MINUTES OF THE
MEETING OF THE SENATE COMMITTEE
ON HUMAN RESOURCES AND FACILITIES

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
March 23, 1981

The Senate Committee on Human Resources and Facilities was called to order by Chairman Joe Neal at 8:59 a.m., Monday, March 23, 1981, in Room 323 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Joe Neal, Chairman
Senator James N. Kosinski, Vice Chairman
Senator James H. Bilbray
Senator Richard E. Blakemore
Senator Wilbur Faiss
Senator Virgil M. Getto

GUEST LEGISLATOR:

Senator Jean Ford

STAFF MEMBER PRESENT:

Joy-el McBride, Secretary

SENATE BILL NO. 408

Senator Ford testified in support of SENATE BILL NO. 408, stating the law should not place restrictions upon a person because they are a man or a woman. She said the bill represents an effort to continue to clean up Nevada law as it relates to discrimination on the basis of sex.

Ms. Peggy Twedt of the League of Women Voters of Nevada spoke in support of SENATE BILL NO. 408. She said the league was founded on the idea that voting rights should be extended to all people regardless of sex and they would like to see the same idea carry on to the laws of Nevada. The league thinks this is particularly important to Nevada as Nevada is a state that prides itself on the state not needing the Equal Rights Amendment.

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SENATE BILL NO. 409

Mr. Tom Stutchman from the Nevada Independent Association of Health Facilities testified in opposition to SENATE BILL NO. 409. His testimony is Exhibit C.

Mr. Larry Struve, Chief Deputy Attorney General of Nevada, spoke in opposition to SENATE BILL NO. 409, stating the office of the Attorney General has great concern if this bill is enacted. There is potential liability that might be imposed on the state that may result from acts of volunteer advocates appointed pursuant to the authority contained in three sections. In October, 1980, their office issued an Attorney General's Opinion concerning potential liability to the state for acts of state volunteers. See Exhibit D. In Section 16, there are penalty provisions provided for violation of this bill and it is not clear whether these are supposed to be civil or criminal penalties. If the committee goes forward with the bill, their office would like clarification plus a designation of which official, either the Attorney General or the district attorney, has the primary duty of going forward with the assessment of these penalties.

Senator Neal asked what would give rise to an agency relationship as it pertains to the volunteer. Mr. Struve said the advocates are duly appointed volunteers of the state and therefore become an agent of the state.

Mr. Tom Morton, owner and administrator of Sierra Health Care Center, also representing the Nevada Health Care Association, testified in opposition to SENATE BILL NO. 409, stating that most of the requirements and the regulations covered within this bill are already covered within the guidelines and powers of other agencies. He admitted to some good intent within the bill and agreed with several spects, however, he feels the good out-weights the bad.

Senator Getto stated that on page 3, subsection 4, the omission of "legal guardian" left a loophole in the bill and agreed with Mr. Morton's statements concerning the bill.

Senator Kosinski agreed with Mr. Morton, adding the quality of care offered by the long term facilities is good, but he felt the quality was due to some of the "over regulation"

that Mr. Morton referred to while speaking about the bill. His concern and the only way he would favorably pass on this kind of legislation is with the understanding that it would insure that the program would continue if the federal government backed out of the ombudsman program.

Mr. Morton said if the intent behind this bill is to provide a mechanism for legitimate complaints that are free from any interference within the health care setting, he felt the industry could support the bill. However, to him, the bill goes beyond that intent.

Mr. Orvis Reil, representing the National Retired Teachers Association and the American Association of Retired Persons, testified in support of SENATE BILL NO. 409. He said they asked this bill to be introduced again this session because of information he received from some of their people. He said the bill can work for both the facility and the residents.

Ms. Jane Hirsch, Nursing Home Ombudsman for the State of Nevada, spoke to inform the committee that the advocate position is being done by her and one other full-time position in the southern area. They act as advocates for the long term care facilities and the residents of them. From January to March they have received 29 complaints; 22 were substantiated.

SENATE BILL NO. 406

Ms. Reba Chappell, program manager for the Emergency Medical Services Program of the Nevada State Health Division, testified in opposition of SENATE BILL NO. 406, pointing out the areas of concern. Please see Exhibit E.

Dr. Richard D. Grundy, practicing physician from Carson City, spoke in opposition to SENATE BILL NO. 406, stating that Ms. Chappell's testimony referred to the areas of his concern.

Senator Bilbray said he had been told by many paramedics in Clark County that the bill is attempting to do what is already being done in practice. Paramedics are treating persons under emergency situations when they cannot get in touch with a doctor. They are not letting them die on

the scene.

Mr. Robert Forbuss, Director and manager of Mercy Ambulance, Inc. in Las Vegas and speaking on behalf of Medic I out of Reno, said the bill was written before the legislature convened and subsequent to this bill, SENATE BILL NO. 147 was submitted. He recommended the entire section 2 be eliminated. Section 3, subsection 1, lines 13 and 14 states that the certificate expiration dates may be coincidental with ambulance permit expiration dates. Instead of permit expiration dates, the bill should state ambulance license expiration dates. Section 4, lines 18 and 19 would remove exemption from license for nurses and would enable a nurse or physician assistant to function at the Emergency Medical Technician level of license. The word "registered" should be added before the word nurse. Section 5, subsection 5, lines 22 through 28, would mandate the biennial licensure of attendants with both license and certificate expiring coincidentally on December 31. The intent is simply to mandate that all certificates be issued on a two year cycle to eliminate some of the complicated paperwork. The controversial section mentioned by previous testifiers deals with the health officer issuing standing written orders to paramedics. On page 5, section 5, Mr. Forbuss called for a correction on the way the bill was written. It should have been written, "where voice communication cannot be established...".

Mr. Karl Munninger, representing the Clark County Health District, testified in support of SENATE BILL NO. 406, with modifications to some of the wording. See Exhibit F.

Senator Neal asked why meeting the 80 hour training requirement in 2 years would be less difficult to the technicians than 40 hours in 1 year. Mr. Munninger replied that some paramedics neglect to do the training in the first year and under statute they are ineligible to be recertified the second year.

Senator Bilbray addressed the committee stating that paramedics are being licensed without doing the 40 hours of training. He said they are trying to legitimize what they are presently doing.

Senator Neal appointed a subcommittee with Mrs. Chappell

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as chairperson to review the bill and come back to the committee on Tuesday, March 31, 1981 with a report.

Being no further business, the meeting was adjourned at 10:50 a.m.

Respectfully submitted:

Joy-el McBride, Secretary

APPROVED:

Senator Joe Neal, Chairman

DATE: 4-1-81

EXHIBIT A

# SENATE AGENDA

## COMMITTEE MEETINGS

Committee on Human Resources and Facilities, Room 323.

Day Monday, Date March 23, Time 8:00 a.m.

S. B. No. 406--Makes various changes in licensing for emergency medical services and establishes intermediate level of emergency medical technicians.

S. B. 408--Extends duty of fighting fires to qualified women.

S. B. No. 409--Creates office of advocate for residents of facilities for long-term care.

ATTENDANCE ROSTER FOR COMMITTEE MEETINGS

SENATE COMMITTEE ON HUMAN RESOURCES AND FACILITIES

DATE: March 23, 1981

EXHIBIT B

| PLEASE PRINT NAME | PLEASE PRINT ORGANIZATION & ADDRESS | PLEASE PRINT TELEPHONE |
|---|---|---|
| Reba Chappell | Health Div. | 4700 |
| Robert Forbuss | Mercy Inc | 4100 |
| Bryant Gilkeson | Washoe Co. Dist. Health Dept. | 785-4700 |
| Jim Begbie | Washoe Co. Dist Health Dept | 785-4700 |
| Tom Stutelberg | Nev Independent Association of Health Facilities | 882-3665 |
| George Reynolds | Bureau of Health Facilities | |
| Joe Nicholson | Nev Emergency Services - Medical | 322-9690 |
| [illegible] | [illegible] | [illegible] |
| Orvis E. Reil | NRTA/AARP - Nev. Joint State Leg. Com. | 882-1675 |
| Karl Munninger | Cl. Co. Health Dist. LV | 383-1381 |
| [illegible] | Nursing Home Ombudsman Aging Serv | 4210 |
| Orla R. Anderson | 8978 W. Washburn Rd. S.P. | |
| S.M. Doubrava MD | 3196 So. Maryland Pkwy #306 L.V | 737-0944 |
| Richard D. Grundy MD | Clark Co. EMS Med Advisory Board Carson City, Nev 89701 | 882-1361 |
| [illegible] | [illegible] | |

EXHIBIT C

# Testimony on S. B. 409
# Creating the Office of Advocate for
# Residents of Long Term Care Facilities
# by
# Nevada Independent Health Care Association

The Long Term Care Industry usually supports laws and regulations protecting residents of Long Term Care Facilities. However, we strongly oppose Senate Bill 409 for the following reasons:

A. SB409 would duplicate resident protection already in place by the following state and federal agencies.

1. Nevada State Division of Aging Services Ombudsman Program with offices in the North and South to investigate complaints (Instructions on how to file complaints are posted in numerous places in each facility and handed out to each resident, family or guardian.) The Ombudsman office number is on this information.
2. Department of Human Resources, Division of Bureau of Health Facilities. Five to seven inspectors are on hand to investigate all complaints and insure that problems are solved. These people also do annual surveys for certification of Medicaid, Medicare, and state licensure. They have access at all times to all nursing homes records, etc.

3. Nevada State Welfare Department investigates from state offices and local district offices on all complaints brought to their attention. The local district office has Social Workers in most facilities on a daily basis.

4. The Medical Review Team of Nevada State Welfare Department consisting of a doctor, two nurses, and one social worker review each facility in detail yearly (usually taking 5 days and more if follow up is needed).
   This MRT Team responds immediately to any and all complaints received and duplicates the investigation done by the Division of Aging Services Ombudsman Program.

5. Federal Regulators of Quality Assurance Programs (Medicaid and Medicare) can and do have access to all long term care facilities for purposes of complaint investigations.

6. The local county welfare department, the city and county health departments also have access to long term care facilities to insure proper treatment of residents.

B. S. B. 409 is not cost effective and does not address the cost to the state nor the resident of Long Term Care Facilities. Neither does this proposed bill refer to the number of employees needed to carry out all that it encompasses.
   Please see all of Section 4 and Section 5, Subsection 2 - 6 Investigate, recommend, review, advise, and assist government. Educate the public.

C. In our opinion, Section 5, Subsection 2, would or could create a super agency with investigative powers over other governmental agencies dealing with residents of Long Term Care Facilities.

Super agencies with broad ambiguous power generally have the ability to become an uncontrollable, expensive burden to the taxpayer with little or no relationship to their intended purpose.

D. Section 14 strips the operator of a Long Term Care Facility of the rights usually afforded any other citizen of the State of Nevada.

In summary, S. B. 409 would be expensive, non-productive, duplicative, and in our opinion impossible to enforce.

We, therefore, urge you not to pass S. B. 409.

Tom A Stutelmon
365 West A Street
Fallon, Nevada
89406
423 6551

EXHIBIT D

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENTS OF ADMINISTRATION AND GENERAL SERVICES
BLASDEL BUILDING
CARSON CITY 89710

RICHARD H. BRYAN
ATTORNEY GENERAL

October 17, 1980

ROBERT H. ULRICH
DEPUTY ATTORNEY GENERAL

OPINION NO. 80-39

STATE VOLUNTEERS, SUITS BASED ON ACTS OR OMISSIONS, DEFENSE BY ATTORNEY GENERAL. A person who performs volunteer service under the direct supervision and control of and for the benefit of the State is entitled to request a defense from the Attorney General pursuant to NRS 41.0339 when a civil action is brought against that person based on any alleged act or omission relating to such service. The Attorney General shall provide such a defense if, inter alia, the Attorney General has determined that the act or omission on which the action is based appears to be within the course and scope of the public duty assumed by the volunteer, appears to have been performed or omitted in good faith, was done under the control and direct supervision of the State and furthered the State's business.

Mr. Howard E. Barrett
Director, Department of Administration
Capitol Complex
Carson City, Nevada 89710

Dear Mr. Barrett:

You recently asked this Office to answer a question concerning the construction of NRS 41.0339. The specific question you have asked is as follows:

## QUESTION

Is a person who performs volunteer service under the direct supervision and control of and for the benefit of the State of Nevada entitled to be defended by the Attorney General when he is sued in a civil action based on an alleged act or omission relating to his voluntary service?

## ANALYSIS

NRS 41.0339 relates to the defense of State officers and employees who are sued in a civil action. Insofar as it is pertinent here, it provides:

> "The [attorney general] shall provide for the defense...of any officer or employee... of the state...in any civil action brought against that person based on any alleged act or omission relating to his public duties if [, inter alia, the attorney general] has determined that the act or omission on which the action is based appears to be within the course and scope of public duty and appears to have been performed or omitted in good faith."

A volunteer does not perform services to the State pursuant to appointment to a State position created by statute. Therefore a volunteer may not be deemed a State officer. NRS 281.005. Thus, if a volunteer is entitled to a defense he must be deemed a State "employee" as that word is used in NRS 41.0339, supra. This opinion will discuss if, and under what circumstances, a volunteer would be deemed an "employee."

The word "employee", if read narrowly, means "one who works for wages or salary in the service of an employer." Alliance Company v. State Hospital at Butner, 85 S.E.2d 386, 389 (N.C. 1955). A volunteer is a person who gives his services without any express or implied promise of remuneration. See Black's Law Dictionary 1747 (Revised 4th Edition 1968). In Alliance Company the North Carolina Supreme Court was called upon to decide whether North Carolina was liable for injuries sustained by a person caused by the negligent acts of a prison inmate who was performing services under the direction and control of one of its employees. North Carolina would only be liable if the inmate, when he caused the injury, was an "employee" of North Carolina as that

word was used in North Carolina General Statutes §143-291 which provided:

> "[The State is liable for] such negligence on the part of a State employee while acting within the scope of his employment...."

Section 143-291, as amended infra, is found in the North Carolina Tort Claims Act, Article 31 of Chapter 143. Article 31 is the section of North Carolina law wherein the State statutorily waived its sovereign immunity and consented to suit for the torts of its employees. Article 31 is analogous to NRS 41.0305 to NRS 41.039 because each is on the same subject matter; namely, when the respective states will be liable for the negligent acts of their employees. In Alliance Company the Court after defining "employee" as stated above ruled against the injured person because the inmate was not receiving wages or a salary and thus could not be deemed an employee. Alliance Company would, therefore, lend support for a conclusion here that a volunteer is not an "employee". However, for the reasons expressed below we choose not to follow the Alliance Company decision.

Alliance Company was decided on January 14, 1955. By North Carolina Session Laws c.400, ratified on March 31, 1955, the North Carolina Legislature, apparently in direct response to the Alliance Company decision, amended §143-291 to read, in pertinent part, as follows:

> "[The State is liable for] such negligence ...on the part of an officer, employee, [or] voluntary...servant...of the State while acting within the scope of his ...employment...."

In the preamble to the 1955 amendment the North Carolina Legislature stated that it enacted Chapter 400, supra, because it wanted "the intent and purpose of... Article [31]...perfected." Article 31's purpose, when enacted in 1951 by Chapter 1059 of the 1951 Session Laws, was to make North Carolina liable for negligent injuries inflicted by its employees under the same rules of law as are applicable to private entities. Preamble to Chapter 400, supra. Compare NRS 41.031, infra. Thus it is obvious that the North Carolina Legislature disagreed with the construction given the word "employee" in Alliance Company, supra; the word "employee" in §143-291 was meant to include a "voluntary servant". As will be pointed out below, the phrase "voluntary servant" may, but not necessarily must, include a person who volunteers services to the State.

In 1965 the Nevada Legislature, pursuant to Article 4, Section 22 of the Nevada Constitution[1], partially waived its sovereign immunity and consented "...to have its liability determined in accordance with the same rules of law as are applied to civil actions against individuals and corporations, [with certain exceptions not pertinent here.]" Chapter 505 Statutes of Nevada 1965. The quoted language is now found in NRS 41.031. Under the doctrine of respondeat superior - let the master answer for the wrongful acts of his servants - a private employer may be held liable for the negligence of its "employees." What we are concerned with here is if, and under what circumstances, a volunteer acting under the direction and control of the State may be deemed an "employee" for liability purposes.

In Meagher v. Garvin, 80 Nev. 211, 391 P.2d 507 (1964), the Nevada Supreme Court held that a private employer, under the doctrine of respondeat superior, may be held liable for the negligence of a person who was not in the employ of the employer.

> "We hold that when an employee, without the employer's consent, lets [the] person drive the employer's car in furtherance of the employer's purpose, and the employee is present, the employer is liable for the negligence of the [person]." Id. at 216, 391 P.2d at 510.

As the Court stated in National Convenience Stores, Inc. v. Fantauzzi, 94 Nev. 655, 657, 584 P.2d 689, 691 (1978), in elaborating upon its decision in Meagher, "the term 'control' has been applied to establish the master-servant relationship itself, the sine qua non [an indispensable requisite or condition] of the respondeat superior doctrine. Succinctly stated, the employer can be vicariously responsible only for the acts of his employees not someone else, and one way of establishing the employment relationship is to determine when the 'employee' is under the control of the 'employer'. Martarano v. United States, 231 Fed.Supp. 805 (D.Nev. 1964)."

1/ Article 4, Section 22 of the Nevada Constitution provides:

> "Provision may be made by general law for bringing suit against the state as to all liabilities originating after the adoption of this Constitution."

Thus once it is found that an employer has exercised sufficient control over a person, who would not otherwise be deemed an "employee", that person will be deemed an "employee" or servant for vicarious liability purposes under the doctrine of respondeat superior. "One who volunteers services without an agreement for or expectation of reward may be a servant of the one accepting such services. [emphasis added]." Restatement (Second) of Agency §225, cited with approval in Stebbins v. Quinty, 364 N.E.2d 1087 (Mass.App. 1977). Equally important to the establishment of a master-servant relationship between the State and a volunteer is the acceptance of those services by the State. Therefore, if a person volunteers his services to the State and the State manifests consent to receive the services, see Restatement, supra, at §221, the volunteer may be deemed a servant and the State a master. Further criteria which will also be looked at before a master-servant relationship is deemed to exist for purposes of imposing liability upon the State for the acts of the volunteer is set forth below. For purposes of the doctrine, the word servant is synonymous with employee and the word master is synonymous with employer. See: National Convenience Stores, Inc., supra, and Jones v. Hadican, 552 F.2d 249 (8th Cir. 1977), cert. denied 431 U.S. 941, 97 S.Ct. 2658, construing an analogous provision of federal statutory law. Thus pursuant to NRS 41.031, the State may be liable for the wrongful acts of a volunteer-servant. See AGO 80-15 (Nev. 5-5-80).

NRS 41.031 is in that portion of NRS relating to the liability of the State, its officers and employees, NRS 41.0305 to NRS 41.039 inclusive. If a volunteer may be deemed an "employee" for purposes of determining the State's liability under NRS 41.031 then the other sections in that portion of NRS wherein the word "employee" is found must be read as consistent therewith. Therefore, the word "employee" as used in NRS 41.0339, may include a volunteer. Moreover, this construction of the word "employee" will further the Legislature's declared purpose when it enacted the language set forth above in NRS 41.0339. This language was originally added to NRS by Section 4 Chapter 584 Statutes of Nevada 1977.2/ When the Legislature enacted this language into law it declared, in the preamble to Chapter 584, that:

2/ By Section 3 of Chapter 678 Statutes of Nevada 1979 this language was placed in a separate section of Chapter 41 of NRS and later numbered as NRS 41.0339.

> "The state [has] experienced difficulty in attracting, recruiting and retaining capable and conscientious persons to serve as...employees given the unresolved question of the personal liability of such persons in any actions sounding in tort arising out of any act or omission within the scope of their public duties or employment...."

If a volunteer may not be an "employee" as that word is used in NRS 41.0339, then whenever the volunteer is sued in tort for an alleged negligent act committed while under the direction and control of the State, in a situation where the master-servant relationship would be deemed to exist, and resulting in injury to a third party, the volunteer will more than likely be forced to incur the expense of retaining private counsel. Given this possibility, a potential volunteer will probably refrain from rendering gratuitous services to the State. On the other hand, if the volunteer may be deemed to be an employee, then the State will have the right to be named a party in a tort suit in order to protect its interests, NRS 41.0337[3], and the State's liability will be limited to $50,000, NRS 41.035.[4]

The construction given here to the word "employee" within the meaning of NRS 41.0339 is also consistent with the construction given the same word by the federal courts, and the courts of New York and Ohio in construing their respective tort claims acts.

As noted above, the Nevada Supreme Court in National Convenience Stores, Inc., cited with approval Martarano, supra, for the proposition that the master-servant relationship is the sine qua non of the doctrine of respondeat superior, and that "control" is an important

3/ NRS 41.0337 provides in pertinent part:

> "No tort action arising out of an act or omission within the scope of his public duties or employment may be brought against any...employee...of the state...unless the state...is named a party defendant under NRS 41.031."

4/ NRS 41.035 provides in pertinent part:

> "An award for damages in an action sounding in tort brought under NRS 41.031 or against [an] employee of the state...arising out of an act or omission within the scope of his public duties or employment may not exceed the sum of $50,000...."

factor in establishing the relationship. In Martarano, Nevada Federal District Court Judge Thompson was called upon to decide whether a person on the State of Nevada payroll who injured a third party while acting under the supervision of federal officials was a federal "employee" as that word is used in 28 U.S.C. §1346(b) in conjunction with 28 U.S.C. §2674, both of which are sections of the Federal Tort Claims Act, (28 U.S.C. §§ 1346(b) and 2671 et seq.). The Federal Tort Claims Act renders the United States liable "in the same manner and to the same extent as a private individual under like circumstances", 28 U.S.C. §2874, for damages "caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable...." 28 U.S.C. §1346(b). In holding that the wrongdoer was a federal "employee", for purposes of holding the United States liable, Federal Judge Thompson placed great emphasis on the fact that the "employee" was acting under the control and direct supervision of federal officials. Given the reliance of the Nevada Supreme Court in National Convenience Stores, Inc., supra, on Judge Thompson's opinion in Martarano, we feel that our opinion should also conclude that a servant, which as aforestated may include volunteers, should be deemed, for the purpose herein specified, as an "employee." In accord: McAfee v. Overberg, 367 N.E.2d 942 (Ohio Ct.Cl. 1977) and Washington v. State, 23 N.E.2d 543 (N.Y. 1939).

We wish at this point to reiterate and emphasize that a volunteer will not always be deemed a servant and thus an "employee" of the State for purposes of either imposing liability upon the State under NRS 41.031 or receiving a defense by the Attorney General, under NRS 41.0339. For example, a person who, without assent or control and supervision by the State performs services which that person subjectively feels will be of benefit to the State, will not be deemed a servant or employee. See Restatement (Second) of Agency, §221, supra. In order for a volunteer to be deemed an "employee" the alleged wrongful act upon which a civil action against the volunteer is based, must be done under the control and direct supervision of the State, Martarano, supra, in good faith, NRS 41.0339, in furtherance of the State's business, Meagher, supra, and within the course and scope of the public duty assumed by the volunteer, NRS 41.0339.

We suggest that guidelines be formulated by your Department, in conjunction with our Office, to advise State Administrators regarding the use of volunteer services in light of this opinion.

## CONCLUSION

It is the opinion of this Office that a person who performs volunteer service under the direct supervision and control of and for the benefit of the State is entitled to request a defense from the Attorney General pursuant to NRS 41.0339 when a civil action is brought against that person based on any alleged act or omission relating to such service. The Attorney General shall provide such a defense if, inter alia the Attorney General has determined that the Act or omission on which the action is based appears to be within the course and scope of the public duty assumed by the volunteer, appears to have been performed or omitted in good faith, was done under the control and direct supervision of the State and furthered the State's business.

Very truly yours,

RICHARD H. BRYAN
Attorney General

By
Robert H. Ulrich
Deputy Attorney General

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH
BUREAU OF COMMUNITY HEALTH SERVICES

(2)

March 13, 1981

EXHIBIT E

SB 406 - Senator Bilbray (Clark County)

As noted in order, SB 406 would modify 450B1 and/or conflict with SB147 as follows:

1. Sec. 2, 1. page 1, lines 5,6,7.
Specifies a number of training hours for EMTII which may or may not be valid, but does not speak to required content, physician supervision or board approval: conflict with SB 147.

2. Sec. 2,4. page 2, Lines 2,3,4.
Requires an additional "20 hours" of training for EMT II which may or may not be valid; does not speak to physician assessment of skill retention and verification to the Division: conflict with SB 147, existing board regulations.

3. Sec. 3, 1. page 2, lines 6-14
Modifies valid period for certification to be established by regulation rather than by statute; distributes recertification schedule between odd & even years or on date of permit renewal: would delete 450 B 180,4. (statutory 2 year period), negates all the work done in the last 4 months to simplify recertification cycles, assumes all certificate holders are attached to an ambulance service.

4. Sec. 4, 7. & 8. page 2, lines 34-37
Add board authority to regulate the treatment of patients and "determination of priority of need and proper place---" : probably can be assumed that this is an indirect approach to placing the board in a position to categorize emergency facilities.

5. Sec. 5,3.b page 3, lines 18,19
Removes exemption for registered nurses from license requirement; adds physician assistant to license requirement: modification of 450 B 160, 9. for paid attendants.

6. Sec. 5, 5.a,b. page 3, lines 22-28
Establishes indirectly a biennial renewal date for ambulance attendant licenses on 12-31 by 2 year cycle of odd/even numbered year based on alphabetical index of ambulance company name: conflict with board regulations requiring annual renewal; negates all the work done in the last 4 months to simplify renewal procedure; would add extra work for the section in the most active part of the training year; could create more complications in trying to coordinate with # 3

7. Sec. 5, 8. page 3, lines 34-35
Removes exemption of licensed nurse from attendant license requirement: modifies 450 B, 160,9. as above in #5

plc 3-13-81

March 13, 1981

SB 406 - Senator Bilbray (Clark County continued)

8. Sec 6, 4. page 3, lines 47-50
Deletes existing article establishing 2 year cycle for EMT certification period: modifies 450 B 180,4.

9. Sec. 7,2. page 4, lines 24-29
Revises the requirement for 40 hours of added training each year of the certification cycle for paramedics to a^80 cumulative hours during the cycle: modifies 450 B 195,2; would allow a paramedic to delay any CME effort until the end of the certification period, would nullify the existing efforts of the physicians to provide continuing added expertise on regular basis.

10. Sec. 8, 4. page 4, lines 45-50
Substitutes language deleting the requirement for paramedics to have direct voice communication or telemetry contact with M.D. or R.N., speaks to "if appropriate, a telemetered electrocardiogram is observed by M.D. or R.N --- " : modification of 450 B 197,4.; we would need to determine what is meant by "appropriate".

11. Sec. 8, 5. page 5, lines 28-36
Would add the authority for paramedics to function under standing written orders approved by the state health officer or a local health officer: added to 450 B.197; standing written orders may be in conflict with the State Medical Practice Act and the State Pharmacy Act; standing written orders, if allowed, should be the responsibility of the Paramedic Advisory Board with endorsement by the Board of Health (staff recommendation)

12. Sec 9, 1.b
Amendment to NRS 41.505 (good Samaritan Act) extends protection from liability to M.D., R.N. and Adv. EMT/A during the clinical training period.

13. Will require a fiscal note to support complete change over of record keeping system, regulations, etc. as well as the necessity of revising the training program formats - Bill Mowell estimates approx $25,000. on first review.
fl 3-16-81

fl 3-13-81

810

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
DIVISION OF HEALTH
BUREAU OF COMMUNITY HEALTH SERVICES

(3)

March 16, 1981

SUMMARY: EMS RECORDS MANAGEMENT SYSTEM 7-1-81

As of 7-1-81 the following changes will be in effect:

Ambulance Permit Renewal

1. No change; all due for renewal 7-1 annually, continue to process by hand.

Attendant License Renewal

1. changed to all due for renewal 7-1 annually
2. changed to computer generated license - except in Clark County
3. remove requirement for photo since Nevada drivers license has photo

Certificate Renewal

1. changed to computer generated certificate
2. changed from individual anniversary date to common date for EMS Region
3. changed from separate dates for different certifications to single date renewal for all for each individual
4. changed from different numbers on each level certified for each individual to a single EMS number for all that person's records (certificates and attendant licenses inclusive)
5. adding an optional point system for EMT renewal

Initial Permit, License, Certificate

1. Issued to expire on established dates: i.e. annually 7-1 for Permits, Licenses; 2 year cycle for EMT and Advanced EMT to expire on EMS Region common renewal date; 1 year cycle on EMT-II modules to expire on EMS Region common renewal date; added skills for balance of certification period to expire on EMS Region common renewal date.

Common Renewal Dates: Certification

Dec. 31
(NW-NE-Washoe EMS Regions)

Carson City
Churchill
Douglas
Elko
Eureka
Humboldt
Lander
Lyon
Pershing
Storey
Washoe
White Pine

March 31
(Central-Clark EMS Regions)

Clark
Esmeralda
Lincoln
Mineral
Nye

March 16, 1981

SUMMARY: EMS RECORDS MANAGEMENT SYSTEM (continued)

General Changes

1. Only EMS Refresher Courses will be scheduled (or will be given top priority) in an EMS Region during the 3 month quarter prior to the common renewal date.
2. No extensions will be given
3. A fee may be charged for late recertification requiring extra (out-of-cycle) computer processing cost.

Ambulance Run Reports

1. Updated form will be placed in use in the field
2. Quality control review will be done by EMS Field Staff & Washoe County for respective regions
3. Coding for computer entry will be done by half time student (added by EMS executive budget request)
4. Output reports will be provided to ambulance services and County Commissioners on periodic basis.

**EXHIBIT F**

March 20, 1981

Senator Joe Neal, Chairman
Human Resources & Facilities Committee
Legislative Building
401 So. Carson St.
Carson City, NV 89710

Reference: SB406

Dear Senator:

We have reviewed SB406 which would provide for coincident two-year certification and licensure expiring on a common date, and which would authorize additional activities for advanced emergency medical technicians. We would like to express our support for this legislation.

In order to avoid disruption of the certificate renewal program presently being implemented by the State Health Division, we have attached suggested modifications to some of the wording in the bill. These changes provide for common certification/license expiration dates within each EMS region rather than calling for a statewide odd-even system of renewal.

We have also suggested deletion of Section 2 pertaining to intermediate EMTs since SB147 addresses the matter well and has been previously heard by the Committee. A few other modifications have been suggested to make the intent of the proposal more precise.

Thank you for your consideration.

Sincerely,

Otto Ravenholt, M.D.
Chief Health Officer

Enclosure

CLARK COUNTY HEALTH DISTRICT

SUGGESTED MODIFICATIONS TO

SENATE BILL NO. 406

I. Delete all of Section 2 pertaining to intermediate emergency medical technicians.

II. Sec. 3. 1. The board shall (by regulation) determine the effective periods of the certificates of emergency medical technicians, intermediate emergency medical technicians-ambulance and advanced emergency medical technicians-ambulance, *based on a 2 year renewal cycle for each class of technicians* (but the effective periods of these certificates must not exceed 3 years). For administrative convenience, the expiration dates of these certificates may be (arranged) *adjusted* so that the dates are distributed between odd-numbered and even-numbered years or coincide with the expiration dates of (the permits for operation of the ambulance or air ambulance services which employ the holders of these certificates) *attendant licenses. In no case may such an administrative adjustment allow the effective period of a certificate to exeeed 3 years.*

*2. The Board shall assign to each emergency medical services region a common fixed certificate expiration date for all certificates.*

(2.) *3.* A holder of one of these certificates may renew his certificate if he has completed the additional training required to maintain it and meets the applicable qualifications established by the board.

III. Sec. 5. 3. An applicant who is not a volunteer must file with the health division, in addition to the items specified in subsection 2:

(a) A current, valid certificate designating him as an emergency medical technician; or

(b) Evidence that he holds a license as a *registered* nurse or a certificate as a physician's assistant.

IV. Sec. 5. 5. The license of an attendant *is valid for a two year period coincident with certification and* expires on (December 31:

(a) Of the odd-numbered year next following the date on which his license was issued if he is employed by an ambulance or air ambulance service whose name begins with a letter from A to L, inclusive.

(b) Of the even-numbered year next following the date on which his license was issued if he is employed by an ambulance or air ambulance service whose name begins with a letter from M to Z, inclusive.) *the same date as the certificate expiration date for the region in which the service with which the attendant functions is based.*

V. Sec. 8. 5. *Before direct communication by* voice *or telemetry* is (not) established (and maintained with a physician or with a registered nurse supervised by a physician,) *as described in subsection 4 initiate such* (perform the following) procedures *and administer such drugs as are necessary to sustain the life of a patient whose condition is such that his life is threatened, provided standing written orders have been issued for each such drug by:*

*(1) The state health officer.*

*(2) The district health officer in the event the district health authority has adopted its own regulations pursuant to NRS 450B.300.*

(in accordance with written standing orders of the state health officer or a

local health officer:

(a) Perform an intubation into the airway by an esophageal or endotracheal tube.

(b) Initiate intravenous therapy using specified solutions.

(c) Perform any other procedure described in subsection 4 if a written standing order has been issued for performance of that procedure.)