MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-Third Session
May 20, 2005

The Committee on Health and Human Services was called to order at 1:44 p.m., on Friday, May 20, 2005. Chairwoman Sheila Leslie presided in Room 3138 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Ms. Sheila Leslie, Chairwoman
Ms. Kathy McClain, Vice Chairwoman
Ms. Susan Gerhardt
Mr. Joe Hardy
Mr. William Horne
Mrs. Ellen Koivisto
Ms. Bonnie Parnell
Ms. Peggy Pierce
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

Mrs. Sharron Angle (excused)
Mr. Garn Mabey (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Barbara Dimmitt, Committee Analyst
Joe Bushek, Committee Attaché

OTHERS PRESENT:

- Dave Noble, Assistant Staff Counsel, Public Utilities Commission of Nevada
- Jeanette Belz, Legislative Advocate, representing Associated General Contractors of America, Nevada Chapter; and Nevada Alliance for Addictive Disorders, Advocacy, Prevention, and Treatment Service
- Mary Wherry, Deputy Administrator, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada
- Michael J. Willden, Director, Department of Human Resources, State of Nevada
- Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada
- Jennifer Lazovich, Legislative Advocate, representing Republic Services, Inc.
- Darrell Faircloth, Deputy Attorney General, Office of the Attorney General, Department of Justice, State of Nevada
- Rusty McAllister, Vice President, Professional Fire Fighters of Nevada

Chairwoman Leslie:
[Meeting called to order. Roll called.] Today is our final work session, which means we will not be taking any more testimony on bills previously heard. We may ask for a clarification, and you can approach the table if asked. Otherwise, there will be no public testimony taken.

We will start with S.B. 146; it is behind Tab B in your Work Session Document (Exhibit B).

Senate Bill 146 (1st Reprint): Makes various changes concerning detection and marking of subsurface installations. (BDR 40-654)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
Senate Bill 146 involves the detection and marking of subsurface installations; these are utility installations—typically wiring, conduits, piping, et cetera. The bill requires operators to install permanent devices to provide a non-invasive means of locating any new installation that cannot be readily identified above the surface without a marking—for example, PVC [polyvinyl chloride] pipes, and so forth, where they are not magnetic or anything of that nature. The bill provides for additional methods of marking areas where excavations are planned. It also requires an operator marking the location of the subsurface

installation for purposes of letting contractors know where they are, when they are going to dig, and to use identifying criteria and colorings for those marks as set forth in the PUC [Public Utilities Commission of Nevada] regulations.

[Barbara Dimmitt, continued.] The Committee received testimony in support of the bill from the PUC and Southwest Gas. Mark Sullivan of the Associated General Contractors (AGC) had concerns and submitted a proposed amendment. The PUC also submitted a proposed amendment. The issue surfaced around what criteria would be used to develop the regulations and whether changes would be made by regulation or statute. As a result, Assemblywoman Leslie appointed Assemblyman Hardy to chair a subcommittee of one to look at this issue.

The subcommittee's report has been passed out (Exhibit C). It lists the attendees and the issues addressed. There were issues of concern that involved the original bill, and they were able to resolve the confusion over that matter. There were some concerns about what could and could not be put into statute, in terms of incorporating by reference the standards of other organizations. Those concerns were expressed and discussed. Two issues arose. One was liability of the contractors if the markings weren't adequate enough. Would the contractor incur additional liability if he or she accidentally hit one of these installations? There was also some concern over whether regulations or statutes should govern.

The subcommittee and participants did come to an agreement. That agreement is expressed in an amendment at the end of the subcommittee report (Exhibit C). It's after your pink page. I should preface this by saying that Mr. Sullivan of AGC came in with a proposal to amend the bill to take out specific references to the colors and the markings, et cetera, but leave in the list of specific facilities or installations that were going to have to be marked, so that there would be confidence that these would always be marked. However, in discussions, another section of the law was explained that absolves the contractor from any liability if they have followed procedures. So, if no markings are required and they hit something, it wouldn't be their fault. Therefore, the consensus was to leave the bill as is.

If you look on page 1 of the mockup, all the red crossouts in the bill before you take out all those specifics and leave it in more general terms, so that the PUC can accommodate any changes in technology. As a safeguard to ensure that the PUC does follow national standards, the language would say, “The Public Utilities Commission of Nevada shall use nationally accepted standards in developing the regulations referenced in subsection 1.” There are several of

those, like American Public Works Association (APWA) and others, that have national standards. So, that was the consensus as far as I understood it.

Assemblyman Hardy:
I would like to thank Barbara Dimmitt for doing such a good job in shepherding this whole process and being able to do such a succinct summary of what happened. Legislative intent is to make sure that we make reference to the *Nevada Revised Statutes* (NRS) 455.150, which allows excavators not to be liable if they have done their due diligence with the "call before you dig" type statutes. That allayed some of the concerns. There are many statutes that apply to and overlap some of this. We came to the conclusion that the more inclusive language would prevent us from having to go back legislatively and try to catch up with standards that leapfrog each other, depending on which organization puts in the new codes, the new colors, the new markings, and those kinds of things.

We made the conclusion that regulation would probably be easier to adapt to any changes that came into those specific things. In statute, there is all-inclusive language for anything that is under the ground; we decided to go with that.

Chairwoman Leslie:
Are there any questions for Dr. Hardy? We appreciate his service on the subcommittee. I don't see any. Let's get a representative from the PUC and the AGC on the record as to whether you agree with the proposed amendment.

Dave Noble, Assistant Staff Counsel, Public Utilities Commission of Nevada:
We are in agreement with the proposed language.

Jeanette Belz, Legislative Advocate, representing the Associated General Contractors of America, Nevada Chapter:
We appreciate Dr. Hardy working with us. We are also in agreement.

Chairwoman Leslie:
Are there any questions for these witnesses?

ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS SENATE BILL 146 WITH THE SUBCOMMITTEE AMENDMENTS.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
I'm glad Dr. Hardy was able to facilitate this matter. Let's go to Tab C of the Work Session Document (Exhibit B) and work on S.B. 281.

Senate Bill 281 (1st Reprint): Requires Division of Health Care Financing and Policy of Department of Human Resources to determine certain information concerning uncompensated care percentage for certain hospitals. (BDR 38-42)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill requires the Division of Health Care Financing and Policy (DHCFP) to determine the uncompensated care percentage for each hospital in a county with a population of 100,000 or more and determine the arithmetic mean of the average of the percentages of all hospitals in the county. That will provide data that is uniformly collected and calculated on the amount of uncompensated care per hospital. In addition, the bill requires the Division to submit an annual report outlining this information to the Legislative Commission, the Interim Finance Committee, and the Legislative Committee on Health Care. We did receive testimony in support of this from two hospitals. There was no testimony in opposition and no amendments. This bill does relate to DSH [disproportionate share hospitals].

Chairwoman Leslie:
DSH is a code word that tells us what it is about. We heard this on Monday. Are there any comments from Committee members?

Assemblywoman Koivisto:
Who determines the percentage now? Is that the responsibility of the Division?

Chairwoman Leslie:
Let the record show that Ms. [Mary] Wherry is nodding her head; the Division determines it now. My understanding is that this bill does not change in any way the formula or what hospital is going to get what. Mrs. Wherry, please come forward and reiterate for the Committee what this bill does and does not do, so we are all clear.

Mary Wherry, Deputy Administrator, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada:
This simply is a reporting mechanism. We are not expecting at this point in time to change any formula or distribution of monies from the existing formula. It is merely to collect the information that may be useful in future planning for what uncompensated care does exist. Many states have many types of programs, like the Medicaid Medically Needy Program (Exhibit D), to deal with those issues. This is helping develop a framework for future planning.

Chairwoman Leslie:
My only concern is that we have to deal with DSH again next session. Does this mean we have to revisit it until certain hospitals get what they want?

Mary Wherry:
It may not be dealing specifically with DSH. It may be looking at what kind of public policy we need to deal with the fact that we have so many people who don't have coverage.

Chairwoman Leslie:
Are we going to get reports to the Legislative Committee on Health and Human Services?

Mary Wherry:
Yes. One of our responsibilities is to provide information to the Interim Finance Committee and to the Health Care Committee.

Chairwoman Leslie:
We'll keep track of it in the interim.

ASSEMBLYMAN HARDY MOVED TO DO PASS SENATE BILL 281.

ASSEMBLYWOMAN WEBER SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Let's go to the bill behind Tab D (Exhibit B), which is S.B. 282.

Senate Bill 282 (1st Reprint): Makes various changes concerning certain facilities for persons released from prison. (BDR 40-622)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This measure creates a new category of facility for the dependent, called a "facility for transitional living for released offenders." It requires the State Board of Health to develop standards and regulations for licensure of these facilities. Three subcategories are defined. In addition, the bill specifies that the alcohol and drug abuse programs, except facilities operating by government entities, have to be certified by the Health Division. It also provides that a facility for transitional living for released offenders, when located near property where it may affect the value of the property, is not to be considered material to the transaction. The seller would not need to disclose this, similar to protections in some other types of facilities. Senator Washington testified that the bill resulted from the Criminal Justice System in Rural Nevada and Transitional Housing for Released Offenders interim study.

We received testimony in support of the bill. There's one amendment proposed from Clark County. This amendment deletes Section 11 of the bill, which included these facilities under a provision regarding fair housing and extended to these facilities the protections of the Fair Housing Act [of 1968]. By doing so, that limited the power of localities to determine where the facilities could be located; they basically have control over how close together they can be. The other types of facilities that are given this protection are facilities for the disabled, elderly, and so forth. This amendment would delete any reference to extending that protection to these particular facilities.

Assemblywoman Koivisto:
How is this going to work with Casa Grande? The State is paying for this big transitional housing for offenders; there are 500 of them.

Chairwoman Leslie:
Will it have to be licensed? Is that what you are asking?

Assemblywoman Koivisto:
Why do we need this?

Chairwoman Leslie:
This is directed at those facilities in the community; there will still be a big need for them. Senator Titus talked about the ones in her neighborhood that have caused so much trouble. Senator Washington said the one he was associated with in northwest Reno created huge problems. There are definitely going to be

the smaller ones that will continue; this is directed at that. How Casa Grande fits into this licensing, that I hadn't thought about. Is there someone here from the prisons?

Michael J. Willden, Director, Nevada Department of Human Resources, State of Nevada:
In all our discussions, we never talked about Casa Grande being involved in the licensing. This is more the community group home, residential setting, where the Health Division will charge an annual licensing fee. We will review life, safety, and health code issues. We won't be licensing or overseeing the programmatic content. These are transitional homes that provide life skills, employment skills, in addition to residential services. We have never envisioned Casa Grande in that. These are the residential facilities in the community.

Chairwoman Leslie:
Now that I'm reviewing it, it says, "...except for facilities operated by governmental entities." I think the answer is that Casa Grande would not be included.

Michael Willden:
I don't know if that's a contract entity or whether the prison is directly running that. I don't think we envisioned either way that it would be part of this scheme.

Assemblywoman Gerhardt:
My concern is in housing that's designed to hold the people coming out of prison; what about sex offenders and those types? How does all that work with where these are going to be located?

Dan Musgrove, Director of Intergovernmental Relations, Office of the County Manager, Clark County, Nevada:
We offered our amendment so those types of people located in communities would not be protected under the Fair Housing Act. There are certain things we can and cannot do to keep them out of neighborhoods under fair housing laws. I don't believe sex offenders have that kind of protection. I'm not sure there are any homes for that, but they may be under the radar. We didn't want this type of home to have the same protection as those covered under the Fair Housing Act.

Under the Fair Housing Act, the only thing we can control is the separation distances between those types. If a home comes in and wants to be in a certain neighborhood, and this bill passed as is, released offenders, sex offenders, or any person released from prison could move in. The only thing we could say to

them is, “As long as you are not 660 to 1500 feet from another home, you can locate there.” The residents would say, “Local government, why are you allowing them? We don't want them in the neighborhood.” We would say, “State law says they deserve the same protections as those under the Fair Housing Act.” We wanted to have that ability, as local governments, to say, “This is not an appropriate location, and you need to locate somewhere else.”

Assemblywoman Gerhardt:
This would afford our neighborhoods a little more protection in where these are going to be situated? [Mr. Musgrove responded in the affirmative.]

Assemblyman Horne:
My concern is that by allowing that, what neighborhood, city, or county entity chooses not to put in those restrictions? If all of them are going to have these types of restrictions—we are not going to let you apply to the Fair Housing Act, which I don't know whether that act actually excludes released prisoners for these types of homes—then where do they live? Do they live on Boulder Highway? These houses have to be put somewhere. If the county says you can’t be in this neighborhood, which is within the access parameters, if it's a sex offender, they have certain parameters that they can't live near schools or playgrounds. Those are built in, but now you want even more restrictions as to where they can't live. What protects other neighborhoods? A neighborhood not as nice as another and doesn't have any political clout ends up housing these people, instead of the other neighborhood. I don’t think we want to start messing with that. I don't know if the Federal Housing Act actually excludes these types of homes from their protection.

Chairwoman Leslie:
Isn't that what the amendment does? How does the amendment fit with the Fair Housing Act? Could you clarify that, Mr. Musgrove?

Dan Musgrove:
Chapter 278 relates to local government zoning and planning. If you look at existing statute, other types of homes, like those for people with disabilities, have protections under fair housing. This Legislature has attacked this issue of clustering in numerous sessions, trying to give protections to neighborhoods for the proliferation of numerous homes in neighborhoods. We determined that the only thing we can really do is set up distance requirements.

This new category that is being contemplated under S.B. 282 for transitional living for released offenders does not have protection under the Fair Housing Act. We know that we need in our communities a place for these people to

transition and return back to society. Otherwise, they will impact us in other ways. It is incumbent upon the local government to locate those homes in suitable areas. That's part of the public hearing process, staff recommendations, and looking at trying to determine the best use of any kind of zoning or planning issue. That's why you have elected officials making those decisions when you have zoning and planning meetings, not every two years at the Legislature. Those are issues that occur all the time.

[Dan Musgrove, continued.] We were just hoping this amendment would give that flexibility to the elected officials—who have voices that are diverse—on that city council or county commission, who will advocate on behalf of the residents and these homes, which have a definite place in our community. We just want the flexibility at the local level. That's what this amendment attempts to do.

Assemblywoman Weber:
Did the sponsor indicate support for the amendment? [Mr. Musgrove answered in the affirmative.]

Chairwoman Leslie:
Do you want a separate vote on the amendment? Does everybody understand the amendment that deletes Section 11? There's a statement of intent that outlines pretty much what the amendment is about.

> ASSEMBLYMAN HARDY MOVED TO ADOPT THE AMENDMENT TO SENATE BILL 282, DELETING SECTION 11.
>
> ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.
>
> THE MOTION CARRIED, WITH ASSEMBLYMAN HORNE VOTING NO. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Let's go ahead and take a motion on the entire bill with the amendment.

> ASSEMBLYWOMAN KOIVISTO MOVED TO AMEND AND DO PASS SENATE BILL 282.
>
> ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Mr. Horne voted with a reservation to change later. Let's go to the next bill, which is S.B. 296, under Tab E (Exhibit B).

Senate Bill 296 (1st Reprint): Revises provisions governing abuse or neglect of children. (BDR 38-372)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill was introduced to have Nevada's statutes conform to the federal Child Abuse Prevention and Treatment Act (CAPTA), which was reauthorized in 2003. The new provisions relate primarily to infants born affected by illegal substance abuse or who are experiencing withdrawal symptoms as a result of prenatal drug exposure. The bill also makes changes relating to the type of information that must be retained in, and may be released from, the Central Registry, for the collection of information concerning the abuse and neglect of the child.

We received testimony in support from the Division of Child and Family Services (DCFS). Jone Bosworth testified that failure to bring Nevada statutes into compliance with CAPTA could jeopardize the State's receipt of federal funds, which is about $1 million. We have received no testimony in opposition to the measure. However, Committee members had concerns with the requirement in Section 2, subsection 3, regarding the release of information to employers about prospective employees. This would be release of information from the Central Registry. Several members expressed a desire to see more specific language limiting this release. DCFS representatives testified that the intent was to release information only with regard to employees who might be dealing with vulnerable groups.

The Committee wished to have more detail on what that meant. So, we have a proposed amendment from Ms. Bosworth and Theresa Anderson of DCFS. This would add language to the existing subsection 3 of Section 1. What would happen is that the only way the Division "may"—as opposed to "must"—release information contained in the Central Registry to an employer if the employer is required by law to get this information, or if the employee will have either substantial contact with children or the elderly. Under these conditions, the

prospective employee must, as in the existing bill, also provide written authorization. That was the only amendment we received.

Chairwoman Leslie:
Ms. Pierce, I know you had a lot of concerns about this section. What is your feeling on the proposed amendment?

Assemblywoman Pierce:
I liked the amendment.

Assemblywoman Parnell:
I feel more comfortable with this amendment. It is still punitive language, not corrective. When I look at the situation that's creating the need to have this legislation, I would prefer choices that were corrective, helping the vulnerable population that we are talking about. With this language, I will support it.

Assemblyman Hardy:
I want to make sure we include number 4 on the second sheet.

Chairwoman Leslie:
You say second sheet; what do you mean?

Assemblyman Hardy:
On the amendment (Exhibit B), it starts with number 3. There's another sheet in the back included.

Barbara Dimmitt:
It's existing in the bill; it is not being changed.

Assemblywoman Koivisto:
This is another of those situations of the federal government dangling the carrot, saying that you have to do something in order to get a million dollars. It just seems as though, in this case, they're asking to make personal information available. The whole concept that the federal government is getting that involved with state issues concerns me.

Chairwoman Leslie:
I understand what you're saying. It seems to be a trend that is getting worse, not better. We don't like the federal government messing with our business.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS SENATE BILL 296.

ASSEMBLYMAN HORNE SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Let's go to Tab F (Exhibit B), which is S.B. 354.

Senate Bill 354 (1st Reprint): Revises provisions governing municipal solid waste management systems. (BDR 40-1153)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This provides that, until it's paid, an unpaid fee levied by a municipality relating to the collection and disposal of solid waste constitutes a lien against the property that is being served. The measure describes the type of lien and requires certain notification and other procedures to occur before a lien may take effect. The Committee received testimony in support by representatives of Republic Waste Services and Clark County. We did not receive testimony in opposition, nor did any amendments get submitted.

Assemblywoman Weber:
If the consumer does have this lien put against their property and they pay it, what assurance do they have that the lien has been taken off their property? How do they know that? Is there a complete cycle?

Chairwoman Leslie:
I'm not sure we had that come up in testimony. Does someone wish to address that issue?

Jennifer Lazovich, Legislative Advocate, representing Republic Services, Inc.:
There are two steps. If they were to send out a notice of intent to lien, and the person pays the bill, it never goes forward to a lien. If it becomes a recorded lien with the county, once the lien is paid, Republic takes the steps to remove the lien off the record from the county.

Assemblywoman Weber:
Republic would send that information back to the recorder. How does the consumer know that it's been taken off of the property?

Chairwoman Leslie:
Is that just like they would any other lien?

Jennifer Lazovich:
I guess the question is whether or not we send a courtesy notice, which I can tell you they would be happy to do. It is one less thing they have to worry about. The other protection they have is, when they get the next bill, it would go back to being the original amount for just that four-month period.

Assemblywoman Weber:
I wanted to make sure there's a complete cycle in the process. If they've done their part, you acknowledge that their part has been paid.

Assemblywoman Gerhardt:
Give me clarification, on the record, about renters. Why is it that someone who is renting a home, if they do not pay their disposal bill, a lien is placed on the property owner who may not have lived at that property or produced any waste on that property for years?

Jennifer Lazovich:
Garbage collection is the one utility you can't stop collecting on the sole basis that they have not paid their bill. Going on that premise, they are required to pick up your garbage whether the bills are getting paid by whoever lives there or not. This was a way for Republic to try to at least collect on fees that weren't paid.

In a situation specific with renters, they do have a method set up internally within the system to stop things like that from happening. If you have a renter who doesn't pay the garbage bill, the owner of the property has no idea they are not paying the garbage bill until, perhaps, they see a lien show up. They are not turning over all the letters to the landlord saying, “I'm not paying the bill, and by the way, they keep telling me I need to pay the bill.” What Republic will allow you to do, even if you have multiple rental properties, is to allow a different mailing address for the actual garbage bill. For example, I own five rental properties and my own house in Las Vegas. I could have six garbage bills come to my house where I live.

Obviously, the practical effect of that is I would raise the renter's rent just to be on the safe side, so I know I am not going to have my property liened and that the bills are actually getting paid. It circles back to the fact that they have no other recourse to collect the money to do the service that they are getting that they have to do. That's where this backtracks into.

Assemblywoman Gerhardt:
I'm always concerned about liens on a person's home; that's pretty sacred. I have a problem with putting someone's home in jeopardy for a bill that they are not really responsible for. They didn't produce the trash; they didn't produce the problem. Specifically, tell me how this bill will address those kinds of issues.

Jennifer Lazovich:
That's probably a fundamental difference. Republic goes through several steps prior to going to the extreme step of putting on a lien. More recently, in addition to several letters they send out about you not having paid your bill, they have instituted language within letters, which says that if you don't pay, this will ultimately affect your credit and could be turned over to a collection service. This is an effort not to get to that extreme circumstance of instituting the lien. It's their way of giving many opportunities to try to collect the fees.

I know that may not make you feel better about the fact that a renter is producing the trash and the owner of the property is ultimately responsible for the payment. That's their only way of getting paid. That's why they've instituted the process of allowing the owners, to make sure that the bills are getting paid, to have multiple addresses for their multiple rental properties. They are trying to work with people—in as many circumstances as come up—to ensure they get paid for the services that they are providing.

Assemblyman Hardy:
The intent of the bill is that there will be no lien left on the property if the bill is paid and brought up to date. If you, de facto, get a new bill that says you are up to date on your bill, there is no lien, and therefore, the person doesn't need to be notified, because in the internal workings, Republic has removed the lien?

Jennifer Lazovich:
Correct.

Assemblyman Horne:
These are the types of liens where you can effectuate a sale of property. It's a type of lien where, once the property is conveyed, there is notice saying that people, in a certain order, will get paid out of the proceeds of the sale; is that correct?

Jennifer Lazovich:
It operates in the same way as a mechanic's lien. The ultimate step could take place; foreclosure proceedings could be brought forward. I specifically asked Republic: "Have you ever done that?" The answer was no, and that they never would. They don't need to do it that way; it always worked. By the time they

start sending out those letters, it always gets paid, even if they have taken it to the extreme level of filing the lien. They've never done that.

Assemblyman Horne:
Having rented out myself, I recognize there are certain risks I assume and try to mitigate when I have a renter. This would be one of them. That risk would be assumed by me saying, "Yes, we pay the garbage fee, but that's in your rent. I don't have to worry about that." I can't imagine anybody saying that you have to pay this type of thing yourself and you hope that it gets paid. Things like cable, telephone, and gas are in the renter's name. I can say, "If you want the power turned on in the place, you have to put it in your name." They do that; they live there for a year and don't pay the power, it gets turned off. It's in somebody else's name. I don't have to worry about the lien. In this situation, I don't have a concern with that part.

Assemblywoman Weber:
If there's a recording, there is usually a fee for that. Who will bear the burden of the fee?

Jennifer Lazovich:
I have been told that the garbage company bears that fee.

Assemblywoman Weber:
It will not show upon a bill on top of whatever is owed for the service that was not paid?

Assemblyman Horne:
It could.

Jennifer Lazovich:
I'm looking back to see. I don't know that I have that answer for you.

Chairwoman Leslie:
That might be the decision of the individual garbage company, right? You're not the only one.

Jennifer Lazovich:
Yes, it could be.

Chairwoman Leslie:
I don't know that there's an answer to that.

Jennifer Lazovich:
I don't know it, and I'm sorry.

Chairwoman Leslie:
In southern Nevada, are you the only one?

Jennifer Lazovich:
We are the only one, except for Boulder City. We do not collect trash there.

Chairwoman Leslie:
That's enough on this garbage bill. The Chair would entertain a motion for do pass of S.B. 354.

> ASSEMBLYWOMAN KOIVISTO MOVED TO DO PASS SENATE BILL 354.
>
> ASSEMBLYMAN HORNE SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Ms. Gerhardt would like it noted that she reserves her right to change her vote on the Floor. Let's go to S.B. 396, which is behind Tab G (Exhibit B).

Senate Bill 396 (1st Reprint): Revises various provisions regarding waste disposal and regulation. (BDR 40-401)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill amends various statutes concerning waste disposal and recycling programs. It authorizes the State Environmental Commission to impose fees on either the disposal of waste or the issuance of permits in areas outside of Clark and Washoe Counties that have their own solid waste agencies. Some of these changes were necessitated by court cases that called into question, or invalidated, current statutes being amended. The bill replaces outdated language in order to recognize current agencies in Clark and Washoe Counties throughout the chapter of law.

[Barbara Dimmitt, continued.] This bill requires the installation of a liner and leachate collection and removal system in hazardous waste disposal facilities, which differ from solid waste facilities; decreases the time period between reviews of municipal recycling programs—in Clark and Washoe County, it is from 3 to 2 years—requires these counties to provide information about their recycling programs to business license applicants; authorizes the Division of Environmental Protection to award grants to enhance solid waste systems; and eliminates a requirement that the Division develop recycling markets in Nevada.

The Committee received testimony in support of the bill from representatives of the Division, the Bureau of Waste Management, the Nevada Conservation League, the American Ecology Corporation, and the U.S. Ecology Corporation, which testified that they do provide these leachate systems. There was no testimony in opposition, nor have any amendments been received.

Chairwoman Leslie:
Are there any comments or questions from the Committee? Seeing none, I'll entertain a motion. It is tempting to amend Ms. Pierce's bill into this one.

> ASSEMBLYWOMAN PARNELL MOVED TO DO PASS SENATE BILL 396.
>
> ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

Assemblywoman Pierce:
It would be easy to do. I think all you have to do is put "solid" next to the "hazardous."

Chairwoman Leslie:
We really could.

Assemblywoman Pierce:
The gentleman from NDEP [Nevada Department of Environmental Protection] wouldn't appreciate that amendment.

Chairwoman Leslie:
We want to send a message to the landfills: Ms. Pierce is not done yet. It was a good bill; we do not appreciate that it is not being considered. Is there any further discussion?

THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Let's go ahead and move to the next bill behind Tab H (Exhibit B), S.B.420.

Senate Bill 420 (1st Reprint): Authorizes Drug Use Review Board to hold closed meetings for certain purposes. (BDR 19-172)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
Under federal Medicaid statutes, the State is required to have a Drug Use Review Board that holds meetings to identify fraud on the part of either a patient who may be abusing prescriptions or getting too many by going to several different pharmacies, or physicians who may be abusing the system as well. In view of the Open Meeting Law, the Division of Health Care Financing and Policy (DHCFP) brought this bill forth to provide it with the authority to hold these meetings as closed meetings.

There is a bill in the process, S.B. 267, to further amend the State's Open Meeting Law. In anticipation that bill may pass, the Division wanted to amend this bill to expressly state that they do not have to post notices of these meetings in advance or identify the individuals who are being considered. They do have procedures for due process and so forth. These are confidential meetings, and they want it clearly stipulated in the law that they do not have to post them and hold them as open meetings. We received no further amendments.

Assemblywoman Parnell:
On page 3 of the bill, subsection (b), it concerns me that the person receiving benefits—who is discussed during the meeting closed pursuant to that subsection—is not entitled to a copy of the minutes. I do not know of many cases where an individual who has been referenced in a meeting cannot get a copy of what was said about that individual. I have a real concern about that section of the bill.

Chairwoman Leslie:
Mary, would you like to come up and address that?

Mary Wherry, Deputy Administrator, Division of Health Care Financing and Policy, Department of Human Resources, State of Nevada:
The reason we don't want to put the person's name on the agenda or invite them to the meeting is that there are times when the review may consist of evaluating the disease process, other disease processes that they may have, looking at the total person, and how they are being treated. It may end up that the person is not abusing the drug or that the provider is not abusing the prescriptions. It could end up in no action. The intent is just to look at the documents that come from the prescriptions that are filled, to evaluate whether or not we have a provider problem or if we have an individual recipient problem.

If the recipient ended up having a problem, under FOIA [Freedom of Information Act of 1966, 5 USC § 552], we could not absolutely restrict them; it would be questionable. The recipient, if they were going to be restricted in any way or receive a reduction in services of some type, would have their right to a hearing and get the documentation telling them why.

Assemblywoman Parnell:
I understand why you want to err on the side of caution prior to the meeting. Once that meeting has concluded—and it's not an issue of posting or letting the person know that they are going to be discussed—I would almost be certain that individual would know that they were discussed in that meeting. At that time, if that does happen and the person would request a copy of those minutes, I would think that person would have to be granted a copy. The wording in this might make it a legal challenge. I'm uncomfortable with the way it's worded.

Chairwoman Leslie:
Ms. McClain has found something on page 4 that may help you.

Assemblywoman McClain:
If you keep reading, it says that they can't have a copy of the full minutes. If there's something that is applicable to them in particular, they can get a portion of the minutes that applies to that.

Assemblywoman McClain:
My concern is, why would you want to give a set of minutes to anyone that is referring to a lot of other people? It's none of their business.

Assemblyman Hardy:
What Assemblywoman McClain brings up is the crux of the matter. You can't give anybody the minutes on everybody, or you would be violating all sorts of problem laws. We talk about the disease process, and sometimes, the addiction

process has to be looked at. You get into that whole HIPAA [Health Information Portability and Accountability Act of 1996] problem. There are some issues that are reasonable to keep it closed, the way it is suggested.

Chairwoman Leslie:
Dr. Hardy, you are fine with the amendment as it is laid out? Are there other questions?

Assemblywoman Pierce:
In Section 1, subsection 2, line 6, it says that those minutes are not subject to subpoena or discovery. Is it possible to create documents that aren't subject to subpoena or discovery?

Barbara Dimmitt:
The question is whether it is possible to stipulate such a phrase. It is in other laws. For example, the medical malpractice bill contains this in several places. It is in the sentinel events and other areas where documents are not to be discoverable. They are confidential. I have seen this language in other statutes where it's a HIPAA matter. For example, in sentinel events, it was to encourage people to report them; it was done so people would not fear they would be sued every time they reported a sentinel event. Those are not to be discoverable. That data is protected.

Chairwoman Leslie:
Let's hear from the Attorney General's Office on this point.

Darrell Faircloth, Deputy Attorney General, Office of the Attorney General, Department of Justice, State of Nevada:
I'm looking at the sentence you referenced. The intent is to ensure that there can be a candid and open discussion in these closed meetings of HIPAA-protected personal identifiable health information of an individual, as well as, in some cases, prescribing habits of a physician or certain practices by a pharmacy. That's not the sort of information that we would want subject to discovery or to other public inspection. Whether that is enforceable or not is a presumption on your side to start with. As a bill passed by this Legislature, we give it a presumption of validity until it's overturned in a court of law.

Assemblyman Hardy:
This applies to the meeting, not the act or the other parts of it. You could still discover what somebody has done, but the meeting is what is privileged. All of this can be discovered and subpoenaed, but the meeting is where it is discussed in such a way that it's not discoverable. That is where you can make a plan, as it were, in the Board of what your plan of action is, given a practitioner, a

patient, or a pharmacy. That is the difference. It's not that the information is not discoverable, but during the meeting, that is what is protected, if that gives you any comfort.

Chairwoman Leslie:
In rereading, I read it that way also. It says “the meeting” throughout the paragraph. Is there any further discussion?

Assemblywoman McClain:
It refers to the physician, pharmacist, or person receiving benefits. Can I get a copy of the full minutes? Then, we let the physician or pharmacist have a copy of the portion that refers to them. The person receiving benefits, if they are discussed in a meeting, would they even know it?

Chairwoman Leslie:
I don't think they would. That's the whole point.

Mary Wherry:
There may be times when they may discuss a recipient and may decide that this is a pain-management situation, and the recipient is not abusing the drugs. There's no reason to excite the recipient and have them feel accused or persecuted in some way. If, however, the person was going to have a reduction in benefits of some type, they would be noticed, through our normal channels of noticing them, with regard to a decision being made about their benefit. They would have the opportunity to exercise their right to a hearing process.

Assemblywoman McClain:
They would find out if it was personally affecting them.

Mary Wherry:
Exactly.

Assemblyman Horne:
Regarding these people who have addictions due to visiting multiple physicians, what if, during these meetings, it was determined that the physicians should have known? That would seem to be a discoverable event, not so much the process on whether or not this person has an addiction. Now, if I'm the attorney on this and have a client who now has an addiction, and it comes out that, by his own actions, he has some culpability, having gone to multiple doctors, if a doctor or two knew he sought these medications from other doctors as well, but prescribed again, there may be a cause of action there. I can't get to it if we do this. I can't get to that fact out of those records. Am I correct?

Darrell Faircloth:
For clarification, I'm a little unsure of whether you're contemplating a medical malpractice suit or contemplating a criminal conviction for the recipient who is actually taking an excessive amount of prescription drugs.

Assemblyman Horne:
Let's start with medical malpractice.

Darrell Faircloth:
In a situation where there's a medical malpractice suit, certain information would be discoverable through other means. Discussion within the Drug Utilization Review Board would be amongst those doctors who are members of a subcommittee that reviews the prescribing habits of that particular physician. As a result of the discussion of that subcommittee of physicians, they might return to the committee a recommendation that the matter be referred to the Medicaid Fraud Unit or Surveillance and Utilization Review (SUR) Committee of Nevada Medicaid for recovery. The Medicaid Fraud Unit could take action against the physician, as could the SUR unit. These bodies can act independent of the Drug Utilization Review (DUR) Board as well. There are many stops along the way. However, much of the information, in terms of the acts that make up the prescribing habits of the physician, is discoverable information through other avenues.

Assemblyman Horne:
I'm defending in a criminal complaint.

Darrell Faircloth:
I'm sorry, Mr. Horne, the situation where a recipient—say, a Medicaid recipient—would be subject to some sort of criminal prosecution is one that I haven't given a great deal of thought to, because that would indeed be a rare event. These discussions primarily are focused on addressing the situation in an educational venue or mindset, as to Medicaid's recipients, and putting in place those measures that can assure that recipients receive appropriate pharmacy therapy.

If something should come of one of these meetings whereby one of the recipients is referred to the Medicaid Fraud Unit for criminal actions—for procuring large quantities of prescription drugs—there would indeed be a question of whether all that information was available elsewhere. All the data as to just what they had done, where they had done it, and where they had procured prescription drugs would be discoverable through other records that Medicaid has. The only thing that this appears to protect is the discussion amongst the medical professionals of the acts of that particular recipient and

what that particular recipient did. It's their opinion that it's essentially protecting.

Assemblyman Horne:
Would you be opposed to another amendment to this? Basically allow it and have discovery, if criminal proceedings were filed against this person that you are representing. It would then be discoverable—not medical malpractice, but for criminal. From what I heard, there's a possibility it could arise to where they could be charged criminally. They would not be able to get to the records this way. That makes me uncomfortable.

Chairwoman Leslie:
I want to understand what you are proposing in concept. Certainly, you can propose a conceptual amendment. Can you restate what the amendment might be so we all understand it?

Assemblyman Horne:
The amendment would be to allow the prohibition of discovery of these minutes, with the exception of instances where the person is being criminally charged for his acts of Medicaid fraud. He may need those records for his defense.

Chairwoman Leslie:
Do you folks understand the conceptual amendment and have a comment on it?

Mary Wherry:
Just a point of clarification: as Assemblyman Hardy pointed out, this is strictly with regard to the discussion that occurs. With regard to whether a physician or recipient would have access to records that they may need in their defense, those records would be what the prescribing physician has in his office. Those are not things that we would have purview over or even have access to, typically, in our drug utilization review discussion. All we are looking at is claims-paid data to say, based on the diagnosis that we are aware of, and based on the claims that we have paid for these prescriptions, do we perceive that there is a problem that needs to be dealt with, whether through education or otherwise?

Assemblyman Horne:
I'm thinking that if I have to defend somebody and need to get some records to tie things together, there needs to be a chain, and that's a link that is taken away from me. I may have these records showing that Dr. Hardy prescribed this and some other doctor prescribed that, but I don't have everything. What also

helps my client is the discussion that you guys have to say XYZ, and if I don't have that, I can't tie it together and defend my client.

Mary Wherry:
We don't take issue with that.

Chairwoman Leslie:
You're saying that something that happens in the meeting might be something you need?

Assemblyman Horne:
Correct, that I would need for their defense as in a criminal action.

Chairwoman Leslie:
We'll leave that hanging in the air and move on.

Assemblywoman Gerhardt:
If, during the course of this meeting, it is uncovered that a physician is prescribing more than is appropriate to the point where it could put someone's health in jeopardy, with a possibility of an overdose, is there some duty among the other doctors, the other professionals, to report a situation like that? I know that there's a duty to report in other life-threatening circumstances. Maybe you can clarify that for me.

Mary Wherry:
That gets into peer review issues and issues that are probably relevant to the area and purview of the Board of Medical Examiners. However, the intent of the retrospective review, being a board of combined pharmacists and physicians, we would, in fact, notice the provider and tell them that, based on the information we have at hand on our claims data, there is an issue and a concern; we would start off as an educational intervention. We would do our own monitoring, but that would only be applicable to the Medicaid recipients. It's not to say that the board couldn't have a discussion and say that they would like to make a referral to the Board of Medical Examiners or another body for follow-up. That's not our role in the public health arena.

Assemblywoman Gerhardt:
You do have the ability to report to the Board of Medical Examiners, even with the stipulation that we just read, that it's not discoverable? You can take that a step further?

Mary Wherry:
We would be very hard-pressed to report something to the Board of Medical Examiners. We have not had to go to that extent. There are times when we have questions about a specific clinician who has applied to be a provider or has certain practices that we are concerned about, where we may call and ask a question of the Board of Medical Examiners. The physicians who sit on the committee—or if it was a pharmacist who has an issue—certainly have their own professional ability to do something from a peer perspective, should they choose to.

Assemblywoman Gerhardt:
As far as you know, they have no obligation to report to law enforcement or anyone if they see this?

Mary Wherry:
Ethically, a physician would be inclined to make that kind of notice, but our role is to be educational in nature, and if there is an issue of abuse or fraud, then we would have to determine whether we turn that over to the Medicaid Fraud and Control Unit or whether we need to issue some other kind of notice. I would suggest that one of those might include that we would consider, if it were severe enough, doing a cc [carbon copy] to the Board of Medical Examiners when we are notifying the provider of our concern about their practice pattern.

Assemblywoman Gerhardt:
Maybe Dr. Hardy could answer the question from a physician's standpoint.

Assemblyman Hardy:
Doctors do that all the time. We get a report from the pharmacy, and it has the patient name and all the drugs they use. When the physician is concerned about a given person and what the drug usage is, they just ask for a drug utilization report. The pharmacist gets it to us. It has all the providers that have ever written anything for the person, how many pills, how often, and the dates. Then we do an intervention and say, "This is not what you are supposed to do." You also have the opportunity to talk to the other doctors, or let them know, or have the report sent to them at the same time. That's without any law of any kind that I'm aware of. That's what you do. That's part of the care of the patients and the ethics of the profession.

The meeting that you have when you do a peer review or the drug utilization is reviewing material that is not new. You're not hiring an investigator to go out and do something. You have records that are already discoverable, and you are talking about those records that are already discoverable. This particular bill, as I see it, is just about the meeting and has nothing to do with getting more

information than what is already in the purview of the public, the subpoena, or the ability to get to it. The meeting itself is where the physician, pharmacist, and combinations thereof get together and say, “Is this reasonable or not?” If there's concern, then they pursue either through education or “Doctor, are you aware this is happening?” There are two educational issues, the doctor and the patient. Sometimes the doctor won't be aware; sometimes the patient won't be aware that somebody else is involved and has been doing something in a pain-management way. One of the physicians, who is an eye doctor, doesn't know what someone else is doing.

[Assemblyman Hardy, continued.] There's a comfort level for myself being in the industry. Again, what I would go back to: if the person is materially affected in their access to care, then that person gets involved. That's one of the hammers that we have with a person who is tolerant of, addicted to, or dependent on medications. We say, “We are cutting you off.” We say, “You are only allowed this many pills for this long.” Basically, this is the hammer that we have to hold over the head of the person, so that they actually are motivated to change and give the physician some help. This allows the physician to say, “Okay, they won't let me do that. Too bad. I'm not going to put up with your manipulation.” Anytime you're dealing with somebody who is tolerant of or addicted to drugs or alcohol, they can manipulate you. I don't care who you are. Sometimes it's good for this process to take place, so the patient now can't get it, and this becomes the availability that the doctor has to say, “Sorry, I can't do that.”

Chairwoman Leslie:
Thank you for summarizing the purpose of the Drug Utilization Review Board. The sticking point is privacy and who gets what records. We have one amendment from DHCFP that is a good one. That cleared up the question we had last time. Everybody see that? Mr. Horne has suggested another conceptual amendment.

Assemblyman Hardy:
If, in the peer review, you have something that is discoverable or not privileged, you have effectively killed your peer review. You will no longer have peer review as we know it. You will have destroyed the concept of peer review. If peer review is subject to discovery and subpoena and is not privileged information, you will have chilled that process to the point where you won't have effective peer review.

Chairwoman Leslie:
To translate that, you do not like Mr. Horne's conceptual amendment?

Assemblyman Hardy:
That's an understatement.

Assemblyman Horne:
I support peer review in the context of civil actions, liabilities, and malpractice. That's why I said, in a criminal context, in order to defend the client. That's the scope of my amendment. Doctors would not be brought in for suit on this. This is used for another purpose. There is nothing to be chilled.

Assemblyman Hardy:
To answer the concern there, the criminality that could be discoverable is discoverable in other ways. We don't bring up anything that is not discoverable in some other way. It is not a criminal investigation; that's how I'll say it.

Chairwoman Leslie:
You still don't like Mr. Horne's amendment?

Assemblywoman Koivisto:
In listening to this conversation, I'm not sure that we know what happens now. Are you unable to now have closed meetings? Or do you have closed meetings and this is just to codify the ability to do that?

Chairwoman Leslie:
That is a good question.

Mary Wherry:
We have historically had open meetings for our DUR Board. Prior to A.B. 384 of the 72nd Legislative Session, we didn't have involvement in the public process. There weren't pharmaceutical representatives; there weren't people who came and attended the meetings or expressed any interest in it. We would post on the agenda that there would be a closed session. It wasn't an issue of confidentiality, because nobody was involved other than the review board members and the staff.

In the last few years, the attendees have grown along with participants, which adds the need for protection. In addition, we now have a point-of-sale pharmacy system and an MMIS [Medicaid Management Information System] that allows us to collect much more data with much greater confidence about what the data may portray. Based on those, what may not have appeared to be an issue before has blossomed and mushroomed to the point we need to protect the integrity of intent of the federal law for the Drug Utilization Review Board to do their job, which is to do retrospective-prospective review of the utilization of drugs as prescribed, dispensed, and used by the recipient.

Chairwoman Leslie:
What would be your position on Mr. Horne's conceptual amendment? Would you lean more towards Dr. Hardy or Mr. Horne? Any comments you have on that idea would be helpful.

Mary Wherry:
As a professional nurse, it makes it hard for me to not agree with Dr. Hardy's statements. Based on my experience working in different organizations—whether a federally managed or private hospital—and working with physicians, there are no records that end up not being discoverable if they are relevant to the case. I don't know what would come from relevance in the Drug Utilization Review Board discussion. Much of it is about understanding the diagnosis. All the Drug Utilization Review Board is getting is an overview. They are not taking the medical records and digging into all of the issues that could contribute to the prescribing patterns. It's very superficial information. That's why Dr. Hardy's point is correct; it is already discoverable. The peer review process is not going to disclose something that is going to make or break a criminal case.

Chairwoman Leslie:
Mr. Horne's position would be to let him decide what is relevant. I think we understand that.

Assemblywoman Pierce:
We are not just talking about whether a doctor is a drug addict, abusing drugs, or something; it is also about fraud. There are a lot of other things here. I like Mr. Horne's amendment. I would be happier to take that phrase out.

Chairwoman Leslie:
Which phrase is that?

Assemblywoman Pierce:
The “not subject to subpoena or discovery” phrase, because there are lots of occupations in which being a drug addict is probably not a good thing. If you're an airline pilot and get called into a personnel session because someone thinks that you're flying a 747 loaded, I'll bet those minutes of that meeting are discoverable and can be obtained with a subpoena. I think that to say that something is “not subject to subpoena or discovery” is a serious step. I don't think that possibly protecting the reputation of one group of individuals who might be abusing drugs, committing fraud, or whatever is too trivial a matter to put this into statute.

Chairwoman Leslie:
Every member has had something to say, and I have no idea where we are. Mr. Horne, do you want to try a motion to see if we have any support?

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS SENATE BILL 420 WITH THE AMENDMENTS IN THE WORK SESSION DOCUMENT, AS WELL AS THE AMENDMENT ALLOWING FOR THE SUBPOENA OF RECORDS UNDER CERTAIN CIRCUMSTANCES.
>
> ASSEMBLYWOMAN PIERCE SECONDED THE MOTION.

Chairwoman Leslie:
Does everybody understand the motion? We have had a lot of discussion.

Assemblywoman Parnell:
I'm going to vote no; I may switch my vote on the Floor. I need time to digest everything that has been commented on today.

Chairwoman Leslie:
We need to take a vote, or the bill dies today.

Assemblyman Hardy:
I'm trying to find a word for ill-equipped. I don't think this is the forum to decide on judicial things that we are touching on right now. I will be a no on the motion as it stands. I think this is bigger than all of us; this particular issue.

Assemblyman Horne:
We can take out all of that section that deals with it, because that's judicial. As Ms. Pierce suggested, it is discoverable.

Chairwoman Leslie:
Would that make you happier? We can always amend the motion. Any comment on that idea, Dr. Hardy?

Assemblyman Hardy:
When I say this is bigger than all of us, I mean it's bigger than me. There's a lot of debate that needs to happen with this, instead of on the literal eleventh hour, as to what is discoverable and what is or isn't peer review. I think it's a major thing.

Chairwoman Leslie:
I understand, but we have to vote one way or the other.

Assemblyman Hardy:
I'm still a no.

Assemblywoman McClain:
If we remove the words "not subject to subpoena or discovery," that leaves it up to interpretation down the road, depending on what the situation is, right? Then it's up to the Attorney General to decide.

Assemblyman Hardy:
The absence of the definition, again, would bring this meeting into the open, in essence, and that meeting, in a peer review setting, would be problematic.

Assemblywoman McClain:
No, it leaves it as a closed meeting. On page 2, line 6, it says, "All minutes and audiovisual or electronic reproductions are confidential," then you take out that "subpoena" phrase, "and not subject to inspection by the general public." If you just leave out "not subject to subpoena or discovery," it makes you both happy.

Chairwoman Leslie:
A couple of people agree with that. Mr. Horne, what do think of that idea?

Assemblyman Horne:
If you take out that language of "not subject to subpoena or discovery," I would agree with the doctor on the peer review. There should be a level for closing this, but not absolute.

Chairwoman Leslie:
It just leaves it vague. Mary, do you want to comment on that? We need to vote and move on.

Mary Wherry:
Members of the Drug Utilization Review Board would probably be very sparse in their dialogue; they would probably be somewhat guarded in expressing their frank medical opinion.

Chairwoman Leslie:
You prefer to leave it in or take it out?

Mary Wherry:
We would prefer to leave it in; it's not a hill to die on. Certainly, if it is that problematic for the members, we would probably be requested to amend this next year.

Chairwoman Leslie:
Would you prefer to leave it in with Mr. Horne's amendment or take it out?

Mary Wherry:
It's the same issue; it is going to have the same impact.

Chairwoman Leslie:
They don't think taking it out would be helpful.

Assemblyman Horne:
She says if you leave it with my amendment, it wouldn't be helpful either. Both Ms. Wherry and Dr. Hardy made statements on how this stuff could be used legally, and they are both medical professionals. I think they are speaking a little bit outside of their expertise. I am in disagreement with their opinions and would be willing to work with them. I think this is a fair compromise.

Chairwoman Leslie:
We'll leave the motion the way it is.

Assemblywoman Koivisto:
The whole discussion has gone far afield. This is dealing only with the Drug Utilization Review Board for Medicaid; this is just a Medicaid thing. This is not rewriting any kind of medical practice, prescribing practice, or anything. This is just a Drug Utilization Review Board change.

Chairwoman Leslie:
Good point. Anything else that needs to be said, and then we'll take a vote? The motion we have on the floor is to support the amendment that is in the book (Exhibit B) and Mr. Horne's conceptual amendment. Are there any questions on the motion?

Assemblywoman Gerhardt:
The amendment that you proposed is to take out that entire section, or the first one that you talked about?

Chairwoman Leslie:
It's the first one, adding the exception for criminal purposes.

Assemblyman Horne:
The conceptual amendment that I have, on page 2, lines 5 and 6, "not subject to subpoena or discovery," would add in that area—and Drafting can decide how to state it and where exactly to place it—with the exception for the situation in which the targeted individual under discussion is being criminally charged with a crime pursuant to the discussion of Medicaid fraud. In that situation, they could get discovery of it for the defense of a particular patient.

Chairwoman Leslie:
Question on the motion?

Assemblyman Hardy:
That would be limited to the portion of the minutes dealing with that individual, rather than the meeting in total?

Chairwoman Leslie:
Yes. Is there any other question on the motion?

THE MOTION FAILED, WITH ASSEMBLYMAN HARDY, ASSEMBLYWOMAN KOIVISTO, ASSEMBLYWOMAN PARNELL, ASSEMBLYWOMAN PIERCE, AND ASSEMBLYWOMAN WEBER, VOTING NO. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

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ASSEMBLYWOMAN McCLAIN MOVED TO AMEND AND DO PASS SENATE BILL 420 WITH THE AMENDMENT IN THE WORK SESSION DOCUMENT.

ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.

THE MOTION CARRIED, WITH ASSEMBLYWOMAN PARNELL VOTING NO. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
We are going to S.B. 458, Tab I (Exhibit B).

Senate Bill 458 (1st Reprint): Makes various changes concerning time within which person who is transported to hospital is transferred to place in hospital where he can receive services. (BDR 40-1321)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill provides a limit for the wait time for a person who is transported to a hospital by an ambulance or emergency medical services vehicle for emergency care. The wait time is established as soon as practicable, but not later than 30 minutes after the time at which the person arrives. In addition to this, there is a provision for study that is mandatory in Clark County and optional for the rest of the state. There is another provision, which says that if Washoe County does not elect to opt in to the study and the Health Division determines through their data that there is a wait time problem in that county, the Health Division may require the county to participate.

The Committee received testimony in support of the bill from the Professional Fire Fighters of Nevada, several ambulance companies, and the Nevada Hospital Association. Washoe County supported the concept of the bill but came in with an amendment that has two parts; they are mutually exclusive. The first option would delete the section that would require them to participate if they had not opted to do so on their own. If that was not acceptable to the Committee, they were also requesting that the State Board of Health, rather than the Health Division, be the entity that could require them to participate. The testimony of the Washoe County District Health Department and description of their amendment is on the next page (Exhibit B). We did not receive any additional amendments.

Chairwoman Leslie:
Are there any comments from the Committee?

Assemblyman Hardy:
In the flow of medicine, it's hard to guarantee anything. This may be a goal, but I'm not comfortable with putting in statute 30 minutes, even if we put in "as soon as practicable, but not later than 30 minutes." We don't try to keep people in hospitals on gurneys from the ambulance. I recognize the laudability of this. I really can't vote for something that I know is going to be broken over and over again. I don't have the optimism that this is the direction to go. You don't want to say, "You're a horrible place because you did 31 minutes or 42 minutes." I don't know that it's possible to do. I don't want to put people in the potential position of "I know you can't do it, but I have a law that says you have to."

Chairwoman Leslie:
This bill, as I understand it, is a study. It is not requiring them to do it. It is requiring them to keep track of the time it takes to transfer. It is not requiring 30 minutes.

Assemblywoman Koivisto:
That is exactly right. The purpose behind the study is to have the statistics and be able to figure out how to fix what it is in the system that is creating the holdups, the problems with divert, having to close emergency rooms, and so forth.

Assemblyman Hardy:
I'm reading the bill and trying to figure out where this "study" is. I read "shall" on line 7.

Chairwoman Leslie:
Mr. McAllister, why don't you come up and help us with this? It does say that. Does it set an expectation that it has to happen in 30 minutes, but there's no enforcement provision? Is that what it does?

Rusty McAllister, Vice President, Professional Fire Fighters of Nevada:
That's correct; there is a provision based on the national standard. The national standard is that you transfer care of that patient within 30 minutes. There is no penalty; it is not punitive. The agreement with the Hospital Association was that there would be no penalty involved. We had to have some baseline standard by which to measure ourselves. This is the national standard. That is why that number, in particular, was put in there.

Assemblyman Hardy:
I can create a better way to say it. If it's to be a study or not be onerous, you should change the word "ensure" to "shall attempt" on line 7 of Section 1, subsection 1.

Chairwoman Leslie:
Where it says "shall ensure," you want it to say "shall attempt?" [Assemblyman Hardy responded in the affirmative.]

Rusty McAllister:
To address Dr. Hardy's amendment, we have been attempting to do this for years in Clark County. The attempts have been feeble and have not sustained much success. At this time, we have at least one hospital in the valley that has over an hour drop-off transfer time 71 percent of the time. There has to be a

reason. If we just say, “Let's just attempt,” they are going to say, “We are attempting now.”

[Rusty McAllister, continued.] We've tried to be very reasonable. We would like to stick with the bill because that is the commitment we made to the Hospital Association that we wouldn't change our part. We believe that it's fair; they agreed to it. In negotiations, they have agreed to this. This is not like we imposed it upon them.

Chairwoman Leslie:
Thank you for the clarification. We understand that there is a time limit. There is no penalty. I was more interested in the study provisions, finding out why this is happening.

Assemblyman Hardy:
That's the heart of the bill; that's where we want to be. We want to find out what it is we need to do and have the opportunity to say, “Yes, these are the times; yes, this is happening,” and solve the problem. Next time we visit this, we'll be able to say we did something good. There is more to this than just those 30 minutes. I have a major philosophic, internal personal problem with writing a law that I know is not going to be kept. I know medicine and what I'm talking about when I say there are going to be circumstances where you are not going to be able to keep the law.

Chairwoman Leslie:
I don't want to argue this back and forth. So if you have a comment that is going to help the Committee, go ahead.

Rusty McAllister:
In the Senate, Dr. Heck, who helped bring this bill along, made a comment that was very germane to the conversation. The bottom line is not the ambulance companies, the fire departments, or the hospitals; it is the patient.

Chairwoman Leslie:
We understand, and that's fine. That's not what we are talking about. Dr. Hardy doesn't want to put into the statute something we know won't be met, even though there's no penalty. The other side is saying if we just say attempt, nobody is going to take it seriously. I think that's the crux of it.

Assemblyman Hardy:
That's where I'm coming from; it's the patient. If I get a major trauma in a hospital, I know that I'm not going to pay attention to some of the other things that are happening in the hospital. It's just not going to work.

Chairwoman Leslie:
I understand your objection. I don't think we need to rehash the bill.

Assemblywoman Parnell:
If you just take out subsection 1, the rest of the language sets up the study. I don't know if there's a way to leave the 30 minutes in there as a reference point.

Chairwoman Leslie:
I think they would argue that they need subsection 1, or the whole thing doesn't work. The argument that Rusty is making is that this is the language negotiated with the Nevada Hospital Association.

Assemblywoman Parnell:
It does specify that it does not create a duty of care or grounds for civil or criminal liability. It's clearly stated in the bill.

Chairwoman Leslie:
What I wanted to talk about is the proposed amendment regarding Washoe County. Who else is here from Washoe County? Washoe County is probably not going to be happy, but I would rather keep it consistent for the whole state. I don't think we should be changing it just for Washoe County. Let's try a motion.

> ASSEMBLYWOMAN PARNELL MOVED TO AMEND AND DO PASS SENATE BILL 458 WITH AMENDMENT NUMBER 2 IN THE WORK SESSION DOCUMENT.
>
> ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.
>
> THE MOTION CARRIED, WITH ASSEMBLYMAN HARDY VOTING NO. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
Let's go to Tab J (Exhibit B), Senate Bill 462. This is the DHR [Department of Human Resources] cleanup bill and the BADA [Bureau of Alcohol and Drug Abuse] transfer issue.

Senate Bill 462 (2nd Reprint): Repeals, reenacts, reorganizes and revises provisions relating to Department of Human Resources and Department of Employment, Training and Rehabilitation. (BDR 38-178)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill began as a bill to reorganize and revise numerous provisions of statute regarding the Department of Human Resources. It also affects the Department of Employment, Training and Rehabilitation (DETR). The measure changes the name of the Department and the Welfare Division and consolidates provisions relating to the Welfare Division and the Division of Health Care Financing and Policy (DHCFP) where statutes are currently woven together. It reorganizes provisions related to the Division of Child and Family Services (DCFS) and eliminates obsolete and unnecessary references in the statute. In addition, the bill transfers responsibility for the Bureau of Alcohol and Drug Abuse from the Health Division to the Division of Mental Health and Developmental Services (DMHDS). There are additional provisions regarding the appointing authority of the Director of DHR and makes changes regarding the property tax assistance for senior citizens program.

Michael Willden, Director of DHR, testified that the agency did not support the transfer of BADA at this time. He submitted a proposed amendment, which we are calling amendment number 1. These are in your Work Session Document (Exhibit B). This amendment clarifies the director's appointment authority regarding various positions. Currently, it does not allow the Director to appoint any employees of the Division of Mental Health and Developmental Services, when it should read "only the administrator." I believe this was probably not intended by the original drafting. The same argument could be made regarding the Nevada Indian Commissioner, where the executive director would be the person that is exempt from DHR Director's appointment. Also, the public defender is added in there. That was not in the original version.

The Committee received testimony in support of the bill, including the transfer of BADA, from Senator Randolph Townsend and Senator Joe Heck. There were no opponents to the entire bill. The opposition centered on the transfer of BADA. There were representatives, clients or former clients, of a variety organizations listed in the Work Session Document (Exhibit B).

The second amendment is from Frank Parenti, president of Nevada AADAPTS [Alliance for Addictive Disorders, Advocacy, Prevention, and Treatment Services]. It would rescind the Floor amendment that had put in the transfer of BADA. Mr. Willden has also submitted another proposed amendment on behalf

of DHR. This amendment would leave the BADA transfer in place, but it would change the effective date in Section 219 of the bill, so the transfer would not take place on October 1, 2005. Instead, it would be delayed until July 1, 2006. If you read the conceptual language—this is not legal language, but conceptual language—a transition plan would have to be submitted to the Governor and to the Interim Finance Committee. Since the Governor's review and concurrence would be required for this transition plan, it is conceptual, and I don't know how the rest of that would be worded.

Chairwoman Leslie:
Mr. Willden, would you come up? I'm sure we will have some questions for you. Committee, the last amendment is something I have been working on with DHR and Senator Townsend. It's an awkward situation; we don't want Mr. Willden to lose his cleanup bill. The Senate put on this controversial amendment. We don't need to rehash those issues. I have been working on this issue for years. I like putting it in mental health. I disagree with how the amendment got on the bill, how fast it went, and that there was no open public forum.

In order to protect Mr. Willden's interests and need for the bill, I wanted to see if there was a way we could come up with a compromise so we don't lose the bill. I can tell you that the Senate feels strongly about this. There is a real danger of losing the bill. Another option we can try with the Senate would be to study it for two years and allow for a full process. The thing I don't like about that is that we'll have two years of stalling from the substance abuse providers. I've said it to them, and I'll say it here publicly too. I thought their testimony was just awful.

There are real issues that Mr. Willden brought out in terms of planning and process. The statements made by some of the providers about people with mental health deeply offended me. It proves why we need to put these two agencies together and get past the stigma of "he's a substance abuser and an addict." People are saying, "We're not going to treat that person; he's a methamphetamine addict. We're not going to treat that person; he's a schizophrenic." They fight about who is going to treat the person. Meanwhile, the person continues to decompensate; it's really a big problem.

Those are the choices we have, or we could accept the bill as is, which I, personally, wouldn't recommend because BADA would transfer automatically on October 1. I don't think that provides any planning time. Why don't we go to Mr. Willden to comment on anything I said and your amendment?

Michael J. Willden, Director, Department of Human Resources, State of Nevada:
I know the last time I testified, there were some comments made that my testimony was a bit appalling. I want to say, for the record, if I didn't mention in previous testimony, that I care about the clients we serve, whether from a public health or mental health viewpoint; I care about both deeply.

My only concern all along has been how much we have on our plate. I did meet extensively with our public health staff and our mental health staff; I have great staff. They have assured me that, with adequate planning time, they believe they could make this work. There have been arguments on both sides of the Legislature as to where this can work. I can say it can work anyplace; we are one department. We can make it work. I want to be insistent that we have adequate planning time. What this amendment would offer would be that we delay the start a year; that would allow us to have workshops to work with providers, clients, stakeholders, and all the groups that need to be worked with to develop a transition plan.

There are two budgets we have to look at. We have to unbundle things on one side of the department and rebundle them on the other. There are two budget accounts. There's an alcohol tax collected and used for some of the treatment services. There are federal grants. We need to work through those issues. None of these are big issues; it's just the lead time. Our plan would be that we work through those issues, take the plan to the Governor, and have the Governor review that—similar to everything we do when we go to the Interim Finance Committee (IFC). The Governor would look at it; we'd submit work programs to the IFC for the second year of the biennium to move the budget, to move the appropriate staff personnel, whatever else we need to do, and then we'd be ready to go in the second-half of the biennium.

Again, I am more worried about process, lead time. We don't want to be failing out of the chute, that we don't have stakeholder input and those kinds of things. That's what I have been worried about all along. That's what we could do with this amendment. Again, my staff has assured me they will give it 100 percent effort to be successful. I know them to have been that way in the five years I have been the director.

Chairwoman Leslie:
Thank you for working on this; it's been a lot of work. Are there any comments from the Committee?

Assemblywoman Parnell:
I would only feel comfortable supporting this if we gave it the two years for public input. I don't think the policy has been made. I'm uncomfortable with the

assumption that, in a year, we will be ready to move on this without really knowing if that's what the clients and everyone chose to do after public input. We are making that decision; I would feel more comfortable if the interim was used to gain that information to make that public policy decision, then come back to the next session with a solid plan for the transfer. Otherwise, I would not be supporting the bill.

Assemblywoman Gerhardt:
I agree with Assemblywoman Parnell. It seems as though this is being rushed. I'm concerned that you have enough on your plate at this point in time. That's how I feel about it, too.

Chairwoman Leslie:
My concerns are that Mike loses the whole bill, as well as the stalling we are going to see from the substance abuse people.

Assemblywoman McClain:
I don't want him to lose the bill. It probably would be good to transfer it but, maybe, extend the date. Is it to July 2006? [Chairwoman Leslie responded in the affirmative.] I can support that.

Chairwoman Leslie:
Ms. Pierce, you could support that, too? Where are you before we try a motion? You can support the amendment? [Assemblywoman Pierce responded in the affirmative.] We are going to have a split. Dr. Hardy? Mrs. McClain would go with the amendment Mike produced—the last thing in the book—which puts it out a year, gives them transition plan due by March 31, and then the Governor. There is an opt-out clause here. If the Governor thinks it's not ready, it doesn't go. Is that correct, Mike?

Mike Willden:
Also, if the Interim Finance Committee doesn't think it's ready, it doesn't go. It's a two-step process. The Executive Branch and the Interim Finance Committee have to feel we have an acceptable transition plan, or it's a no-go.

Assemblyman Hardy:
I'm intrigued by the concept that is mentioned about the policy. Is the policy we are talking about to put BADA in with Mental Health, or vice versa?

Chairwoman Leslie:
Correct. It is to transfer the Bureau of Alcohol and Drug Abuse from the Division of Health to the Department of Mental Health. Both divisions are under Mike in the Department of Human Resources.

Assemblyman Hardy:
Inasmuch as that is the policy that we are talking about, I would welcome a straw poll of the Committee as to whether they want to make this transition.

Chairwoman Leslie:
I think the Committee members are saying that they don't know yet. There hasn't been enough public input and discussion to know, and that's a valid point. I understand what you are saying. I have been working on this for eight years. Personally, I am convinced this is the right policy. I can certainly understand that other people are not convinced yet. They are saying they don't know which way to go yet.

Assemblyman Hardy:
I'm not going to force the issue one way or the other. If we don't do anything, my preference would be to move forward judiciously, instead of expeditiously. I don't think we are prepared to do anything by October. If we did something, as Mr. Willden suggests, in a phase-in approved by the Governor and IFC, that gives us some coverage.

Chairwoman Leslie:
The compromise, Mike Willden's amendment, you would support? [Assemblyman Hardy responded in the affirmative.]

Assemblywoman Pierce:
I'm confused about what is in our book (Exhibit B). Are there two amendments from Mr. Willden?

Chairwoman Leslie:
The very first one is not germane to this issue; that is from Mr. Willden, the one with the colors. That is cleanup language we would include when we do these other cleanup provisions. The second amendment is from the Substance Abuse Provider Organization. They don't want it transferred at all. They don't even want a study; they want it left the way it is now. The third possibility is what we have worked out, the very final page. That's the one that provides transition time.

Jeanette Belz, Legislative Advocate, representing Nevada Alliance for Addictive Disorders, Advocacy, Prevention, and Treatment Service (AADAPTS):
I want to make it clear that we would be supportive of a study, have met with each of you individually, and have indicated that.

Chairwoman Leslie:
Your proposed amendment does not include the study?

Jeanette Belz:
That is correct.

Chairwoman Leslie:
That is the point I was trying to make, which I think is indicative of the problem.

Assemblyman Horne:
Is there another amendment?

Chairwoman Leslie:
There is not another amendment. She is saying they would support a study. They would prefer a study as opposed to the compromise amendment. With the study, there's a very real possibility the whole bill dies in the Senate. I don't think the Senate is going to concur with that.

Assemblyman Horne:
I am not in favor of transferring BADA. I like the momentum we've been seeing with mental health. At this stage, I would prefer a study.

Chairwoman Leslie:
We don't really have an amendment for a study. That would be a fourth option, to amend the bill. I'm trying to outline the options. The fourth option would be a conceptual amendment to do a study.

Assemblyman Horne:
Take it all out.

Chairwoman Leslie:
Take it out and just leave it the way it is? We don't have that before us. That would have be option four, to refer it to the Legislative Committee on Health to study it and make a recommendation to the Legislature. That would probably be the most appropriate, unless, Mike, you have a better suggestion.

Mike Willden:
No, that was our earlier suggestion. That's where we suggested it be studied.

Chairwoman Leslie:
On the record, what happens if we do that? There is support on the Committee to do that as a fallback option. Is there a consequence of losing the entire bill? Is it something you can live with or not?

Mike Willden:
I can live with that. This is a cleanup bill. We have had gooped-up statutes for over 20 years, and two more years of doing the scripture chase—we'll do the scripture chase. My big issue is the appointing authority issues, because of the legal issues we have had with appeal rights and termination rights with some of our employees. Hearing officers have ruled that I'm not the boss. If they want to continue ruling I'm not the boss, I guess I'm not the boss.

Chairwoman Leslie:
We'll put that amendment in, send it back to the Senate, see what they do, and continue fighting over it. I prefer the last amendment.

Assemblyman Horne:
Do we want to ask the Senator to come in?

Chairwoman Leslie:
No, I do not want to open it to the Senators at this time. That's not appropriate. We will have plenty of time to talk with the Senators.

Assemblyman Horne:
Did we find out the urgency of making this change?

Chairwoman Leslie:
It just came from the Senate. They reached the point where they think it's time for something to be done. The way this happened is unusual.

Assemblywoman Weber:
I'm one of the greatest advocates of change-management, and let’s move it forward if it makes more sense. If you are dragging the team, you aren’t going to get the buy-in you would if you take more time. I like the idea you suggested that BADA be housed under Mental Health. If that is going to bring people kicking and screaming, when they could be working as a team, I can see the reason for taking the time.

Assemblyman Horne:
As to your concern about the providers dragging their feet, we could send out a stern letter telling them that this is their time to cooperate, or you may not like the outcome.

Chairwoman Leslie:
Knowing them as well as I do, the amendment that Mike came up with gave them a year. It said it's going to happen; let's cooperate. My fear with the study is that we’ll have two years of what we saw the other day.

[Chairwoman Leslie, continued.] There doesn't seem to be support for the compromise amendment. I'll entertain a motion; most people are comfortable with that. We can then send it back to the Senate, and Mike can take his chances. If there is a conference committee appointed, we can continue to discuss it with the Senators.

> ASSEMBLYMAN HORNE MOVED TO AMEND AND DO PASS SENATE BILL 462 WITH THE FIRST AMENDMENT FROM THE WORK SESSION DOCUMENT, AS WELL AS THE CONCEPTUAL AMENDMENT CALLING FOR A STUDY.
>
> ASSEMBLYWOMAN KOIVISTO SECONDED THE MOTION.
>
> THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
We have just one more bill to discuss, S.B. 120, under Tab A in the Work Session Document (Exhibit B).

Senate Bill 120 (1st Reprint): Transfers responsibility to establish program concerning treatment of trauma. (BDR 40-885)

Barbara Dimmitt, Committee Policy Analyst, Legislative Counsel Bureau:
This bill would transfer responsibility for establishing a program for treating trauma victims, transporting them, and admitting them to trauma centers from the State Board of Health to the Clark County District Board of Health. The Committee received testimony in support of the bill from representatives of Sunrise Hospital and University Medical Center (UMC), where the two trauma centers are, as well as testimony from Clark County and the Nevada State Medical Association.

Alex Haartz, Administrator of the Health Division, indicated that, as a secretary of the Board of Health, he transmitted their recent establishment of a position that they felt existing law provided enough flexibility to transfer this function by variance, as they had done with Clark County, and allowed for possibility of pulling the authority back if it didn't work out. They felt the transfer of responsibility, by statute, was not necessary at this time. There were no other

people testifying in support or opposition. We did not receive amendments on this bill.

Assemblywoman McClain:
Why fix something that is not broken?

Chairwoman Leslie:
We heard testimony that they would prefer it this way, that it would be a more efficient way to have that part of it under local control. I'm disturbed with the way the trauma center designation happened. I want to float a couple of ideas about amending the bill. One would be to add the requirement that both the State Board of Health and the county health district approve new trauma centers before they are designated by the Administrator. I'm troubled by the fact that there was a local process that was moving along in a judicious manner when the State jumped in suddenly and made the decision. Let me try that one. How do you feel about that amendment? It would be adding both the State Board of Health and county district to approve new trauma centers.

Assemblyman Horne:
I tend to disagree on the approval, that it just won't happen.

Chairwoman Leslie:
It's just added protection, so the local people aren't shut out of the decision that they are most affected by, like what happened.

Assemblyman Horne:
Right. I'm with you on what happened down there.

Chairwoman Leslie:
I'll float another idea. UMC is the free-standing Level One trauma center down there. In Las Vegas, there are going to be more trauma center applications; this is directed towards the future. Since UMC is the Level One, they would be designated as the lead trauma center and have responsibility for approving trauma system plans, including protocols and catchment areas for the area trauma system, to have a coordinated trauma system. We don't want to get in a situation where other trauma centers are located too close and taking the sickest patients. I'm afraid that it's going to get out of control, and everybody will be going after the trauma patients that they make the most money off of and be very uncoordinated. I'll just throw that out as a conceptual idea for the Committee.

Assemblyman Horne:
Would you restate that idea?

Chairwoman Leslie:
That any future trauma centers would coordinate with the Level One trauma center—the highest level—which is UMC right now.

Assemblywoman Pierce:
That sounds good to me.

Assemblywoman McClain:
I don't quite understand what you mean by "cooperate."

Chairwoman Leslie:
They would have the responsibility to approve other trauma system plans, so everybody would agree how trauma center patients are going to be treated, where they will taken to, et cetera.

Assemblywoman McClain:
Basically, you are then going to have a local government entity telling private hospitals what to do.

Chairwoman Leslie:
The top trauma center will coordinate what others do, so they get the patients that they need.

Assemblywoman McClain:
I don't know how we can say that a local government is going to have this authoritarian control over services provided by private hospitals.

Chairwoman Leslie:
Well, over the protocols on how patients are treated.

Assemblywoman McClain:
Approving. If they were helping…

Assemblyman Horne:
It would be an advisory role. We already have standards on what is to be in a Level One trauma center.

Chairwoman Leslie:
Maybe we make it an advisory role, then.

Assemblyman Horne:
If other trauma centers or private hospitals want to build one, in order to implement their trauma center, UMC needs to be in an advisory position to them—help bring them along—so we know that all the standards are the same.

Chairwoman Leslie:
We need some kind of coordination mechanism.

Assemblyman Horne:
I see what you are trying to do to deal with that. I don't think you can mandate that they oversee the process.

Chairwoman Leslie:
How about coordinate?

Assemblywoman Pierce:
About Ms. McClain's concern: we tell and require things of private entities all the time. We make regulations all the time. I don't think that necessarily is a problem in what we are discussing here.

Assemblywoman McClain:
I like your first suggested amendment better. I really don't like that second one.

Assemblyman Hardy:
I'm looking at the bill in the first reprint. I like the concept of having the local board decide and the State Board to adopt regulations to establish the standards and designations. There's a system of trauma that came up in this discussion. I like the State to be able to adopt the regulations, the control to be in the locals, and the locals in the bill are the district board of health in the county. That's Clark County Health District, which has two representatives from the county and two from Las Vegas.

Chairwoman Leslie:
Right. You like the bill the way it is.

Assemblyman Hardy:
I like the bill. I think it's a good bill just the way it stands.

Chairwoman Leslie:
We have people who don't like the bill, people who want to amend the bill, and people who like the bill the way it is. Any other comments, anybody? I would still like to make a pitch for my first amendment.

Assemblywoman Koivisto:
I don't think there's anything wrong with the bill. It was an issue the way the second trauma center was established. The State Board just totally bypassed the locals who were already working on the issue.

Chairwoman Leslie:
You like the first amendment then? My amendment would have both the State Board of Health and the county health district.

Assemblywoman Koivisto:
I don't think the State Board would have anything to do with it.

Chairwoman Leslie:
You want to change it to only locals?

Assemblywoman Koivisto:
Yes. It's a local issue.

Chairwoman Leslie:
What's in the bill is transferring part of it; it would still be up to the State to decide where a trauma center goes.

Assemblywoman Koivisto:
It's like saying we need a certificate of need. Clark County has gone beyond having to have the certificate of need.

Assemblyman Hardy:
In the first reprint, as I read it, the Clark County Health District is in charge of approving; the State Board of Health is in charge of setting up the regulations that would be the template for which something would be approved. The approval process is in the hands of the locals.

Chairwoman Leslie:
I don't think that's correct. I will entertain a motion, if you're ready.

ASSEMBLYMAN HORNE MOVED TO DO PASS SENATE BILL 120.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION CARRIED. (Assemblywoman Angle and Assemblyman Mabey were not present for the vote.)

Chairwoman Leslie:
There is nothing else that needs to come before the Committee. Thank you for your service this session. We won't meet again unless, by some reason, we get referred a bill. With that, we are adjourned [at 4:05 p.m.].

RESPECTFULLY SUBMITTED:

Joe Bushek
Recording Attaché

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblywoman Sheila Leslie, Chairwoman

DATE:

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 20, 2005 **Time of Meeting: 1:44 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
S.B. 120 S.B. 146 S.B. 281 S.B. 282 S.B. 296 S.B. 354 S.B. 396 S.B. 420 S.B. 458 S.B. 462	B	Barbara Dimmitt / Legislative Counsel Bureau	Work Session Document
S.B. 146	C	Assemblyman Hardy	Subcommittee Report
S.B. 281	D	Mary Wherry / Division of Health Care Financing and Policy	Informational Handout on Medical Programs