel as the patient's advocate.

Senator Close pointed out that there should be no advocates for any side. The purpose of the panel was to hear evidence, weigh it and decide if the case should be forwarded for legal action.

Fred Hillerby, Nevada Hospitals Association stated that 92% of all malpractice claims that are settled occurred in a hospital and in view of that, he felt that the hospital should be included on the screening panel to help cut down on nuisance claims. He further commented that the trend, nation-wide, is for the hospital to be named as co-defendant in malpractice cases.

Shirley Howard, Nevada Nurses Association stated that professional nurses are prepared to practice in the state of Nevada as independent providers of health care and thus are accountable for their own decision-making and their own practices. She felt that most nurses know a good deal about medical practices and can evaluate them as prudent and safe and also that most doctors know a good deal about nursing practices and can similarly evaluate them. On that basis, she supported the bill in its amended form.

In discussion by the Committee, Senator Ashworth stated that he felt nurses should be included on the panel only when the nurse is actually named in the malpractice suit. Senator Sheerin concurred and further commented that the original purpose of the screening panel was because of the medical malpractice insurance problems. Senator Gojack disagreed and stated that she felt that the nurse belonged on the panel in that they brought a perspective of the medical profession that often times doctors and attorneys do not have.

Senator Sheerin moved to delete the nurses from the screening panel and to amend and do pass.  
Seconded by Senator Ashworth.  
Motion carried. The vote was as follows:

VOTING AYE:	Senator Close	VOTING NAY:	Senator Gojack
	Senator Dodge		
	Senator Foote	ABSENT FROM	
	Senator Sheerin	THE VOTE:	Senator Bryan
	Senator Ashworth		

SB 455 Changes number of justices of the peace allotted to certain townships and establishes staggered terms for justices of the peace.

B. Mahlon Brown and Robert J. Miller, Justices of the Peace, Las Vegas, testified in support of this measure. Judge Miller stated that the most important aspect of the bill was the inclusion of 2 additional judges for Las Vegas. There is a great problem in the criminal justice system throughout the state and the largest single problem in this regard is the delay which exists from the time the criminal defendant is arrested until he is brought through the court system. Under the present law, a person is entitled to a preliminary hearing within 15 days and a trial within 60 days. That is only exercised if the person is in custody. Otherwise, he desires to have it delayed as long as possible. If a person were arrested today in Clark County, the ordinary course of delay for felony preliminary hearings would be until June through September.

Richard Miner, Justice of the Peace, Reno and President of the Nevada Judges Association stated that the Association is sympathetic with the situation that exists in Clark County and would encourage the Committee's consideration in doing whatever they can to help alleviate it.

The only portion of the bill that would affect his district would be the staggering of terms and inasmuch as there are only 2 justices in the Reno township, he did not see a real need for it.

Thalia Dondero, Clark County Commissioner discussed the cost of adding 2 more justices. She stated that their estimated cost for facilities, staffing, salaries, etc. would be \$1.2 million for the two year period. She informed the Committee that the County could not afford that with its present budget.

Tom Moore, representing Clark County concurred with Ms. Dondero's comments and further stated that this would also affect the public defender's office, the district attorney and the metropolitan police department as their staffing is also contingent upon the number of justices of the peace and district judges there are.

Robert Broadbent, Clark County Commissioner acknowledged the need for additional justices but stressed the fact that the County could not afford it at this time.

After further discussion, the Committee requested that they submit an estimate of the fiscal impact this would have on the County.

No action was taken at this time.

SB 453 Provides for censure, removal and retirement of justices of the peace and municipal court judges by commission on judicial discipline.

Richard Miner, Justice of the Peace, Reno and President of the Nevada Judges Association stated that the courts of limited jurisdiction consider that they are part of the judiciary system and feel that they should be subject to the same rules and regulations as the district and appellate courts.

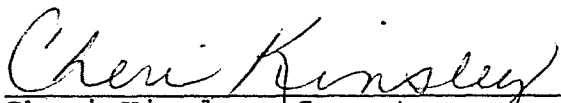
Senator Dodge moved a do pass.  
Seconded by Senator Foote.  
Motion carried unanimously. Senator Bryan was absent from the vote.

Wayne Blacklock, District Court Administrator requested that the Committee introduce a bill which he was having drafted which would shorten preliminary court proceedings and which he felt would help alleviate some of the problems of congestion in the justice courts.

The Committee unanimously approved this for introduction.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

SENATOR MELVIN D. CLOSE, JR., CHAIRMAN

A STATEMENT ADDRESSED TO THE MEMBERS OF THE  
JUDICIARY COMMITTEE  
OF THE  
NEVADA STATE SENATE

SUBJECT: AB 267 - Amends various provisions of law relating to medical-legal screening panels.

I am Mary Fitzgerald, representing the Nevada Nurses Association.  
(Associate Professor at the University of Nevada: Las Vegas)

While the practice of medicine and of nursing is defined and separated by law in fact the very best patient care requires a very close working relationship between doctors and nurses. Normally the relationship is characterized by close collaboration and cooperation. In a very real sense the nurse extends the reach of the physician. We are puzzled and deeply concerned by reports of opposition to this amendment which seems to imply that the addition of nursing representatives to the screening panel would in some way contaminate the "purity" of the existing panel structure.

To the contrary, we feel that nurses would lend another very valuable dimension to the deliberations of the panel by way of input from non-physicians who are, nevertheless, knowledgeable of the health care system, of medical care implications, and of patient needs.

Nevada nurses are firmly committed to the protection of consumers within the health care system. We can and will serve as effective consumer advocates and would act in this role on the screening panel.

Many of us feel that passage of this amendment will be a step in the right direction, but we are concerned that it may be a very small first step. Perhaps the wording of paragraphs 3 and 4 of Section 2 leave too much leeway for interpretation. What is meant by the terminology "involves a nurse" and "under the direction of a physician"? How many malpractice charges are made by patients whose care and treatment did not "involve" a nurse at some stage in his medical care? Should not all screening panels include a nurse?

NEVADA LICENSED PRACTICAL NURSES ASSOCIATION  
member of  
NATIONAL FEDERATION OF LICENSED PRACTICAL NURSES, INC.

April 10, 1977

RE: AB 267

Senate Judiciary Committee  
Mr Chairman  
&  
Members of the Committee

I am Ellen Pope. I am Chairman of the Legislative Committee of the Nevada LPN Association.

I am here today to speak in favor of AB 267 as it is now written.

I wish to ask you to consider the problem of malpractice from another angle: that of the client. And it is the potential client, your constituent as well as the attorney, physician or nurse that you should be considering when you are studying this bill. The lawyers and physicians are here to bring their points of view to you. As nurses, we have been trying to get you to broaden your views; but have you heard from the consumer?

I personally believe that in the majority of cases the consumer is telling us that we as members of the medical team have not considered them often enough when we make decisions involving their lives.

I have brought with me today two copies of the complete articles published in Nursing 1976-77 magazine that made enough waves to be quoted in other national publications. I would hope that you will read them. The typical challenge against a medical practitioner comes from the quality of care that these articles discuss.

In September, 1974 at a health seminar at Lake Tahoe which was attended by members from this body (I know Senator Dodge was there) a Dr. Joseph Hamberg, dean of the University College of Allied Health Professions, made statements to the effect that until physicians came to realize that they are only one member of a team who provides health care, would any of the problems facing that care be solved.

In Nevada to the best of my knowledge, no nurse has been charged with malpractice to the extent that a claim has been filed against them--but this is happening more and more frequently across the United States. There is an LPN in Utah right now involved in a case. Many of my colleagues in California have been charged. I am

concerned enough about this problem that I personally carry Professional & Personal liability insurance with limits of \$2000000 to \$600,000 with Maginnis & Associates Inc. Head office in Chicago.

I have contacted my insurance carrier and received by special delivery the information I have also included in this report.

I hope and pray that if I or any of my family need to resort to this screening panel that a nurse would be one of the members for the following reasons:

- 1- A physician spends only minutes with a patient in any one given day.
- 2- Most suits come from the hospital sitting and more nursing time is involved than physician time.
- 3- The nurse is left with the position of liason between doctor and patient.
- 4- Nurses know what a competent doctor is because they work with the doctors. A doctor seldom works directly with another doctor.

In conclusion may I ask you if one of my fellow nurses gets involved in any challenge in Nevada, will this bill allow for their cases to be studied by the screening panel?

*Ellen Pope*

Ellen Pope LPN  
Registration #77-380  
1298 Lovelock Hwy  
Fallon, Nevada 89406