

Nevada State Medical Association

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Memorandum

To: Safe Injection Practices Coalition Steering Committee
Safe Injection Practices Coalition Policy Task Force
Safe Injection Practices Coalition Messaging Work Group
Safe Injection Practices Coalition Training Materials Work Group
Richard Whitley, Administrator-Nevada State Health Division
Assemblywoman Sheila Leslie
Assemblywoman Debbie Smith
Senator Valerie Wiener

Thru: NSMA Executive Committee

From: Larry Matheis

Subject: Report on Nevada Legislation Responding to Las Vegas Hepatitis Outbreak

Following the Las Vegas hepatitis C outbreak (<http://www.southernnevadahealthdistrict.org/outbreaks/index.htm>), which was publicly announced in February 2008, the Legislative Committee on Health Care (<http://www.leg.state.nv.us/lcb/research/InterimReports/2009InterimReports/Bulletin09-15.pdf>), which was Chaired by Assemblywoman Sheila Leslie undertook a comprehensive review of the public policy issues related to the outbreak. As part of its commitment to address every issue that resulted in the outbreak and to support all necessary improvements in the Nevada health care system, the Nevada State Medical Association worked with the Committee helping to identify the system issues regarding prevention of future bloodborne pathogen transmissions in health care settings and effective responses when public health emergencies do occur.

While the performance of the Southern Nevada Health District was exemplary, that agency's role was to conduct an epidemiological investigation of reported acute hepatitis C cases. It is unlikely that anyone would have been aware of an "outbreak" if this function had not been performed properly. It reported its findings to the State Health Division, which has regulatory authority to license health care facilities and a number of public health responsibilities. Information was also provided to at least two State Professional Licensing Boards (the Board of Nursing and the Board of Medical Examiners). Other State agencies had various statutory responsibilities over aspects of the case. The post incident reviews concluded that the system had failed to assure: proper training and practices by licensed health professionals; reporting by professionals of infection control problems; appropriate regulatory oversight of licensed facilities regarding infection control practices; proper sharing of information and findings among State agencies; clear, consistent and timely public information; and, timely adjudication of actions by State agencies.

Various regulatory and procedural changes were made if they did not require new statutes. The most significant of these changes was a complete overhaul of the State Health Division's structure and procedures for licensing, certifying and regulating health care facilities. A new Bureau of Health Care Quality and Compliance (<http://health.nv.gov/HCQC.htm>) replaced the Bureau of Licensure and Certification. New Ambulatory Surgery Center regulations were adopted in the 2008. These regulations include a complete updating of infection control (including injection practice) requirements. The Division also changed its facility survey procedures. A licensed nurse has been assigned to accompany all facility inspection teams with the exclusive role of observing infection control practices and to provide any immediate on-site assistance if the practices were incorrect or failed to meet appropriate standards. While these State inspections (and facility licensure) are largely done for purposes of certifying facilities to treat Medicare and Medicaid patients, the Centers for Medicare and Medicaid Services did not have a priority regarding inspection of ambulatory settings. Most of these facilities were inspected no more frequently than once every 5-6 years. The State Health Division and the State Board of Medical Examiners adopted new procedures to assure information sharing.

Of course, the NSMA commitment to the national Safe Injection Practices campaign is also part of the response. Clearly, the health professional and health care facility "culture" failed to assure safe injection (and larger infection control) practices. The work of the Centers for Disease Control and Prevention and various national professional associations identifying the best practices has not to date resulted in sufficient behavioral adoption of these standards. Developing a voluntary national educational campaign approach should result in these changes over time. The Nevada State Medical Association (NSMA) committed to assisting in this to help other States and all professionals to learn from the Las Vegas experience. The support of U.S. Senate Majority Leader Harry Reid and Representative Shelley Berkley with the support of the rest of the Nevada Congressional delegation helped to launch the national voluntary effort. Their continued interest in assuring that the Las Vegas outbreak becomes a learning experience for policy-making at all levels of government should help to assure that national policy will be reconsidered.

It was also clear to the Legislative Committee on Health Care and to the NSMA that new statutes were needed either to fill gaps or to clarify expectations of various State agencies. The ten bills listed below sought to address the proactive regulatory issues to prevent transmission of bloodborne pathogens in health care settings as well as the coordination and response issues in the event that such transmission does occur. The NSMA supported all of this legislation and worked with the Assembly Committee on Health and Human Services Chaired by Assemblywoman Debbie Smith and the Senate Committee on Health and Education Chaired by Senator Valerie Wiener.

- (1) **AB10** (http://www.leg.state.nv.us/75th2009/Bills/AB/AB10_EN.pdf) "Makes various changes concerning certain health care professionals who report certain information to licensing boards or other governmental entities or who cooperate in investigations of certain health care professionals." *Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports in good faith information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports in good faith a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in good faith in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or*

*sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports in good faith certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. Sections 1, 3 and 5 also add a definition of "good faith." Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. Sections 2, 4 and 6 of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. Sections 2, 4 and 6 also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than \$10,000 for each such act of retaliation or discrimination. Existing law provides immunity from civil liability to physicians, homeopathic physicians and osteopathic physicians for providing certain information concerning an applicant for a license or a licensee in good faith to their licensing boards and others for the decisions or actions taken by them in good faith in response to information received by the board. Sections 4.3, 4.7 and 7 of this bill further prohibit the licensing board of a physician, homeopathic physician or osteopathic physician from taking any adverse action against a physician, homeopathic physician or osteopathic physician for disclosing a violation of any law, rule or regulation to a governmental entity or for cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation. (Assembly Health and Human Services and Senate Health and Education-Bill heard on 2-21-09. The bill was **Lost** on an "Amend and Do Pass" at a Work Session on 3-9-09 but that action was rescinded and "Amend and Do Pass" on 3-11-09. **Passed Assembly on 4-20-09.**/Senate Commerce and Labor-Bill heard on 5-13-09 and a work session on 5-15-08 when it received "Do Pass". **Passed Senate on 5-22-09./Governor approved on 5-29-09./Passed)***

- (2) **AB112** (http://www.leg.state.nv.us/75th2009/Bills/AB/AB112_EN.pdf)
"Establishes provisions relating to the coordinated response to public health emergencies and other health events." *This bill was proposed by the NSMA & requested by the Legislative Committee on Health Care. Existing law requires the Health Division and city, county and district boards of health to protect the public health of the residents of this State. Section 15.5 of this bill requires the Governor to determine whether a public health emergency or other health event exists that requires a coordinated response by an emergency team when there is an immediate threat to the health and safety of the public. Section 15.5 also prescribes the membership of such an emergency team. Section 15.7 of this bill prescribes the duties of the emergency team, including the investigation of the response of each state agency, division, board and other entity that is represented*

*on the emergency team and the coordination of the response to the public health emergency or other health event with those agencies, divisions, boards and other entities. Section 15.8 of this bill requires the chairman of the emergency team or his designee to provide information to the public and to certain persons regarding the progress of the work of the emergency team and to submit a report on the findings of the emergency team upon the resolution of the public health emergency or other health event. Section 15.9 of this bill requires the emergency team to make recommendations to the State Board of Health and local boards of health regarding regulations and policies concerning public health emergencies or other health events and to evaluate the response of each state agency, division, board and other entity represented on the emergency team. (Assembly Health and Human Services-Bill heard on 3-9-09 and a Work Session on 4-8-09 when it received "Amend and Do Pass As Amended". **Passed Assembly on 4-17-09./Senate Health and Education-Bill heard on 5-6-09 when it received "Do Pass". Passed Senate on 5-12-09./Governor approved on 5-18-09./Passed.)***

(3) **AB123** (http://www.leg.state.nv.us/75th2009/Bills/AB/AB123_EN.pdf) "Revises provisions governing certain offices of physicians and related facilities and surgical centers for ambulatory patients." *NRS 449.030 requires certain medical facilities, including hospitals, psychiatric hospitals, community triage centers and surgical centers for ambulatory patients, to be licensed by the Health Division. Sections 9-11 of this bill require offices of physicians and other facilities providing health care that are not licensed as a medical facility by the Health Division to obtain a permit from the Division before offering general anesthesia, conscious sedation or deep sedation and prescribe the procedure for obtaining such a permit. The office or facility must maintain current accreditation by a nationally recognized accrediting organization approved by the State Board of Health. Section 12 of this bill requires each surgical center for ambulatory patients to maintain current accreditation by a nationally recognized accrediting organization approved by the State Board of Health. Section 13 of this bill requires the Health Division to conduct annual and unannounced inspections of each office and facility, which holds a permit issued by the Health Division and each surgical center for ambulatory patients, which holds a license issued by the Health Division. Section 14 of this bill prescribes the sanctions, which the Health Division may impose for a violation of sections 3-15 of this bill by an office or facility or by a surgical center for ambulatory patients. Section 15 of this bill requires the State Board of Health to prescribe regulations to carry out the provisions of sections 3-15 of this bill, including fees for the issuance and renewal of permits. The regulations are subject to review by the Legislative Committee on Health Care. Section 8 of this bill provides that sections 3-15 of this bill do not apply to an office of a physician or other facility that is not licensed as a medical facility if the office or facility only administers medication to a patient to relieve the patient's anxiety or pain in certain circumstances. Existing law requires a physician licensed to practice medicine or osteopathic medicine to report the number and types of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the physician at his office or certain other facilities. Sections 20 and 23 of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to forward to the Health Division such reports. (EXEMPT. Assembly Health and Human Services and Senate Health and Education-Bill heard on 2-21-09 and a Work Session on 4-8-09 when it received "Amend and Do Pass As Amended". Assembly Ways and Means-Bill*

- heard on 4-22-09 and a work session on 4-27-09 when it received “Do Pass As Amended”. **Passed Assembly on 4-29-09.**/ Senate Health and Education-Bill heard on 5-11-09 and a work session on 5-14-09 when it received “Do Pass”. **Passed Senate on 5-18-09./Governor approved on 5-22-09./ Passed.)**
- (4) **AB125** (<http://www.leg.state.nv.us/75th2009/Bills/AB/AB125.pdf>) “Requires surgical centers for ambulatory patients to obtain certain national certification.” *This bill requires each surgical center for ambulatory patients to be accredited by a nationally recognized accrediting organization and requires the State Board of Health to adopt regulations to carry out the provisions of the section. If a surgical center for ambulatory patients fails to maintain current accreditation or if the accreditation is revoked or is otherwise no longer valid, the surgical center shall immediately cease to operate. It requires each surgical center issued a license by the Health Division before October 1, 2009, to obtain such accreditation on or before March 31, 2010. (Assembly Health and Human Services-Bill heard on 3-9-09./ **Died-14.3.1.**)*
- (5) **AB206** (http://www.leg.state.nv.us/75th2009/Bills/AB/AB206_EN.pdf) “Revises provisions relating to public health.” *NRS 439.800-439.890 requires medical facilities to report certain sentinel events to the Health Division. Section 2 of this bill requires medical facilities to prepare an annual summary of sentinel events and requires the Health Division to annually report to the State Board of Health concerning those summary reports. Section 3 of this bill authorizes the Health Division to, upon receipt of a report of a sentinel event by a medical facility, request additional information, conduct an audit or conduct an investigation of the facility. Section 9 of this bill authorizes the imposition of an administrative sanction to a medical facility that fails to submit a report of a sentinel event, does not have a patient safety plan or does not have a patient safety committee as required by law. Section 10 of this bill changes the authority to adopt regulations relating to reports of sentinel events from the Administrator of the Health Division to the State Board of Health. Existing law establishes the office of the State Health Officer and establishes county, district and city boards of health. Existing law further prescribes the duties and responsibilities of those health authorities, including the prevention and control of nuisances, regulation of sanitation, protection of the public health and investigation of certain communicable diseases. Sections 13-17 of this bill authorize health authorities to: (1) conduct investigations concerning infectious diseases or exposure to biological, radiological or chemical agents which significantly impair the health, safety or welfare of the public; (2) petition the court for a subpoena to compel the production of information relevant to those investigations; and (3) issue cease and desist orders against a provider of health care or medical facility subject to such an investigation. Section 21 of this bill provides that if the Health Division suspends the license of a medical facility or facility for the dependent, the Health Division may take control of certain medical records of the facility and requires the State Board of Health to adopt regulations to pay for the services of a contractor to oversee the seizure and control of such records. Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in an investigation or proceeding conducted by the*

*Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. Section 22 of this bill requires a medical facility to prepare and post a written notice for the employees of the medical facility and the nurses and nursing assistants who contract with the medical facility regarding these protections from retaliation and discrimination and the process for making a report. Section 23 of this bill amends existing provisions governing administrative sanctions against a medical facility or facility for the dependent which violates applicable laws and regulations by authorizing the Health Division to impose sanctions at a rate of not less than \$1,000 and not more than \$10,000 for each patient who was harmed or at risk of harm as a result of the violation. Existing law authorizes the Health Division to immediately suspend the license of a medical facility, facility for the dependent or other licensed facility if the public health, safety or welfare imperatively requires such suspension. Section 24 of this bill amends existing law to specifically reference summary suspensions issued pursuant to NRS 233B.127. Existing law requires the Health Division to provide a copy of the results of certain inspections of certain medical facilities to any person who requests a copy of the report. Section 25 of this bill requires the Health Division to complete a report of each investigation and to include in the report any recommendations of a health authority that also conducted an investigation of the facility. Section 26 of this bill amends the duties of the Director of the Office for Consumer Health Assistance to require the Director to provide assistance to consumers who wish to file a complaint against a health care facility or a health care professional. (Assembly Health and Human Services and Senate Health and Education-Bill heard on 2-21-09 and at a Work Session on 4-8-09 when it received "Amend and Do Pass As Amended". **Passed Assembly 4-17-09.**/Senate Health and Education-Bill heard on 5-11-09 and a work session on 5-14-09 when it received "Do Pass". **Passed Senate on 5-18-09./Governor approved on 5-22-09./ Passed**)*

- (6) **AB398** (<http://www.leg.state.nv.us/75th2009/Bills/AB/AB398.pdf>) "Limits disclosure of certain records of a health authority." *This bill prohibits the admission into evidence of certain documents and opinions of a health authority and its employees except in certain proceedings. This bill also prohibits a court from issuing a subpoena or order directing the disclosure of those documents and opinions except in certain proceedings. (Assembly Judiciary-Bill heard on 3-27-09./Died-14.3.1.)*
- (7) **SB70** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB70_R1.pdf) "Requires certain offices of physicians and related facilities to obtain a permit under certain circumstances and requires annual inspections of surgical centers for ambulatory patients." *Existing law requires certain medical facilities, including hospitals, psychiatric hospitals, community triage centers and surgical centers for ambulatory patients, to be licensed by the Health Division. Sections 9-11 of this bill require offices of physicians or other facilities providing health care that are not licensed as a medical facility by the Health Division to obtain a permit from the Division before offering to patients services of general anesthesia, conscious sedation or deep sedation and prescribe the procedure for obtaining such a permit. Section 12 of this bill requires the Health Division to conduct annual, unannounced inspections of those offices and facilities. Section 13 of this bill*

- prescribes the sanctions, which the Health Division may impose for a violation of sections 3-14 of this bill by an office or facility. Section 14 of this bill requires the State Board of Health to prescribe regulations to carry out the provisions of sections 3-14 of this bill, including the fees for the issuance and renewal of permits. The regulations adopted by the State Board are subject to review by the Legislative Committee on Health Care. Section 8 of this bill provides that sections 3-14 of this bill do not apply to an office of a physician or other facility that is not licensed as a medical facility if the office or facility only administers oral medications to a patient to relieve the patient's anxiety or pain in certain circumstances. Section 15 of this bill requires the Health Division to conduct annual, unannounced inspections of surgical centers for ambulatory patients. Existing law requires the holder of a license to practice medicine or osteopathic medicine to submit a report stating the number and types of surgeries requiring conscious sedation, deep sedation or general anesthesia performed by the holder of the license at his office or certain other facilities. Sections 20 and 23 of this bill require the Board of Medical Examiners and the State Board of Osteopathic Medicine to forward to the Health Division such reports. (EXEMPT. Assembly Health and Human Services and Senate Health and Education-Bill heard on 2-21-09 and at a work session on 3-23-09 when it received "Amend and Do Pass As Amended". Rereferred. Senate Finance-Bill heard on 4-27-09 and a work session on 4-29-09 when it received "Do Pass". **Passed Senate on 5-1-09.**/Assembly Health and Human Services-Bill heard on 5-11-09./**Died-14.3.3.) (See AB123)***
- (8) **SB76** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB76_EN.pdf) "Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies." *Existing law governs the administrative procedures of certain agencies of the Executive Department of State Government. An agency is authorized to summarily suspend a license issued by that agency if the agency finds that the public health, safety or welfare imperatively require such emergency action. This bill provides that an agency's order for the summary suspension of a license may be issued by the agency or by the Chairman of the governing body of the agency. This bill further provides that the Chairman of a governing body of an agency who issues an order of summary suspension must not participate in any further proceedings relating to that order. Finally, this bill requires the agency to complete its proceedings against the licensee within 45 days after the date of the order of summary suspension unless the licensee and the agency agree to a longer period. (Senate Government Affairs-Bill heard on 2-9-09. Discussed on 2-16-09 and received "Amend and Do Pass As Amended" on 2-23-09. **Passed Senate on 4-13-09.**/Assembly Government Affairs-Bill heard on 4-28-09 and a work session on 5-8-09 when it received "Do Pass". **Passed Assembly on 5-12-09./Governor approved on 5-22-09./ Passed**)*
- (9) **SB319** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB319_EN.pdf) "Revises provisions governing certain reports of sentinel events and related events." *Existing law (NRS 439.835) requires medical facilities to submit to the Health Division of the Department of Health and Human Services reports of sentinel events. Section 3 of this bill requires a medical facility, which reports a sentinel event to conduct an investigation into the cause of the event and to implement a plan to remedy the cause. Section 4 of this bill requires certain medical facilities to participate in the National Healthcare Safety Network, established by the Division of Healthcare Quality Promotion of the Centers for Disease Control and*

Prevention of the United States Department of Health and Human Services. Section 4 also requires the medical facilities to authorize the Health Division to access the information submitted as part of the Network and requires the Health Division to analyze the information. Existing law requires the Department to carry out programs to increase awareness of information concerning hospitals and surgical centers for ambulatory patients and to maintain an Internet website for information concerning hospitals and surgical centers. Sections 7 and 12 of this bill require the Health Division to prepare an annual summary of the reports of sentinel events and to provide that summary for inclusion on the Internet website. The Health Division is required to carry out provisions relating to the reports of sentinel events and, to the extent of legislative appropriation, contract with a quality improvement organization to analyze and report trends regarding sentinel events. Section 8 of this bill eliminates the requirement to contract with a quality improvement organization and requires the Health Division to carry out the duties previously assigned to the quality improvement organization. Sections 15, 18 and 19 of this bill require the Board of Medical Examiners, the State Board of Nursing and the State Board of Osteopathic Medicine to report to the Health Division any sentinel event identified by the board. Section 22 of this bill requires the Health Division to investigate options for creating a unique patient identification mechanism to allow a patient to be identified from one facility or provider to another without requiring the disclosure of the patient's social security number. Section 23 of this bill requires the Health Division to study the feasibility of tracking and reporting near-miss events as part of the reports of sentinel events and to define the term "near-miss event." (Senate Health and Education-Bill heard on 3-30-09 and a work session on 4-7-09 when it received "Amend and Do Pass As Amended". **Passed Senate on 4-20-09.**/Assembly Health and Human Services-Bill heard on 5-6-09 and a work session on 5-12-09 when it received "Do Pass". **Passed Assembly on 5-18-09.**/Governor vetoed on **5-26-09.** **Senate overrides veto on 5-31-09.** **Assembly overrides veto on 5-31-09.** **Passed**)

- (10) **SB362** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB362_EN.pdf) “Clarifies and revises provisions related to the suspension or revocation of professional licenses by health care professional licensing boards.” *Existing law (NRS 233B.127) allows any agency that grants licenses to summarily suspend a license if the agency finds that public health, safety or welfare imperatively require emergency action. Sections 3, 6 and 13 of this bill clarify that this general provision applies to the Board of Medical Examiners, the Board of Homeopathic Medical Examiners and the State Board of Osteopathic Medicine. Existing law provides that medical facilities, which engage in conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada may have their license to operate as a medical facility suspended or revoked. Sections 1, 4, 7, 10, 11, 14, 17, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42 and 44 of this bill authorize various boards which license health care professionals to suspend or revoke the licenses of persons who own or are otherwise responsible for the operation of medical facilities that are investigated or disciplined pursuant to that provision. Sections 2, 5, 8, 9, 12, 15, 16, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39, 41, 43 and 45 of this bill require various boards which license health care professionals to retain all complaints, whether acted upon or not, for 10 years.* (Senate Commerce and Labor-Bill heard on 3-30-09 and a work session on 4-10-09 when it received "Do Pass". **Passed Senate on 4-16-09.**/Assembly Commerce

and Labor-Bill heard on 5-4-09 and a work session on 5-15-09 when it received “Do Pass”. **Passed Assembly on 5-19-09./Governor approved on 5-26-09./ Passed)**

While several of the bills listed above address coordination issues among various agencies including State Professional Licensing Boards, a number of bills aimed at improving the performance of these boards (particularly the Nevada State Board of Medical Examiners and the Nevada State Board of Osteopathic Medicine) were undertaken with mixed results. Some important changes were made, but it is likely that there will be further structural and policy changes in the next Legislative Session in 2011. The seven bills that sought to improve the professional licensing boards are listed below.

- (1) **AB293** (http://www.leg.state.nv.us/75th2009/Bills/AB/AB293_R1.pdf) “Makes various changes concerning appointments by the Governor to certain offices within the Executive Branch of State Government.” *The Governor has the authority under existing law to appoint persons to offices and positions within the various departments, boards and commissions of the Executive Branch of State Government. Section 1 of this bill provides that certain appointments by the Governor must be confirmed or rejected by the Legislative Committee on Appointments within 60 days after the date of the appointment. Section 1 also provides that the appointment shall be deemed to have been confirmed if the Committee fails to reject the appointment within the 60-day period. Section 4 of this bill creates the Legislative Committee on Appointments, consisting of the Chair of the Senate Standing Committee on Legislative Operations and Elections and three members of the Senate and three members of the Assembly, appointed by the Legislative Commission. Section 6 of this bill requires the Committee to investigate and hold hearings to determine whether a person appointed by the Governor ought to be confirmed in that appointment. Section 6 also requires the Committee to limit the scope of its inquiries to the professional qualifications and experience of the appointee and his fitness to hold the office or position to which he has been appointed. Finally, section 6 authorizes the Committee to require the appointee to cooperate with the Committee and to provide evidence and testimony to enable the Committee to determine whether the appointee ought to be confirmed in his appointment.* (Assembly Elections, Procedures, Ethics, and Constitutional Amendments-Bill heard on 3-24-09 and in work session on 3-31-09 and work sessions on 4-7-09 and 4-9-09 when it received “Amend and Do Pass As Amended”. **Passed Assembly on 4-17-09./Senate Government Affairs-Bill** heard on 4-24-09 and a work session on 4-29-09 when it was rereferred. Senate Legislative Operations and Elections on 5-12-09 and a work session on 5-14-09 when a “Do Pass” motion failed./ **Died-14.3.3.**)
- (2) **AB519** (<http://www.leg.state.nv.us/75th2009/Bills/AB/AB519.pdf>) “Creates a statutory commission to review continuation of state agencies, boards and commissions and tax exemptions, abatements and earmarked revenue sources.” *This bill creates the Evaluation and Sunset Commission to evaluate, review and make recommendations concerning state agencies, boards and commissions and tax exemptions, abatements and earmarked revenue sources in order to determine whether a public need exists for the abolition, continuation or reorganization of the agency, board or commission and the appropriateness of continuing the exemption, abatement or earmark. Sections 2-4 of this bill establish the Commission and describe its membership. Sections 5 and 6 of this bill confer*

- powers and duties on the Commission, including the authority to conduct investigations and hold hearings. Section 7 of this bill provides criteria for the Commission to consider when conducting evaluations and reviews. (EXEMPT. Assembly Elections, Procedures, Ethics, and Constitutional Amendments-Bill heard on 4-7-09 when it was re-referred. Assembly Ways and Means-Bill heard on 5-15-09./Died)*
- (3) **AB525** (<http://www.leg.state.nv.us/75th2009/Bills/AB/AB525.pdf>) “Creates the Division of Medical Professional Boards of the Department of Health and Human Services.” *Existing law authorizes the Board of Medical Examiners to carry out the following administrative functions: (1) issue and renew licenses to practice medicine in this State; (2) collect fees for the issuance or renewal of a license; (3) investigate complaints concerning licensees; and (4) commence disciplinary proceedings for violations of chapter 630 of NRS. Existing law also authorizes the Board of Homeopathic Medical Examiners to carry out the following administrative functions: (1) issue and renew licenses to practice homeopathic medicine in this State; (2) collect fees for the issuance or renewal of a license; (3) investigate complaints concerning licensees; and (4) commence disciplinary proceedings for violations of chapter 630A of NRS. In addition, existing law authorizes the State Board of Osteopathic Medicine to carry out the following administrative functions: (1) issue and renew licenses to practice osteopathic medicine in this State; (2) collect fees for the issuance or renewal of a license; (3) investigate complaints concerning licensees; and (4) commence disciplinary proceedings for violations of chapter 633 of NRS. Sections 2-14 of this bill establish the Division of Medical Professional Boards of the Department of Health and Human Services and transfer the authority to carry out these administrative functions from the three boards to the new division. (Assembly Commerce and Labor on 3-24-09 when it was re-referred to Assembly Health and Human Services./Died-14.3.1.)*
- (4) **SB8** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB8_EN.pdf) “Makes various changes related to the process for appointment to certain medical boards.” *NRS 281A.500 requires all public officers to read and understand statutory ethical standards and to acknowledge such on a form prescribed by the Commission on Ethics. Sections 4, 7 and 10 of this bill clarify that these requirements apply to members of the Board of Medical Examiners, the Board of Homeopathic Medical Examiners and the State Board of Osteopathic Medicine. Sections 4, 7 and 10 also require that the Executive Director of the Board of Medical Examiners, the Secretary-Treasurer of the Board of Homeopathic Medical Examiners and the Executive Director of the State Board of Osteopathic Medicine retain copies of the acknowledgment required pursuant to NRS 281A.500. (Senate Commerce and Labor-Bill heard on 3-30-09 and a work session on 4-10-09 when it received “Amend and Do Pass As Amended”. Passed Senate on 4-20-09./Assembly Commerce and Labor-Bill heard on 5-4-09 and work session on 5-15-09. Passed Assembly on 5-19-09./Governor approved on 5-28-09./Passed)*
- (5) **SB268** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB268_EN.pdf) “Makes various changes to provisions governing occupational licensing boards” *Section 2 of this bill: (1) allows a regulatory body to share information with other regulatory bodies and the Health Division of the Department of Health and Human Services relating to public health concerns if the confidentiality of any shared information is maintained; and (2) allows a regulatory body and the Health Division to agree to conduct a joint investigation. Section 3 of this bill*

*establishes certain requirements for any member of a regulatory body who is not himself a licensee of that regulatory body. Section 4 of this bill exempts from protection under the Good Samaritan statutes any person who is performing community service as a result of disciplinary action by any regulatory body. (Senate Commerce and Labor-Bill heard on 4-10-09 when it received “Amend and Do Pass As Amended”. **Passed Senate on 4-20-09.**/ Assembly Commerce and Labor-Bill heard on 5-4-09 and a work session on 5-15-09 when it received “Do Pass”. **Passed Assembly on 5-19-09./Governor approved on 5-26-09./ Passed)***

- (6) **SB269** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB269_EN.pdf) “Makes various changes to provisions governing physicians and certain related professions.” *This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient’s cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85 of this bill amend various provisions of NRS to 8 ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400, 630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 1374.731, 432B.220) This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. Section 14 of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. Section 17 of this bill expands the definition of “practice of medicine” to include the performance of an autopsy. (NRS 630.020) Section 18 of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) Section 22 of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) Section 25 of this bill authorizes the Executive Director of the Board to sign subpoenas issued in connection with hearings and investigations conducted by the Board. (NRS 630.140) Sections 26-28, 30-32 and 35 of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) Sections 13.5 and 36-38 of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) Section 40 of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on*

*Accreditation for Respiratory Care. (NRS 630.277) Sections 41-45, 47-49, 53, 54, 57 and 58 of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 43 630.318, 630.326, 630.339, 630.342, 630.352, 630.356) Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. Section 66.1 includes the performance of an autopsy within the definition of the “practice of osteopathic medicine.” Sections 66.3, 66.5 and 66.7 authorize the issuance of certain categories of licenses by the Board, including a special volunteer license to practice osteopathic medicine to an osteopathic physician who participates in disaster relief operations and an authorized facility license. Section 67 adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is violating the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. Section 68 also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. Sections 69-78 make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691) Section 78.1 of this bill defines “national examination” to mean the Examination for Professional Practice in Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board of Psychological Examiners. Section 78.3 of this bill revises the requirements for an application for a license to practice psychology in this State to add the submission of a complete set of fingerprints and written permission authorizing the Board of Psychological Examiners to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or verification that the set of fingerprints was directly forwarded to the Central Repository by the entity taking the prints. Existing law provides that the Board of Psychological Examiners may require an applicant for a license to pass an oral examination in whatever applied or 74 theoretical fields it deems appropriate, in addition to a written examination. Section 78.4 of this bill eliminates: (1) the requirement that the additional examination be conducted orally; (2) the provisions relating to the frequency, time, location and supervision of the examination; (3) the requirement that the Board supply each applicant with a copy of the results of his written examination provided to the Board by the Association; and (4) the right of the applicant to request that the Board review his examination if he fails the examination. (Senate Commerce and Labor-Bill heard on 3-30-09 and in work session on 4-10-09 when it received “Amend and Do Pass As Amended”. **Passed Senate on 4-21-09.**/Assembly Commerce and Labor-Bill heard on 5-4-09 and a work session on 5-15-09 when it received “Amend and Do Pass As Amended”. **Passed Assembly on 5-22-09.**/Conference Committee met on 5-30-09. **Senate adopts conference report on 6-1-09. Assembly adopts conference report on 6-1-09/Governor approved on 6-9-09./Passed**)*

(7) **SB364** (http://www.leg.state.nv.us/75th2009/Bills/SB/SB364_R1.pdf) “Revises provisions relating to professional licensing boards and professional licenses.” *Section 1 of this bill authorizes regulatory bodies, as defined in NRS 622.060, to*

*employ or retain attorneys other than the Attorney General under certain circumstances. Sections 2 and 15 of this bill revise other provisions to comport with this authorization. Section 4 of this bill defines the term “board which regulates a health care profession.” Section 5 of this bill provides additional authority to such boards, which regulate health care professions, including the authority to: (1) investigate occurrences of unlawful activity; (2) refer occurrences of such unlawful activity to the Attorney General or a district attorney to prosecute and to obtain an injunction, as applicable; and (3) impose additional administrative fines upon persons engaging in such unlawful activity under certain circumstances. Section 7 of this bill revises other provisions to account for the new definition. Sections 8, 12, 16 and 18 of this bill provide similar alternative paths for licensure in this State, under certain circumstances, for physicians, osteopathic physicians, psychologists and various social workers who are licensed in other jurisdictions. Section 17 of this bill revises other provisions to account for this alternative path for licensure for psychologists. Section 9 of this bill authorizes the Board of Medical Examiners to approve an application for a license under certain circumstances if the applicant has applied for and is awaiting a decision regarding a J-1 visa waiver. Sections 10 and 13 of this bill provide for limited and special licenses, respectively, for physicians and osteopathic physicians who have completed residency programs under certain circumstances. Sections 11 and 14 of this bill authorize the supervision of a physician assistant by a physician or osteopathic physician, respectively, using telecommunication and remote file review. (Senate Commerce and Labor-Bill heard on 4-8-09 and a work session on 4-10-09 when it received “Amend and Do Pass As Amended”. **Passed Senate on 4-21-09.**/Assembly Commerce and Labor-Bill heard on 5-6-09./**Died-14.3.3.**)*

This summary of comprehensive legislation passed in Nevada to address the issues raised by the 2008 Las Vegas hepatitis C outbreak indicates that every jurisdiction may benefit from reviewing its institutions and systems for licensing and monitoring infection control practices in all health care settings and by all health care professionals. Additional areas that the Nevada State Medical Association is pursuing is to identify federal policies which could be improved or developed to assure national standards are directed to assure patient safety. I hope this has been useful.