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Nevada Dental Association: End of Session Report

80th Session of the Nevada Legislature

February – June 2019

OVERVIEW

This report contains an overview of the bills in which Ferrari Public Affairs (FPA) engaged and monitored on behalf of the Nevada Dental Association (NDA) during the 2019 Nevada Legislative Session.

This was one of the most tumultuous sessions for dentistry to date, as members faced a bill proposing to allow unrestricted dental therapy practices, and self-regulation by hygienists in SB366.

While SB366 dominated the bulk of the work this session, your lobbying team remained committed to advocating for the membership on many other bills. **Key wins for NDA this year include:**

- (1) successful passage of a limited adult Medicaid dental benefit for diabetes patients;
- (2) exempting dental hygienists and assistants in your practices from additional fees and licensure under legislation put forward by the Division of Public and Behavioral Health Radiation Control Division;
- (3) clean up to the 2017 controlled substances prescribing bill that will help protect dentists;
- (4) expansion of protections against silent PPOs and rental networks (third party sale of insurance fee agreements); and
- (5) continued funding for the Adopt-A-Vet program for an additional two years.

Additionally, alliances were forged with provider groups including the Nevada State Medical Association, Nevada Chiropractic Association and others on several of these bills.

This report highlights key legislation that will have the most significant impact on NDA members. We tracked over 120 bills for NDA this session, and approximately 56 of them were approved. A complete bill tracking list of the approved measures, with effective dates, is attached to this report.

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PART I: DENTAL THERAPY

[Senate Bill 366](#), sponsored by Senator Julia Ratti, defining a Dental Therapist and the practice of dental therapy, consumed the bulk of the NDA's Legislative Session. The NDA and its combined team were able to pare the bill down significantly from its initial introduction.

The bill as signed incorporates the following:

- Creates the Dental Therapist (DT) and defines the practice of Dental Therapy in Nevada statute;
- Requires a DT to enter into a collaborative practice agreement with a licensed dentist. This is the most critical aspect of the bill. A DT may not practice in Nevada without this collaborative practice agreement. All duties and procedures the DT may perform are determined by this agreement with the licensed dentist, which must include a plan for referring the patient to emergency care or to other providers as needed;
- Allows a dentist to only oversee up to 4 full-time or full-time equivalent Dental Therapists at a time;
- Requires the dentist to review DT charts every 30 days;
- Requires that the supervising dentist must hold an active Nevada license, and a Nevada office where they see patients;
- Requires disclosure to the patient that they are being seen by a DT and not by a dentist;
- Limits the practice areas for DT's to hospitals, federally qualified health centers, underserved areas, FQHC's, tribal areas, schools, or practices where 50% or more of the patient base meet certain federal program qualifications;
- Requires all DT's to graduate from a CODA certified program and to have 500-1500 hours of clinical experience with direct supervision by a dentist (depending on experience); and
- Establishes continuing education requirements for DT's – 18 hours annually or 40 hours biannually.

As introduced, SB366 would have created a new board of dental hygiene and removed dental hygienist licensure from the Nevada State Board of Dental Examiners. Additionally, while the bill followed national Committee on Dental Accreditation (CODA) standards for Dental Therapists, it would have allowed some additional procedures, encroaching the current statutory definition of dentistry (which was put in place by the NDA in 2013). Many of these initial objectives were removed or pared back significantly.

The NDA negotiated extensively with Assistant Majority Leader Ratti and the Nevada Dental Hygiene Association and was able to incorporate all changes requested by membership with the exception of a sunset of the bill. Additional resources were added to the NDA team through the ADA in the form of public relations, additional lobbying support, and grassroots efforts. A special thank you to the Senate Republican Caucus who were very helpful in negotiating geographical restrictions for DT practice.

The bill passed out of the Senate on a 17-4 vote (Senators Ohrenschall, Hammond, Kieckhefer and Settlemeyer in opposition) and out of the Assembly on a 31-10 vote (Democrats Asssefa, Backus, Flores, Fumo, Gorelow, McCurdy, Miller, Munk and Torres, as well as Republican Krasner voting against the measure.)

SB366 was signed by the Governor on June 8, 2019. It became effective on that date for the purpose of adopting regulations to implement the bill; the full bill will be effective on January 1, 2020.

PART II: BUDGET FOR THE STATE DENTAL DIRECTOR AND HYGIENIST

In 2015, the Nevada Legislature voted to fund the positions of the Nevada State Dental Director and State Dental Hygienist. The Division of Public and Behavioral Health oversees the funding for both of these positions. Although the State had originally proposed using General Fund dollars for this purpose, Governor Sandoval's proposed 2015-2017 budget recommended the use of Radiation Control licensing fees.

Though the 2015 Legislature had concerns about this as a sustainable funding source, they ultimately approved the use of the Radiation Control fees to fund the salaries for the State Dental Officer and Hygienist. At that time, the State was supposed to look at alternate ways to fund these positions, perhaps through cost allocation to other departments in DHHS (e.g. Medicaid), to split the funding up among departments.

In the 2019 Legislature, during the Division of Public and Behavioral Health's budget hearings, the budget committee members heard evidence that the Radiation Control Division's reserves are decreasing, and licensing inspections are backlogged. The State also attributed the depletion of the reserves to the use of these dollars to fund the State Dental Officer. To date, DPBH has not found an alternate funding source for the State Dental Officer or Hygienist. DPBH represented that they will continue to seek grants and partnerships to fund this position.

Ultimately, the budget committees voted to continue to use the Radiation Control fees to fund the State Dental Officer and State Hygienist for the first fiscal year of the biennium (FY19-20), and issued a letter of intent indicating that the State should not continue to use these fees to fund the position in FY2021.

NDA submitted comments to the budget committee in support of finding a sustainable way to fund these positions. The Division of Public and Behavioral Health has told NDA that they intend to fund the positions in FY2021, perhaps through cost allocation to Medicaid.

PART III. BILLS PASSED AND SIGNED INTO LAW

Below is a summary of legislation we worked on and monitored during the 2019 legislative session. Rather than incorporating all of the bills we worked on for NDA, we have chosen to summarize the bills that have the highest potential to impact dental practices. A final bill list of all the successful bills tracked on NDA's behalf accompanies this report.

A. Expansion of protection against silent PPO's/Rental Networks

[Senate Bill 365](#) (Dondero- Loop): *Revises provisions relating to health insurance.*

SB365 addresses notification to providers when their services are re-sold (Silent PPOs/Rental Networks) through a provider's existing insurance contracts offering discounted rates. You may recall that the NDA, working with Senator Debbie Smith, passed [SB341](#), a very strong bill on this topic the 2015 Session. SB365 is an additional layer of protection to SB341, and addresses additional chapters offering plans of dental insurance by making it an unfair trade practice to knowingly sell a providers' services or discounted contractual arrangement. It establishes communication protocols for the insurer and requires the insurer to host a website and a 1-800 number for provider information; the website must be updated every 90 days. There were last minute attempts by insurance giant United Health to prevent dentists from being included in this bill; Delta Dental was supportive of NDA efforts.

SB365 was signed by the Governor on June 1, 2019. It became effective on that date for the purpose of adopting regulations to implement the bill; the full bill will be effective on January 1, 2020.

B. Adopt-A-Vet Appropriation

[Assembly Bill 487](#) (Assembly Ways & Means Committee): *Makes an appropriation to the Department of Veterans Services to provide financial assistance and support for the Adopt a Vet Dental Program.*

AB487 makes a \$500,000 appropriation to the Adopt-A-Vet Program in the next biennium - \$250,000 dollars for each fiscal year.

Adopt-A-Vet Director Linda Haigh [delivered this testimony](#) to the Assembly Ways and Means Committee, while a video of the veterans served, and the dentists volunteering their time, played continuously in the background. NDA testified in support of this measure, and highlighted the work our members give every day to the program. We referenced the Ferrin Dental Clinic at UNLV School of Dentistry in our testimony, and the fact that the Clinic was founded by a dental student in honor of his brother who had been killed while serving in Iraq. We also mentioned the desire to work with Adopt-a-Vet and future legislatures to bring more services to veterans, particularly in Southern Nevada. The bill hearing was particularly poignant as it was heard for the first time on Memorial Day. Senator Joe Hardy and Assemblywoman Jill Tolles came to testify in favor of the bill of their own volition, as did lobbyist Lea Cartwright, in her personal capacity. Lea's family friend was helped through the program by Carson City dentist Dr. Wright. Another veteran served through the program, Doris Howard, filed written testimony thanking the wonderful dentist who had helped her through Adopt-a-Vet and urging support for the measure.

AB487 passed through both the Assembly and Senate with unanimous votes. The Governor signed AB487 on June 7, 2019, and the bill will be effective on July 1, 2019.

C. Opioid/Controlled Substances and Electronic Prescribing

[Assembly Bill 239](#) (Assembly Health & Human Services Committee): *Revises provisions relating to controlled substances.*

AB239 was the consensus measure worked on by state licensing boards, provider organizations and officials from the State Division of Public and Behavioral Health and proposed as a clean-up measure to Governor Sandoval's Assembly Bill 474 of the 2017 session. The measure was the product of months of work, and was broadly supported by a number of provider representatives.

AB239 makes some key changes to last session's legislation on prescribing protocols and disciplinary structure, while preserving a large part of the earlier bill's structure and intent.

Section 11 of the bill is the most important section for dentists – please review this section, at page 17 of the bill – very carefully. Pursuant to AB474, as part of their evaluation and risk assessment prior to issuing an initial prescription, providers were required to obtain a patient's medical history, do a physical examination and to "review and obtain" medical records from any other health care provider. This section was unintentionally broad.

Section 11, subsections (a) and (b) state that:

- Medical history of the patient should be relevant;
- Physical examination of the patient should be "directed to the source of the patient's pain and within the scope of practice of the practitioner"

Section 11(c) makes a critical change for dental practices, by tying any review and retrieval of medical records to prescriptions OVER 30 days – relieving dentists of this requirement. For those prescriptions (30 days and over), the provider must only obtain "relevant" medical records for the prescription you are writing. Efforts to obtain the medical records must be documented in the patient's medical record. **With this change, dentists will NOT need to review or retrieve records if you are prescribing under 30 days.**

Here is a summary of the most significant changes, including repeal of the requirement that informed consent must be written. Please review these sections carefully. As you will see in Sections 1-6 below, the Nevada State Dental Board is also required under this bill to disseminate information on compliance with these changes.

Sections 1-6: These sections change what a provider must do to demonstrate compliance with the law if contacted on a complaint/investigation. Prior law required that a provider must review their files and then attest that they complied with the law. AB239 deletes the attestation requirement; you must still review your files but do not need to file an attestation. These sections also require each licensing board to develop and then disseminate to their licensees educational information and guidance on how to comply with the controlled substance legislation. This is intended to ensure that the licensing boards take a proactive approach and are standardizing messaging about the changes to the law.

Section 7.3 defined “course of treatment” and codifies a 2018 Board of Pharmacy proposed regulation. The effect of this definition is to allow providers to adjust medication without triggering the requirements for an initial prescription should the medication be substituted or changed. AB474 of 2017 had defined “initial prescription” as a prescription originated for a new patient of a practitioner, other than a veterinarian, or a new prescription to begin a new course of treatment for an existing patient of a practitioner, other than a veterinarian (See, NRS 639.0082.)

Section 7.6 and Section 9: Section 7.6 provides for exemptions from the quantity limitations (90 mme) and duration (less than 14 days) of an initial prescription for patients with cancer or sickle cell anemia or any of its variants or in hospice or palliative care, along with the rest of the requirements for an initial prescription set forth in NRS 639.2391 to NRS 639.23914. However, for these patients, the providers must follow all other Board of Pharmacy regulations and must have established a bona fide patient relationship (which is itself a requirement of federal law and requires a face-to-face meeting with intent to treat – though the face-to-face meeting may be via telemedicine.) The prescriber must also follow existing CMS (for hospice and palliative care), American Society of Clinical Oncology or National Heart, Lung and Blood Institute guidelines for obtaining informed consent. Section 9 of the bill provides that a provider may skip obtaining a PMP patient utilization report before prescribing a controlled substance Schedule II-IV, or Schedule V opioid drug, if obtaining the report will result in unreasonable delay of care, but the provider must run the report as soon as possible thereafter.

Section 10: Defines acute care, and thereby codifies into statute an existing Board of Pharmacy regulation. Acute care means pain that is a result of “an abrupt onset and is caused by injury or another cause that is not ongoing. The term does not include chronic pain or pain that is being treated as part of care for cancer, palliative care, hospice care or other end-of-life care.”

Section 10.5: removes the requirement that informed written consent, previously required for all initial prescriptions, including new courses of treatment, be written. This will allow increased flexibility in group practices, where informed consents can be kept on file, or when a provider may be covering for another provider. However, in Section 11, subsection 3 of this bill, a provider must still review the subjects previously required to be in the informed written consent with the patient and document this in the medical record – if the patient does sign a written consent, it must be added to the patient’s medical record.

Section 12: was added at the request of the Board of Pharmacy. It requires electronic health records vendors to adapt their systems to allow integration with the Prescription Monitoring Program, should the Board of Pharmacy allow for the possibility of integration.

Section 14: This section repeals Section 57 of Assembly Bill 474 which had required a lengthy risk assessment for prescriptions for all controlled substances, though the bulk of the other requirements for prescriptions in AB474 were limited to Schedule II-IV controlled substances. Providers must still do a risk assessment for these prescriptions, but the 2-page list of factors in Section 57 has been repealed.

Assembly Bill 239 passed through both the Assembly and Senate with unanimous votes and was signed by the Governor on June 3, 2019. The bill became effective on that date.

Assembly Bill 310 (Speaker Frierson): *Revises provisions regarding the manner in which prescriptions are given to pharmacies.*

This bill mandates that all prescriptions for controlled substances will have to be prescribed electronically by January 1, 2021, with exceptions for certain circumstances. Speaker Frierson brought this bill at the behest of the Retail Association of Nevada and their chain pharmacy members, as well as SureScripts, the vendor for the electronic prescribing system.

The NDA and its provider partners were able to get some very important amendments to this bill.

Section 7 mandates electronic prescribing, but sets forth both exemptions and authority for waivers from the requirement. The following are grounds for exemption:

- When a prescription is issued under circumstances prescribed by regulation of the Board where: (1) Electronic transmission is unavailable due to technologic or electronic failure; or (2) the drug will be dispensed at an out-of-state pharmacy;
- When the prescription is issued by a practitioner who will also dispense the drug;
- When a prescription includes, without limitation, information that is not supported by the program for electronically transmitting prescriptions prescribed by the National Council for Prescription Drug Programs or its successor organization;
- If it is for a prescription that cannot be electronically prescribed as prohibited by federal law;
- If a prescription is not issued for a specific patient;
- If it is a prescription issued pursuant to a protocol for research;
- If it is issued by a practitioner who has received a waiver from the Board (see below); or
- If the prescription is issued under circumstances in which the practitioner determines that:(1) the patient is unable to obtain the drug in a timely manner if the prescription is given by electronic transmission; and (2) delay will adversely affect the patient's medical condition.

Section 7, subsection 2 of the bill allows the Board of Pharmacy to grant waivers from the mandate to practitioners in one-year increments, for either technological factors not in control of the practitioner (e.g., rural broadband access), economic hardship or other "exceptional circumstances" – likely to be fleshed out in regulation. Section 7, subsection 3 of the bill preserves the practitioner's right to use a fax, written or phoned-in prescription. Section 7, subsection 4 states that nothing in the bill should be construed to force the pharmacist to verify that any other form of prescription (written etc.) is done pursuant to an exemption or waiver – in other words, they won't be policing this mandate.

Similar legislation has passed in other states, most notably in New York and in Arizona. Dr. Talley reached out to the Executive Directors of the Dental Associations in those states to gather information on the impact to dentists; in New York, the law mandates electronic prescribing for all prescriptions, while in Arizona, the state Board of Pharmacy was inundated with waiver requests.

When this bill came out, NDA worked with the Nevada State Medical Association and the NV Orthopedic Society to secure amendments aimed at helping providers comply with the law and to safeguard patient access to medication. The amendments we were able to make to bill include:

- Limiting the scope of the bill to controlled substances only. At various points in the session, the bill sponsors **wanted to broaden the bill to include all prescriptions** – which would have included commonly prescribed medication by dentists, such as antibiotics;
- Delaying implementation from January 1, 2020 to January 1, 2021; this will align with a federal requirement in Medicare mandating e-prescribing for controlled substances;
- Strengthening the language requiring the Board of Pharmacy will promulgate regulations on the waiver and exceptions to the bill, including the method by which a provider may seek a waiver from the requirements or by which a patient or provider may request that a prescription be forwarded to a different pharmacy.

Though we secured amendments to the bill, NDA testified in neutral, not in support of the measure; in our testimony we put the member survey results on the record that a majority of our members are not using e-prescribing today and that it would be an economic hardship to dental practices to implement – one NDA will continue to monitor as we near the 2021 implementation date.

AB310 was signed by the Governor on June 5, 2019 and became effective on that date only for the purposes of promulgating regulations to prepare for implementation; the bill will not otherwise be effective until January 1, 2021.

D. Relief from Commerce Tax Filing for Revenue under \$4 million

Senate Bill 497 (Senate Finance Committee, on Behalf of the Department of Taxation): *Eliminates certain filing requirements related to the commerce tax.*

SB497 did not get a lot of fanfare, but will eliminate filing requirements for small businesses. Brought by the Department of Taxation, SB497 eliminates the requirement for businesses with less than \$4 million dollars of Nevada gross revenue to file the informational commerce tax return with the State.

SB497 was signed by the Governor on June 3, 2019 and it became effective on that date.

E. Radiation Technician Licensing – Dental Practices Exempted

Senate Bill 130 (Woodhouse and Goicoechea): *Provides for the licensing and regulation of certain persons who administer radiation.*

As originally proposed, this bill would have required that dental hygienists and assistants be separately licensed by the Nevada Division of Public and Behavioral Health for the use of radiation-emitting equipment in

dental practice. The bill actually applied broadly to health care personnel, though dentists and physicians were always exempted from the bill.

NDA sought an amendment to the bill to exempt dental hygienists and assistants, arguing that both are already subject to licensure and radiation safety oversight by the Nevada State Board of Dental Examiners (NSBDE) – the hygienists through continuing education requirements for initial licensure and renewal, and dental assistants through training as reported to the NSBDE by the dentist. We verified the argument with the Board and proposed the amendment jointly with the Nevada Dental Hygienist Association before the Senate Finance Committee, after securing the agreement to the amendment from Senator Woodhouse and the bill sponsors. The amendment exempting dental office personnel from the bill was adopted unanimously by the Senate Finance Committee, and the amendment adopted to the bill in the Senate. Because of this work, dental practices will not be subject to additional fees and oversight by another state agency.

SB130, as amended, passed through both the Senate and Assembly via unanimous votes. SB130 was signed by the Governor on June 6, 2019, and became effective that day to begin the work of implementing the bill, while the rest of the bill is effective on January 1, 2020.

F. Medicaid: Adult Dental Benefit for Diabetes Patients

Assembly Bill 223 (Neal): *Requires the Department of Health and Human Services to seek a federal waiver to allow certain dental care for persons with diabetes to be included in the State Plan for Medicaid.*

Assemblywoman Dina Neal worked with State Dental Officer Dr. Antonina Capurro on this measure, which will permit Nevada Medicaid to pursue a federal waiver to add adult dental and periodontal services to the State plan for Medicaid patients aged 221 or over with diabetes.

Section 1, subsection 1 contains the authorized services intended to be included in the waiver.

- The services must consist of an initial oral evaluation.
- If that evaluation determines, in accordance with the criteria for periodontal disease prescribed by the American Academy of Periodontology or its successor organization, that the person **does not have periodontal disease, services may include:** (1) Dental prophylaxis for adults, an oral evaluation, the tracking and monitoring of glycosylated hemoglobin *and notification of the person and his or her primary care provider, if any, concerning abnormal results once every 180 days*; (2) A comprehensive periodontal evaluation annually; and (3) Filling of cavities, as necessary.
- If the person **does have periodontal disease, services may also include:** (1) Up to four quadrants of periodontal scaling and root planing every 36 months or, if periodontal scaling and root planing are determined to be unnecessary in accordance with the guidelines prescribed by the American Dental Association or its successor organization, dental prophylaxis for adults every 180 days; (2) One periodontal maintenance procedure every 91 days; (3) *Tracking and monitoring of glycosylated hemoglobin and notification of the person and his or her primary care provider, if any, concerning abnormal results every 90 days*; and (4) filling of cavities, as necessary.

NDA worked to support this measure, by testifying before both the Assembly Health and Ways and Means Committees, and working with Dr. Capurro on an amendment in the Assembly to address some concerns from the Nevada State Medical Association that the bill would permit dentists to do diabetes case management. This was certainly not the intent, and we were able to assist in an amendment that was offered in the first hearing on the bill – requiring the dentist to share any abnormal test results with both the patient and their primary care doctor, if applicable, every 180 or 90 days depending on whether the patient has periodontal disease. With the amendment, the Nevada State Medical Association switched their opposition to support. Though the bill originally had a \$14 million appropriation for services, the appropriation was removed from the bill in the Assembly Ways and Means committee at the end of the Legislative Session. Medicaid removed their fiscal note on the bill, and testified that they believe the measure could end up fitting into budget neutrality, as an investment in preventive care. In Section 6, subsection 2 of the bill, Medicaid will have to report to the Legislature by January 1, 2021 on the status of the waiver and the issue of budget neutrality.

AB223 passed through both the Senate and Assembly via unanimous votes, and was signed by the Governor on June 5, 2019. The bill will be effective on July 1, 2019.

G. Employer-Employee Issues/Human Resources

Assembly Bill 181 (Assefa): *Revises provisions governing employment attendance practices.*

AB181 specifically prohibits an employer from requiring an employee to be physically present at their place of work in order to notify their employer of their illness or injury preventing them from working. However, the employer may still require employee to notify them of their illness and inability to report to work; however, the method of notification cannot include the physical appearance of the employee at their workplace. This prohibition will be enforceable by the Labor Commissioner, and is intended to be a separate provision from state worker's compensation law. The Labor Commissioner may impose a fine of no more than \$5,000 and may recover any costs related to the proceedings of such violations, including investigative costs and attorney's fees, and the employer, or any agent of the employer who requires an employee to report to work, may be subject to a misdemeanor.

Assemblyman Assefa brought this bill in the memory of a young man in his district who passed away in a car accident, after his employer required him to report into work to prove he was seriously ill. The bill was supported in its first hearing by community members who knew the deceased, and also by the business community, including the Reno and Las Vegas Metro Chambers of Commerce, the Nevada Resort Association (representing the large casino and resort properties on the Las Vegas Strip and others), labor unions and progressive activists. There was very little opposition to this measure.

AB181 passed through both the Assembly and the Senate with unanimous votes. The Governor signed AB181 on May 15, and the bill became effective on that date.

[Senate Bill 166](#) (Spearman): *Revises provisions relating to employment.*

Senate Bill 166 was intended to strengthen Nevada's law on employment discrimination based upon sex. The bill was modeled after certain elements in the federal Lily Ledbetter Pay Act and makes several changes to Nevada employment law, as follows:

- *Potential civil penalties:* The bill expands the powers of the Nevada Equal Rights Commission ("NERC") to levy penalties on employers by creating a tiered system of civil penalties, rather than a flat civil penalty for a violation. The penalties will progressively increase if an employer with 50 or more employees is found to have multiple instances of pay discrimination within a 5-year period. During the course of the negotiations, the amount of penalties were decreased; as originally proposed, civil penalties would have ranged from \$10,000 to \$25,000 depending on the number of incidents to \$5,000 to \$15,000. See, Section 3, subsection 3(b). Additionally, the original bill language would have applied to employers with 30 or fewer employees; the business community was able to advocate for protections for employers up to 50 employees in the final version.
- *Damages:* As noted below, the original bill language would have allowed an award of up to two years of back pay as compensatory damages upon a finding of unlawful pay discrimination. As amended, in Section 3, NERC has discretion over the monetary award for lost wages that would have been earned in the absence of discrimination or other economic damages resulting from the discrimination, including, without limitation, lost payment for overtime, shift differential, cost of living adjustments, merit increases or promotions, or other fringe benefits.
- *Opportunity to correct:* There will be a process in place before the Nevada Equal Rights Commission for employers facing multiple allegations of pay discrimination to be presented with the allegations and evidence against them, giving them the option to settle and to take any corrective action before any civil fines are imposed; and
- *No attorney's fees/costs in final version:* The bill was amended to remove language in the original bill that allowed for the pursuit of attorney fees and associated costs.

This measure garnered broad support from progressive activists, as well as significant opposition from the business community. The Reno-Sparks and Las Vegas Metro Chambers of Commerce testified in opposition of the bill and many other organizations followed suit.

The Las Vegas Metro Chamber of Commerce led the negotiations on this measure and they were able to secure some key concessions, including removing language which would have allowed a court to award punitive damages on top of the civil penalties capable of being imposed by NERC, with a showing of willfulness or actual malice. The original bill would have made much broader changes, including broadening the standing (i.e. who can sue) to bring suit for unlawful employment discrimination to *applicants* for employment, been able to award up to two years of backpay as damages, as well as prohibiting bona fide occupational classifications based solely on gender. These sections were amended out of the bill, but the prohibition on job classification based solely on gender is part of federal law.

NERC testified in the budget committees that they currently have a backlog of cases, but were not certain how many cases passage of this bill would possibly generate.

SB166 passed the Nevada Senate on a vote of 20-1 (Senator Hansen opposing) and the Nevada Assembly with a vote of 38-3 (Republican Assemblymen Edward and Ellison and Wheeler voting against the measure.) The Governor signed SB166 on June 12, 2019, and the bill is effective on that date for the purposes of preparing for implementation through policies and regulations and on January 1, 2020 for all other purposes.

Senate Bill 312 (Woodhouse, et al.): *Requires an employer in private employment to provide paid leave to employees under certain circumstances.*

SB312 establishes paid leave requirements for private employers. It was one of the most heavily lobbied bills of the session. As introduced, the bill would have required all private employers with **25 or more employees to provide sick leave at a rate of 1 hour for every 30 hours worked**. It allowed employers to limit the use of paid sick leave to 24 hours per year and to limit the accrual of paid sick leave to a maximum of 48 hours per year. The business community voiced concerns about the rate of accrual, the date by which employees could use the leave, the number of employees that triggered compliance, record keeping (originally 3 years), and if the law would apply to temporary/seasonal employees.

As amended, SB312 requires an **employer who has 50 or more employees in Nevada to provide employees 0.01923 hours of paid leave for each hour worked**. The employer is required to allow the employee to sue the leave beginning on the 90th calendar day of employment. The employer must also allow the employee use the paid leave without providing a reason.

It is important to note that this may not impact the bulk of dental practices in the State, given that **it only applies to businesses with more than 50 employees**. However, we include it here because it was a major piece of legislation for the Democratic leadership in the 2019 session.

The bill in its final form provides that an employee may use accrued paid sick leave:

- For obtaining health care for himself or herself or for his or her family;
- To obtain counseling, assistance or to attend a court proceeding related to domestic violence, sexual assault, stalking or harassment; or
- If the business of the employer or the school which a member of the employee's family or household attends closes as a result of a public health concern.

The bill allows an employer to limit the use of paid sick leave to 40 hours per year and limit the accrual of paid sick leave to a maximum of 48 hours per year.

The bill requires employers to maintain a record of the receipt or accrual and use of paid leave for a 1-year period and, upon request, shall make those records available for inspection by the Labor Commissioner.

Finally, the bill provides an exemption for employers who, pursuant to a contract, policy, collective bargaining agreement provide at least an equivalent amount of paid leave or paid time off that may be used for the same purposes and under the same circumstances. Temporary, seasonal and on-call employees are also exempt.

Governor Sisolak signed SB312 on June 12, 2019. It is effective immediately for the purposes of adopting regulations and on January 1, 2020 for all other purposes.

H. Licensing Board Bills

Assembly Bill 319 (Tolles): *Revises provisions governing professional licensing.*

AB319 is an omnibus bill (topping off at 90+ pages) requiring professional and occupational licensing boards in the state to develop a process by which a person may petition a Board to find out if their criminal history would disqualify them from licensure. Such a petition can be filed at any time, even before the person undertakes a training or degree program which would require licensure. The bill is based on model legislation from Texas and from the Institute for Justice, aimed to reduce barriers to licensure, and to help address recidivism and promote rehabilitation. In 2018, seven other states passed similar legislation (Arizona, Indiana, Kansas, Nebraska, New Hampshire, Tennessee, and Wisconsin.)

Assemblywoman Tolles sponsored this bill after working with other state legislators on the Occupational Licensing Policy and Practice Learning Consortium, jointly sponsored by the National Council of State Legislatures, Council for State Governments and National Governors Association. In testimony supporting the bill, Tolles noted that Nevada faces negative statistics regarding occupational and professional licensing. In Nevada, a third of Nevadans have a criminal history and 30 percent of the workforce is licensed through occupational licensing boards. She also cited national statistics from the Institute for Justice stating that employment barriers faced by people with past convictions amounted to a loss of at least 1.7 million workers from the workforce and a cost of at least \$78 billion to the economy in 2014.

Each licensing board is required to report to the Legislature, on a quarterly basis, the numbers of petitions received and the number of disqualification determinations the board made in response to the petitions. (See, Section 2.)

The boards will be able to assess a fee to make a determination of whether the petitioner's criminal history would disqualify them and will be able also to ask for a criminal background check. The Board's determination is not binding. The petitioner may file another petition within 6 months, if they have remedied the reason for the disqualification, and may seek another petition within two years. (See, Section 1.)

Under Section 6 of this bill, the Sunset Subcommittee of the Legislative Commission must study every board and regulatory body in the state to determine whether the restrictions on the criminal history of an applicant for an occupational or professional license are appropriate, and the Boards are mandated under this section to report and to work with the Sunset Subcommittee. Under Section 8 of the bill, the Sunset Subcommittee may make a recommendation to future legislatures on whether to continue, modify or disallow any restriction on licensure due to criminal history.

AB319 passed through both the Assembly and Senate via unanimous vote. The Governor signed AB319 on June 7, 2019 and the bill will be effective on July 1, 2019.

Senate Bill 323 (Denis): *Revises provisions governing the attorney's fees and costs which may be recovered by certain regulatory bodies which administer occupational licensing.*

Like AB319 above, this is another bill that came out of the Occupational Licensing Policy and Practice Learning Consortium, jointly sponsored by the National Council of State Legislatures, Council for State Governments and National Governors Association. The original language would have set forth a process for board members to request a hearing before the Department of Administration if that board member was subject to a disciplinary hearing. However, the bill was gutted in its first hearing before the Senate Commerce and Labor Committee, and in its final form, will require a Board, such as the NSBDE, to give an itemized list of attorney's fees and allowable costs to any licensee who is required to reimburse attorney's fees and other allowable expenses as a result of a disciplinary hearing or settlement. The licensee does not need to pay any fees or costs unless and until they receive this breakdown. The circumstances giving rise to this bill rose out of a dispute before the Nevada Funeral Board when the licensee could not get an itemized breakdown because the office of the Attorney General, representing the Board, claimed legal privilege against disclosure. The language in SB323 is broadly written to apply to all boards.

SB323 passed through both the Assembly and Senate via unanimous vote. The Governor signed SB323 on May 21, 2019 and the bill will be effective on October 1, 2019.

Senate Concurrent Resolution 6 (Senate Legislative Operations & Elections Committee): *Directs the Sunset Subcommittee of the Legislative Commission to conduct an interim study concerning professional and occupational licensing boards.*

SCR6 will direct the Sunset Subcommittee of the Legislative Commission to conduct a broad-ranging study on all professional and occupational licensing boards in the State. Since 2012, the Sunset Subcommittee has engaged in a review of every board and statutory committee in the state. The bill was sponsored by the Sunset Subcommittee, and was championed by Senator James Settelmeyer, a long-time member of the Subcommittee, who argued that there was much inconsistency among Nevada's regulatory boards when it came to certain practices.

Certain areas of inconsistency were identified:

- Employment and lobbying practices, access to online licensing and renewal policies,
- No statutory requirements for hearing officers, or executive directors (and cases where Executive Directors were not required to have training);
- Some staff are employees, while others are independent contractors
- Some deposit fines in general treasury, while other boards keep fines collected;
- Because boards are self-funded, there is little general oversight of the boards;
- They had seen unprocessed licensing applications; extravagant travel; and higher salaries than the Governor or State of Nevada agency heads.

There are over 200 boards to review, but the Sunset Subcommittee had already reviewed all but 23 statutory boards. The Subcommittee had recommended in 2018 that the licensing boards change certain aspects of their board practices, and the licensing boards must report back to the Sunset Subcommittee in the

forthcoming interim. This bill had broad bipartisan support, with some legislators calling Nevada's boards "individual fiefdoms."

SCR6 became effective upon passage and approval through both houses. The Sunset Subcommittee of the Legislative Commission will meet during the 2019-2021 interim to conduct the study.

I. Other Health Care Bills

Senate Bill 234 (Ratti): *Makes various changes relating to the participation of providers of health care in network plans of insurers.*

SB2234 requires the Nevada Division of Insurance to develop a form letter for health carriers to use to notify providers that they have not been approved to be in-network. The form letter must be available online, and the Division of Insurance is authorized to require the use of the form. The carriers must then submit a copy of each letter they send to the Division. The letters themselves will remain confidential, but the Division will be required to develop an aggregated report on the trends identifiable through review of the letters. This report must include: (1) number of total denials; (2) the number of denials broken out amongst different types of providers; (3) the number of denials by different carriers and (4) the reasons for the denials.

This report is required to be published on the Division of Insurance's website, and will also be transmitted to the Legislature and Legislative Counsel Bureau.

The Division is required to hold a public hearing on the development of the form letter. See, Section 26, subsection 1(b). Therefore, there is an opportunity for providers to provide input into what information they would like included.

Health carrier, as defined in Section 26, subsection 4 of the bill, means: "an entity subject to the insurance laws and regulations of the state, or subject to the jurisdiction of the Commissioner, or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, including, without limitation, a sickness and accident health insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health care services."

The idea for this bill began in the interim Legislative Committee on Health Care, when the members of that Committee held meetings examining network adequacy in the State. Though the Nevada Division of Insurance has some oversight of network adequacy in the individual and small group markets, their efforts have been hindered by their inability to get data from what is happening in the field. In addition, there were numerous providers testifying during the interim about their efforts to join networks, only to be informed that insurer network panels were closed. **NDA members facing challenges with closed panels will want to monitor the status of this Division of Insurance report closely.**

The measure was supported by Nevada's insurers, through the Nevada Association of Health Plans, along with the Nevada State Medical Association, the Nevada Primary Care Association and the Nevada Psychiatric Association.

SB234 was signed by the Governor on May 21, 2019 and will become effective on July 1, 2019.

Senate Bill 482 (Legislative Committee on Health Care): *Revises provisions relating to health insurance.*

SB482 was another bill stemming from discussions during the 2017-2018 interim on how to stabilize Nevada's individual health insurance market. Nevada's rural counties were limited in the coverage they could obtain through the Silver State Health Insurance Exchange; at one point both of the large carriers had dropped out of the Exchange in those areas, leaving the residents with no option. It was only after Centene/Silver Summit stepped forward to offer a plan that they could obtain coverage, but there is literally no choice in carrier.

One section of SB482 in its initial form would have allowed the State to set up its own reinsurance program to work on stabilization of our markets. This section was removed, but there are several major sections remaining in the bill which may bring change to Nevada's insurance market:

Out-of-state plans: Sections 1, 2 and 55 allow the Nevada Division of Insurance to enter into compacts with neighboring states to allow for reciprocal licensure of insurers in those states in order to ensure that essential health insurance is available in Nevada. Any plan offered under these compacts would still need to comply with Nevada law and insurer mandates. In testimony on this measure, Insurance Commissioner Barbara Richardson noted they would possibly look to Arizona, Utah and California to assist residents living on the borders of those states. The Division of Insurance will be promulgating regulations to implement these sections.

Federal 1332 "Innovation" waiver authority: The bill authorizes the Division of Insurance to apply for a 1332 Innovation Waiver as needed to stabilize the insurance market if needed, beginning on or after January 1, 2020. The Division sought this change because a state must have legislative approval to apply for the waiver; they were unable to use this remedy when facing the "bare county" challenge referred to herein because they lacked the legislative authority. Insurance Commissioner Barbara Richardson testified in both the Senate and Assembly hearings on this bill that the State has already obtained an actuarial analysis needed to satisfy another component of the 1332 waiver application. A copy of the analysis, performed by Wakely Consulting Group, is [available here](#).

Repeal of ability to enroll in "off-Exchange" plans outside of open enrollment: Section 56 of this bill repeals Nevada law allowing consumers to enroll in off-Exchange plans, subject to a 90-day waiting period. Commissioner Richardson noted in testimony that this statute was allowing consumers to purchase insurance after diagnosis with a medical need, then obtaining covered treatment, then cancelling the policy. The loss and poor retention seen in this sub-market of the individual market was impacting the individual market as a whole. Therefore, with this change, the off-exchange plans will align with the Exchange open enrollment time frames, while still allowing consumers to enroll in insurance outside of those dates under the qualifying events specified in the ACA.

SB482 passed through the Nevada Senate and Assembly via unanimous vote, and was signed by the Governor on May 29, 2019. A bulk of this bill became effective on that date; Section 56 (pertaining to the off-exchange plans) will be effective on October 1, 2019.

Senate Bill 544 (Senate Health & Human Services Committee, on Behalf of the Office of the Governor):
Creates the Patient Protection Commission.

As Governor Sisolak promised on the campaign trail and in his State of the State, one of his core policy bills this session was this bill to create a Patient Protection Commission (PPC), with a broad mandate to do a systematic review of health care delivery, focusing on "quality, accessibility and affordability of health care, including, without limitation, prescription drugs." The Commission's charge is set forth at Section 8 at page 6 of the bill, and includes several areas of potential interest to NDA members, including licensing board operations (section 8 (a)); potential ways to leverage costs through purchasing pools (Section 8 (i)(1)) and Medicaid (Section 8 (i)(6) while increasing access to quality health care and the affordability of the same, using claims data to inform health care policy decisions (section 8(i)(4)). **We urge your complete review of this section.**

PPC membership is set forth in Section 5 of the bill: there will be 11 members, with the Director of Health & Human Services, the Insurance Commissioner and the Executive Director of the Silver State Health Insurance Exchange as *ex officio* members. Of those 11 seats, there are two seats allotted to "providers of health care", two seats for patient advocates, two seats allotted to hospitals; two seats to insurers; one seat for a representative of the pharmaceutical industry, one seat for an academic researcher and one public member.

The bill was presented by the Governor and his Chief Policy Director. They acknowledged that the makeup of the committee was limited – and that is why they have built into the bill the ability to convene up to six (6) subcommittees appointed at any given time as set forth in Section 6. The Governor also emphasized throughout the session that this is intended to be a working board, and not one that you just put on your resume.

The Commission will have the authority to propose three (3) Bill Drafts for the 2021 Legislative Session, and will be reporting periodically to the Governor and to the Nevada Legislature's Legislative Counsel Bureau about the Commission activities. The Commission is expected to take up two primary focuses in their inaugural year: (1) prescription drug pricing and (2) access to care.

In a meeting the Governor convened prior to the bill introduction, he and his staff estimated that they would hire the Commission's Executive Director sometime in the second half of 2019, with the hopes of having the Commission appointed in time to begin work at the beginning of 2020. Commission appointments will be made by the Governor, but four of them will be from lists submitted by both the Speaker of the Assembly and the Senate Majority Leader. The appointment process is likely to be very competitive but the meetings will be public and there may be additional opportunities to participate via subcommittees.

SB544 passed unanimously through both the Senate and the Assembly in the final days of the Session, after the budget committees appropriated the funding to staff the Commission. The Governor signed SB544 on June 7, 2019, and it became effective on that date.

Senate Concurrent Resolution 10 (Senate Legislative Operations and Elections): *Directs the Legislative Commission to study the feasibility, viability and design of a public healthcare insurance plan that may be offered to all residents of this State¹.*

Also introduced late in the legislative session, SCR10 proposes a study on the feasibility of a public option for health insurance in Nevada (continuation of the “Sprinkle Care” concept). Specifically, the sponsors are looking for a study on the feasibility, viability and design of a possible public health plan to be offered to all Nevadans through the State's Public Employees' Benefit Plan, including possible plan modifications, eligibility rules and the premiums which would be needed to support such a plan.

The study will be conducted with the following overarching goals:

- Improve stability in the health insurance market in this State;
- Reduce the number of Nevadans without health insurance coverage; and
- Increase access to affordable coverage for health care and services to all Nevadans;

The resolution allows the State to hire a consultant to perform this research, and specifically permits the possibility of a pilot program. (See, Paragraph 6 at p. 2 of the bill). The Chair of the Legislative Commission (currently, Senate Majority Leader Nicole Cannizzaro) will provide direction to the consultant engaged, and the consultant will have to present their report to the Legislative Commission.

As an aside, this will be a separate effort from the Governor's Patient Protection Commission - though the sponsors noted in hearings on the Resolution that this study could compliment the Commission's efforts. The Resolution was supported by progressive advocates and health care providers; AHIP and the Nevada Association of Health Plans testified in neutral.

SCR10 was introduced on June 1, and became effective upon passage and approval through both houses on the final day of the legislative session.

PART IV: UPDATES TO POLITICAL CAMPAIGN LAWS

Senate Bill 557 (Cannizzaro – Emergency Measure): *Revises provisions relating to campaign practices.*

SB557 was introduced as an emergency request by Majority Leader Cannizzaro in the final days of the 2019 Legislative Session in response to the resignation of former Majority Leader Kelvin Atkinson (D-North Las Vegas) for campaign finance violations.

This bill would originally have required “organizations” who give in excess of \$10,000 to report contributions annually, not later than January 15. This would have included entities such as labor organizations and corporations, as well as political action committees (PACs). However, in the final two hours of the session, the Assembly Ways and Means Committee heard the bill and proposed deleting this requirement, after concerns

¹ This is a resurrection of an effort from the 2017 legislative session, dubbed “SprinkleCare” in honor of the 2017 bill sponsor. However, in 2017 the State had not yet decided to look at the Public Employees Benefit Plan, but were instead looking at “Medicaid for Purchase.”

were raised by Speaker Frierson and other committee members on how this bill would be enforceable against out-of-state entities who would now be required to report. In a behind-the-bar meeting on the Assembly Floor, the Ways and Means Committee voted to remove this language.

In its final version, the bill will only apply to candidates for public office. Section 3 defines “personal use,” trying to further clarify that campaign funds cannot be used by candidates for ordinary expenses – those unrelated to running for office. Additionally, the bill disallows a candidate or public officer from using any campaign funds to pay themselves a salary. “Organization” is defined in Section 2, and still includes PACs. The term is added throughout the bill to ensure candidates report funds donated from such entities. Finally, the bill increases the civil penalty for violating campaign finance laws from \$5,000 to \$10,000 per violation.

SB557 passed through the Senate via unanimous vote. Only one Assemblyman, Skip Daly, voted against the measure in the Assembly. The Governor signed SB557 on June 12, 2019, and it became effective on that date for purpose of promulgating regulations and will become otherwise effective on January 1, 2020.

PART IV: BALANCE OR SURPRISE BILLING: EMERGENCY

A major bill that passed this legislative session finally addressed the issue of surprise billing in Nevada’s emergency rooms for patients who may find themselves in an unexpected out-of-network situation through no fault of their own. We have provided this overview of the bill for NDA members who may be on-call in Nevada’s hospitals. Please be aware that the bill only applies to emergency services for Nevada residents in an emergency situation, up to the point of stabilization, at which point the health insurer in an out of network situation must bear the cost of transferring an out of network patient to an in-network facility.

Patient Protections

- The patient’s out of pocket costs are limited to the cost of in-network terms for co-pay, deductible or coinsurance.
- Medically necessary is defined in Section 6 of the bill as health care services that are rendered by a provider of health care to screen and to stabilize a covered person after the onset of a medical condition that manifests itself by symptoms so severe as to cause serious jeopardy to life (life of the patient or an unborn child of the insured).
- Whether the condition is one that causes serious jeopardy is determined by a “prudent person” standard in Section 8.5, meaning someone who is not a health care provider, who possess an average knowledge of health care and medicine and who acted reasonably under the circumstance. **Preserving this definition and the one above was a major win for providers.**

Reimbursement Framework

- Section 16 provides a reimbursement framework for out-of-network providers based on whether that provider had been in contract, or not, within the previous 12 months.
- If the provider terminates the contract with the payer, without cause, the reimbursement rate is at the previous contract rate (less patient in-network copay, deductible, etc.)
- If the provider terminates the contract for cause or the payer terminates without cause, the reimbursement is at 108% of the previous contact rate (less deductible etc.)

- If the insurer terminates the contract for cause, the payment is "fair and reasonable." * See arbitration process below.
- If there is no termination by either side of the contract, and the contract expires, the rate will be the previous contract rate + medical CPI for prior calendar year, less deductible etc.
- If no contract within the last 12 months - payers make offer for payment in full. * See arbitration process below.

*Arbitration Process

- Arbitration is triggered under two highlighted examples above. The others are considered payment in full for the 12- month period. This guarantees that providers will be paid swiftly and above contract rate. Payment is required within 30 days either at 108% of the contract or contract + Medical CPI (typically ranging between 2 and 6%.) **This was a significant win as providers had to beat back payer attempts to tie payment rates to Medicaid/care.**
- Payers must make an offer of payment in full. Providers have 30 days to either accept the offer as payment in full, or to counter-offer for additional payment. If the payer refuses the counter offer, by failing to pay that amount within 30 days, arbitration is triggered. The arbitrator will decide between the payer and the counter-offer. Providers will be able to file any supporting information in the process to support their counteroffer.
- There is a small claims arbitration process for claims under \$5,000. The insurers mounted significant opposition to any attempts to bundle claims or to ease the arbitration process for providers. However, the final bill allows the Department of Health and Human Services (DHHS) to promulgate regulations on how to "conduct arbitration in an economically efficient manner."
- Larger arbitration claims (more than \$5,000) will be through the use of a nationally recognized arbitration provider, like JAMS or the American Arbitration Association.
- The loser pays the arbitration fees; each party bears their own legal costs.

Transparency and Impact Report

- The arbitrator will report on the cases they have arbitrated on an annual basis (on or before December 31) to DHHS. This report includes the number of cases, geographic location of the providers involved and the type of payer and provider involved.
- In a significant win for the provider negotiating team, providers are permitted to report on information relevant to the impact report to DHHS.
- DHHS will compile the information received by the arbitrators and providers, which would include an analysis of any identifiable trends, the impact on provider contracts and the provision of health care. This is an annual report to the Legislature and must be posted online for the public.
- Any local government self-funded plan may elect to be covered by this bill. They will have to do so under a process to be approved by regulation by the Department of Health and Human Services, and the Department will publish a list of these plans on their website.

The Governor signed AB469 on May 15, 2019. The bill will be effective immediately for the purposes of adopting regulations (on the small claims arbitration process, as well as the procedure for electing to be

covered by the protections of the bill.) For all other purposes, the bill will become fully effective on January 1, 2020.

PART V: KEY LEGISLATION THAT FAILED DURING THE PROCESS

Assembly Bill 116 (Legislative Committee on Health Care): *Provides for an actuarial study to determine the cost of revising certain Medicaid reimbursement rates.*

AB116 came out of the 2017-2018 interim, and Assemblyman Mike Sprinkle's work on the interim Legislative Committee on Health Care. Sprinkle carried this bill in the initial days of the legislative session, noting in the hearing before the Assembly Health and Human Services Committee that he had asked the Legislative Counsel Bureau and the Division of Health Care Financing and Policy (Medicaid) what it would take to raise Medicaid reimbursement rates in the State to align with 2018 Medicare values. Medicaid estimated the cost to be an estimated \$174 million dollars over the biennium; however, this was an incomplete analysis as it did not include the managed care population. Therefore, AB116 would have mandated that Medicaid perform an actuarial analysis to determine the total fiscal impact of increasing rates.

Though AB116 was heard in the Assembly Health and Human Services Committee and then amended on the floor to allow Medicaid to solicit grant funding to perform the study, it was then referred to the Assembly Ways and Means Committee and never received a further hearing.

Assembly Bill 225 (Assembly Commerce and Labor Committee): *Revises provisions relating to health insurance.*

NDA worked with Assemblywoman Spiegel on this measure, Section 5 of which would have banned an insurer from retroactively denying a claim that had been previously authorized. Drs. Talley DiGrazia testified in support of this measure at the hearing before the Assembly Commerce and Labor Committee; Dr. Talley presented the results of the survey NDA had conducted of its membership in which members had identified the retroactive denial of claims as one of the top issues facing practices today. At that hearing, Assemblywoman Spiegel also presented a proposed amendment which would have incorporated elements of a national consensus statement between the American Medical Association, American Hospital Association and large insurers to work together toward prior authorization and insurance transparency reforms. The measure was opposed by big insurance, though the only testimony on the retroactive payment of claims came from the Health Services Coalition that they may need up to a year to audit files. However, though NDA worked with Assemblywoman Spiegel on the amendment, the insurance lobby remained strongly opposed to the measure.

Though it received support from NDA, the State Medical Association and other providers, AB225 was never voted out of its committee of origin and died early on in the session.

Assembly Bill 358 (Hafen): *Makes certain changes to attract certain health professionals to practice in Nevada.*

AB358, sponsored by freshman legislator Greg Hafen, would have created the Tomorrow's Doctors Program, an education loan forgiveness program for certain health care professionals who practice in rural areas. The proposed language included dentists in the program. The bill would have appropriated \$250,000 to the Nevada Office of Rural Health to administer the program, and an additional \$250,000 to the Nevada Health Service Corps to obtain matching federal grants and \$21 million to the Office of Finance to fund graduate medical education grants. Because of this suggested appropriation, AB358 was referred to the Assembly Ways and Means (budget) committee. However, for largely partisan reasons, it never received a hearing in that committee.

AB358, referred to the Assembly Ways and Means Committee, never received a hearing and was never voted out of the budget committee to be considered for a vote. AB358 subsequently died due to no action when the Legislature adjourned sine die.

Senate Bill 171 (Hardy): *Provides for the collection of information from certain providers of health care.*

SB171 was one of several bills that aimed to improve data collection about Nevada's health care workforce, and by extension thereof, about network adequacy in the state. After several rounds of working groups with licensing boards and with NSHE, the bill was amended to require that the University of Nevada-Reno, Office of Statewide Initiatives (headed by Dr. John Packham) develop an online form for data collection that could be used by each health care licensing board, and that health care providers would be sent the link to the form to be completed with certain demographic information when applying for license renewal. This information would have included: name and email address; primary county of practice; address of each practice location and percentage of time spent at that location; DEA number, if applicable; and protected class (with the exception of religion or creed) with an option to decline response to that question. License renewal, in the final amended version of the bill, would not have been contingent on completing the survey. The information collected would have been reported to Nevada Department of Health and Human Services and the Nevada Division of Insurance.

Though the bill was amended in the Senate Commerce Committee, it was referred to the Senate Finance Committee, where it sat until the final weekend before *sine die*. The bill was voted out of Finance and eventually passed out of the Senate on June 2, and then referred to the Assembly Commerce Committee on the final day of the session.

SB171 never got a hearing in the Assembly Commerce and Labor Committee, and subsequently died when the Legislature adjourned sine die.

Senate Bill 187 (Pickard): *Revises provisions governing prescriptions for controlled substances by a dentist, optometrist or physician for the treatment of pain.*

SB187, in pertinent part, would have amended the 2017 controlled substances prescribing law for dentists and optometrists, relieving them of the obligation to conduct a full medical exam, but limit the exam to the scope

of the what they felt was necessary. SB187 would also have allowed dentists to forego having to retrieve and review medical records before prescribing a controlled substance. In the hearing before the Senate, Drs. Funke and Talley testified in support of this measure, while in the Assembly, FPA and Dr. Garth Harris, supported the measure on the record. Unfortunately, members of the Assembly Commerce Committee raised concerns that the bill would allow physicians to prescribe outside of the prescription limits in AB474, and the bill was tabled while Senator Pickard worked on an amendment – as this was not the intent of the legislation. Ultimately, the bill failed to be voted out of the Assembly Commerce and Labor Committee. However, please see Assembly Bill 239 in the foregoing section – as Section 11 of that bill also relieves dentists of the obligation to do a full medical exam and to retrieve and review medical records.

SB187 was never scheduled for a work session and possible vote out of the Assembly Commerce and Labor Committee. The bill subsequently died when the Legislature adjourned sine die.

PART VI: CONCLUSION

Thank you for the opportunity to represent the NDA's interests in the 2019 Legislative Session. Please do not hesitate to contact us if you have any further questions on any of the bills above or would like to review total list of the bills FPA tracked on your behalf.