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

Seventy-Fourth Session
May 7, 2007

The Committee on Health and Human Services was called to order by Vice Chair Susan I. Gerhardt at 1:48 p.m., on Monday, May 7, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Sheila Leslie, Chair
Assemblywoman Susan I. Gerhardt, Vice Chair
Assemblyman Bob L. Beers
Assemblyman Joseph P. (Joe) Hardy
Assemblywoman Ellen Koivisto
Assemblywoman Kathy McClain
Assemblywoman Bonnie Parnell
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Valerie E. Weber
Assemblywoman RoseMary Womack

GUEST LEGISLATORS PRESENT:

Senator Joseph J. Heck, Clark County Senatorial District No. 5
Senator Maurice E. Washington, Washoe County Senatorial District No. 2

STAFF MEMBERS PRESENT:

Paul V. Townsend, Legislative Auditor, Legislative Counsel Bureau, Audit Division
Sarah J. Lutter, Committee Policy Analyst
Patricia Evans, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Michael D. Hillerby, representing The Nevada Academy of Health Steering Committee, Sparks
Lawrence P. Matheis, Executive Director, Nevada State Medical Association, Reno
Marcia Turner, Interim Vice Chancellor and Chief Operating Officer, University of Nevada Health Sciences System, Nevada System of Higher Education, Las Vegas
Bobbette Bond, representing The Health Services Coalition, Government and Community Affairs Manager, Hotel Employees and Restaurant Employees International Union Welfare Fund, Las Vegas
Rory Chetelet, representing The Southern Nevada Health District's Emergency Medical Services and Trauma System Office, Las Vegas
Graham Galloway, Attorney At Law, Galloway and Jensen, Reno
Jack H. Kim, Director Legislative Programs, Government Affairs and Special Projects, Sierra Health Services, Inc., Las Vegas
Gregory Middleton, Chief, Medical Specialties, Southwest Medical Associates, Inc., Las Vegas
Robert Schaich, Vice President, Information Systems, Chief Information Officer, Sierra Health Services, Inc., Las Vegas
Dan Musgrove, Associate Administrator, External Relations, University Medical Center, Las Vegas

Vice Chair Susan Gerhardt:
[Meeting called to order. Roll.] Please introduce Senate Bill 171 (1st Reprint).

Senate Bill 171 (1st Reprint): Creates the Nevada Academy of Health. (BDR 40-952)

Senator Joseph J. Heck, Clark County Senatorial District No. 5:
Senate Bill 171 (R1) would provide for the formation of a Nevada Academy of Health. [Read from prepared text (Exhibit C).]

Vice Chair Gerhardt:
Are we duplicating some of the efforts of the 2005-2005 Interim Legislative Committee on Health Care?

Senator Heck:
The Legislative Committee on Health Care looks at finite issues that have occurred. Most of the time, this Committee has to be reactive. One idea was to hire a consultant to develop the Nevada Strategic Health Care Plan (NSHCP). The Academy of Health would monitor whether the recommendations from within the NSHCP are carried out, and how they have impacted the health care of the community. There are provisions within the Academy of Health to have subcommittees called "councils." These councils would look at specific problems with the uninsured, or problems arising out of electronic medical records.

Vice Chair Gerhardt:
These are stake-holders who have met in the past on an informal basis, and brought ideas to legislators. What you would like to do is formalize this process?

Senator Heck:
It is formalizing the process as well as making it proactive instead of reactive. Nothing had been looked at since the health care report that was done several years ago, until the health care report that was done during the 2005-2006 Interim. Either several of the recommendations have gone unheeded, or something needed to be changed mid-stream to try to get more bang for the buck. There was no way to look at it mid-stream because we did not have another consultant. This measure puts a monitoring consultancy of experts in place.

Vice Chair Gerhardt:
Except that it is not free, there is an impact on the state of Nevada. Are we not going to pay travel expenses?

Senator Heck:
In the per diem responsibilities, there is a small fiscal note associated with the Department of Health and Human Services (DHHS) for some administrative support. The basis of the bill is based on the premise of the Nevada Arts Council (NAC). It puts together a group of experts to look at a field, and allows them to develop a not-for-profit foundation. They can receive grants or money to help fund their activities. In return the Academy of Health will work with the data provided by the DHHS to provide the analysis and expertise that they need to make some recommendations and move forward within our own Department.

Assemblyman Bob Beers:
Did you make sure there would be an odd number of directors voting?

Senator Heck:
No we did not. Many of the boards and commissions do not have a state requirement for an odd-numbered board. There are several even-numbered boards. We looked at the composition of the board more than whether or not it had to be odd-numbered in case of a split vote.

Assemblyman Beers:
Do those boards ever have split votes?

Senator Heck:
I did not research the actual voting. If there was an issue, the statute would have been amended to make them an odd number. There are a lot of stake-holders in this area. There are a lot of areas which need to be represented. We are talking about the governing board. The Academy of Health itself will be open to all stake-holders regardless of number. However, the governing board would want to make sure we had enough slots for appropriate representation.

Assemblyman Joe Hardy:
I do not see bill draft requests (BDRs), or the option of BDRs attached as much as the consultancy that can work with the Interim Legislative Committee on Health Care and the Legislature itself. I like the concept of using our people for consulting for our problems. I think we can get people who are well-motivated.

Senator Heck:
We are drawing a parallel to the Governor's Commission on Medical Education, Research and Training, which was made up of about 30 stake-holders representing a broad base and utilizing the expertise that is within our community.

Assemblywoman Bonnie Parnell:
I am surprised that the Health Division is not referenced in this presentation. It would seem that folks working in that particular agency need to be a part of this discussion.

Senator Heck:
The Health Division is under the DHHS. The Director of the DHHS is a member of the governing board of the Academy of Health. It is important that DHHS is included in the bill.

Assemblywoman Parnell:
I feel that unless we mention the Division of Health it will get lost. The DHHS is so large, and there is so much going on that I would feel more comfortable if the DHHS is noted somewhere in the bill.

Assemblywoman Kathy McClain:
I cannot agree with you more on not spending more money on these interim contracts. I am concerned that we create an entity that is necessary, and is going to do good work. There should be a connection to the standing Legislative Committee on Health Care. Maybe the findings should be given to the Legislative Committee on Health Care who has BDR authority. We need that link between the Academy and the Legislature.

Senator Heck:
We were trying to get a member of the Legislative Committee on Health Care to act as liaison, but it seemed tenuous due to conflicts. Instead of reporting to the Legislature, the report will go to the Legislative Committee on Health Care.

Assemblywoman McClain:
That is a standing committee. We do not want them to do one thing, and this committee to do something else.

Michael D. Hillerby, representing The Nevada Academy of Health Steering Committee, Sparks:
Part of the out-growth of the Commission of Medical Education, Research and Training is that private non-profit organizations come to the state of Nevada looking for funding. The report that comes out of this Commission is designed to help you and the Executive Branch prioritize peer reviews, meet identified needs in the State, address identified emerging diseases, and not duplicate services. That would hold true for those private entities as well. Before the medical school makes a decision to enter a new field, we ought to look at what the private schools are doing, and what their needs are. One example given was that before we start a department of tropical diseases, we should know whether or not we have any tropical disease problems. It was a good example. Looking long-term is the idea of these stake-holders meeting through this process. If you are going to be a part of the public funding process, and if you are going to be part of the peer-review process, it matters that you have identified what you do that coordinates with the emerging needs of the State. We think that will have some credibility and applicability with private funders, as well. If you found actual members and the work of the Commission credible, it would give teeth to the Commission. Organizations would want to be a part of this process, and they would want to be a part of the Academy of Health. Beyond this report is the daily working together, establishing standards, talking

about how to do peer reviews, making decisions, allocating resources, and working together to be sure that we are meeting those priorities.

Lawrence P. Matheis, Executive Director, Nevada State Medical Association, Reno:
This is the natural evolution of a lot of the policy discussions we have been holding over the last decade. The effort is to bring all the discussions together. These issues dominate a lot of the Legislature's time, and in the end you have to determine which get priority. This puts a more rational process together and makes it a total commitment throughout the year. Setting the agenda is important; the more participants you have, the more likely it is that every issue is confronted. The linkage to the Legislative Committee on Health Care makes sense.

Assemblywoman McClain:
This is a good vehicle for keeping various ideas flowing, instead of hiring a consultant every ten years to tell us what we already know.

Assemblywoman Parnell:
How does the fiscal note stand?

Senator Heck:
The piece to the fiscal note was the removal of the per diem cost associated with the meeting. The $15,000.00 that was allocated to the DHHS for administrative support remained unchanged.

Assemblywoman Parnell:
Would that be the only fiscal impact?

Senator Heck:
Yes.

Assemblywoman Peggy Pierce:
We do not need something that will give us items which we are not going to fund. What this State needs is for every person to have insurance. We should focus on that and not distract ourselves with the idea that somehow there is a silver bullet that is better than people having basic health insurance, or that makes it possible for them to get preventative care. The committees we have are sufficient.

Marcia Turner, Interim Vice Chancellor and Chief Operating Officer, University of Nevada Health Sciences System, Nevada System of Higher Education, Las Vegas:
We like the think-tank concept, coordination, and collaboration that this amendment will foster.

Bobbette Bond, representing The Health Services Coalition, Government and Community Affairs; Manager, Hotel Employees and Restaurant Employees International Union Welfare Fund, Las Vegas:
We are in favor of doing anything that will help health-care issues. There were three parallel tracks, and if this is one of the outcomes, the coalition is interested in supporting, and participating. There could be something done to the language of the bill, specifically about the Health Care Commission getting pulled in tighter. The Office of Health Care Planning, which is in a BDR, was one of the parallel tracks. If we do not have any health-care planning capacity in the Legislative arena or in the Department of Health and Human Resources (DHHS), but we have a planning board outside of that, I think we have missed a step.

Assemblywoman McClain:
Where is the BDR that came out of Committee?

Senator Heck:
It is in Senate Finance. That is one of the reasons we took a provision that is in that bill and carried it over into this bill on the Assembly side. We are trying to have a back-up in case the Office of Public Health Policy does not make it.

Assemblywoman McClain:
You are going to use legislators, but you are not going to pay them?

Senator Heck:
There would be no legislators on this bill. The only legislator that was on there was the legislator from the Legislative Committee on Health Care which represented the conflict. These will be individuals who do not have ties either to the Legislature, or the Executive Branch.

Vice Chair Gerhardt:
Are there any questions from the Committee? Seeing none, we will close the hearing on S.B. 171 (R1). We will open the hearing on Senate Bill 228.

Senate Bill 228: Enacts provisions related to certain medical review committees. (BDR 40-986)

Senator Joseph J. Heck, Clark County District No. 5, Las Vegas:
Senate Bill 228 is a clean-up piece to Senate Bill No. 119 of the 73rd Session, which expanded the protection from discovery, provided by *Nevada Revised Statute* (NRS) 49.117, to medical review committees of the County, or to the District Board of Health, that certifies licenses or regulates providers for Emergency Medical Services (EMS). The reason for the proposed expansion was the changing health care environment in Clark County. This included the addition of more trauma centers and the development of a regional trauma program. Prior to that time, we had only one trauma center in Clark County, University Medical Center (UMC), so there was no need to have an integrated review process of trauma care. Since that time, two trauma centers have come on line, and as part of the American College of Surgeon's (ACSs) verification process to designate trauma centers, they require an integrated trauma peer improvement program. Based on the ACS, which is the designating authority, or verifying authority, for our trauma centers, we were placed in a position where we had to build this program down south. Since that time the Southern Nevada Health District's (SNHD) Office of Emergency Medical Services and Trauma Systems has moved forward with regulations and processes for conducting these peer review meetings by organizing a Trauma Medical Audit (TMA) Committee. The Committee is multi-disciplinary. It reviews selected trauma cases in order to identify best practices, allowing the system participants to learn from each other. In reviewing the records of trauma fatalities, it is important to have autopsy records available. It is hard to go back to try to figure out why someone died if you do not have the autopsy report. The Committee cannot adequately address the care provided unless it has knowledge of cause of death. Originally, the Clark County Coroner's office was reluctant to participate. Not because they did not want to, but because they felt their autopsy records would not be included under the area of non-discoverability if their autopsy records came over to the TMA Committee. To address that concern, S.B. 228 borrows established language from NRS 432(b).407 which is the chapter relating to child death review teams which this body codified several years ago to clearly state that the Peer Review Committee is entitled to access any autopsy records relating to a death under review and any medical records of a patient or decedent under review. This does not create another Peer Review Committee. It provides protection to autopsy records coming from the coroner's office so the review committee can do its job, and it is based on language already in statute.

Assemblywoman Parnell:
You use the term "patient or decedent," I assume they are all dead. When I see "records of a patient" that means a living person. Why do you have both terms?

Senator Heck:
That was drafting language. The Peer Review Committee has access to the medical records because the records are coming from the trauma centers where the person was cared for. If that is cause for concern it can be stricken.

Rory Chetelet, representing Southern Nevada Health District's Emergency Medical Services and Trauma System Office, Las Vegas:
The trauma system is approximately a year old. We have held two of our TMA Committee meetings to begin to review trauma care. This is a vital step in getting the coroner's office to participate. The coroner's office is interested in working with us. They attended our last TMA Committee meeting. This would provide them the protection to share their information with us, which will help us to ensure high-quality care.

Assemblywoman Parnell:
What the bill is saying is "any autopsy records or medical records relating to a death under review." There is no assumption that it is a medical record of someone who is living. Would that cause a problem if it makes everyone have a sense of comfort?

Senator Heck:
Section 1(b) could be struck in its entirety.

[Chair Leslie returns.]

Lawrence P. Matheis, Executive Director, Nevada State Medical Association:
We think this legislation is necessary for the team to do its work.

Graham Galloway, Attorney At Law, representing The Nevada Trial Lawyers Association, Reno:
We are in favor of sharing information contained in subsections 1 and 2 of the bill. We are opposed to the application and the extension of the peer review privilege that is set forth in subsections 3 and 4 of this bill. Our organization is opposed to government behind closed doors, and we are opposed to having relevant and important information deemed to be confidential. The language in subsection 3 extends what is commonly referred to as the Peer Review Committee privilege beyond what it has been. If you look at the language establishing Peer Review Committees, and Peer Review Committee privilege in Chapter 49, the language setting forth the privilege is discretionary, not mandatory. The language in subsection 3 is mandatory, and we are opposed to it. That is an unwarranted and unnecessary extension of the privilege.

Assemblywoman Gerhardt:
In the course of this review, how is a mistake handled?

Graham Galloway:
A mistake would be handled internally by the powers that be. It would not be something that would be subject to public dissemination, public review, or public discussion. I do not know the inner workings of these committees.

Assemblywoman Gerhardt:
The patient would not have to be notified?

Graham Galloway:
That would be my understanding. That would be the concern for the application here.

Senator Heck:
This committee, and its jurisdiction, and its protections are established in Chapter 49. The sole intent was to be able to get the autopsy records. Should a mistake be found by the Peer Review Committee, Nevada has a mandatory adverse events reporting law. If a mistake was found, regardless of whether or not it was in Peer Review, the patient or the patient's family would be notified. They would not be notified of the extent of the discussion of the Peer Review Committee.

Assemblywoman Gerhardt:
You think that subsections 3 and 4 are unnecessary to reach the intent of this bill?

Senator Heck:
It was not meant to expand the protections in Chapter 49, just to include the autopsy records.

Chair Leslie:
Are you talking about the Sentinel Events Registry?

Senator Heck:
There is a Sentinel Events Registry, but we also have the mandatory disclosure law.

Chair Leslie:
The Sentinel Events Registry is not reported individually by hospitals.

Assemblywoman Gerhardt:
Are there any other questions from the Committee? Is there anyone else who needs to be heard on S.B. 228? We will close the hearing on S.B. 228.

Chair Leslie:
We will open the hearing on Senate Bill 536 (1st Reprint).

Senate Bill 536 (1st Reprint): Makes various changes governing the privacy of certain health information. (BDR 40-305)

Jack H. Kim, Director, Legislative Programs, Government Affairs and Special Projects, Sierra Health Services, Inc., Las Vegas:
This bill came out of the Interim Legislative Committee of Health Care. One of the issues discussed in that committee was ultimate technology. This technology includes Electronic Medical Records (EMR). Our concerns are medical practice and laws in Nevada. A number of years ago the Health Insurance Portability and Accountability Act (HIPAA) privacy law was passed. This law imposed a number of restrictions, and requirements on the plans, physicians, hospitals, and other entities that they deemed as covered entities. These EMRs improve the quality of health care in Nevada. The bill outlines that the HIPAA would apply whenever EMRs are used.

Gregory Middleton, Chief, Medical Specialties, Southwest Medical Associates, Inc., Las Vegas:
[Video presentation, no exhibit.] This is an EMR. One of the advantages of an EMR is to have all of the medical information together in one source. One of the frustrations in working in a large group that has many locations is not having the medical record when you see the patient. You are not fully informed of the patient's history. The record lists the patient's problems, what medications he is taking, what allergies he has had, as well as accounting information. I see patients who are referred by their primary provider. The medical record provides a summary of the patient's visit to his primary physician, some recent blood work, and x-ray information. Oftentimes, there is a lot of relative information that is not in the last visit. There is old history such as an episode of kidney failure, heart problems, and things that could be an important part of my decision-making. I can look at this information chronologically. Having all of this information improves the communication between all the health care providers involved in the patient care. I can go back and look at old test results. One of the advantages in this system is in prescribing medications. The system allows us to eliminate handwriting errors, and errors transmitted over the phone. This system allows us to transcript the prescriptions directly to the pharmacy. When prescribing a medication, the system gives me a warning if there has been an adverse reaction to prescribed

medication. I can see that the patient was seen in an urgent care center, and was given a medication. If one of my peers sees this patient, and does not have access to this information, that could lead to some problems with duplication of medications and side effects.

Assemblywoman Gerhardt:
My concern is the patient who might want to opt-out with some providers, such as mental health. Can a patient request not to be put on this system?

Jack H. Kim:
There are a number of protections on the federal level on mental health, alcohol, and drug related issues. There are other privacy requirements which would not be overridden by this bill. Any professionals who would prefer not to use EMRs would not have to.

Assemblywoman Gerhardt:
I am not worried about the particular provider. If the patient wants to maintain some privacy of some issues, can the patient do that?

Jack H. Kim:
A patient can opt-out of the system, but the EMRs would not be available.

Assemblywoman Gerhardt:
So it is all or nothing?

Robert L. Schaich, Vice President, Information Systems, Chief Information Officer, Sierra Health Services, Inc., Las Vegas, Nevada:
We are making these EMRs available to our members of Health Plan of Nevada and Sierra Health and Life Insurance who utilize our Southwest Medical Associates Group practice. We make this available on the basis that they have to provide an explicit consent before any EMR information is made available to other providers via the electronic tools that we have demonstrated. Given the privacy laws in the state of Nevada, we must obtain documented consent to release any information. You are asking that we switch the focus to an "opt-out" as opposed to an "opt-in." We suspect there will be fewer patients who would choose to "opt-out," and thereby restrict the information from being available to their providers. We have the problem of people not knowing that they need to "opt-in," and their providers may request to see the information. We are looking to harmonize the privacy laws in this State with the federal rules. Information can be available on payments, operations, general health care administrative activities, and treatment activities between licensed clinical professionals; but we would want to provide an option for patients to "opt-out" if they did not want to have their information shared.

Assemblywoman Gerhardt:
If you have an individual who had some mental health treatments five years ago, and now has a heart problem, and he wants to share information, but not about his mental health, he cannot "opt-out" for the one issue?

Robert L. Schaich:
The system has limitations in segregating parts and pieces of the data on the individual's record. There can be difficulties in separating out what exactly is considered a mental health treatment or a mental health encounter versus what was an encounter for depression. If there are drugs prescribed that address some form of patient depression, does that count as a mental issue? That is why the "opt-out" capability would have to be implemented in the current state of the technology in the medical coding that is available on an "all or nothing" basis. The patient may "opt-out," but we do not have the technical capability within the industry to be able to clearly parse and separate what some may consider a mental health related issue from a general medical issue.

Chair Leslie:
It looks like it is saying that current privacy laws in Nevada are stronger than HIPAA? Why would we want to reduce our privacy laws?

Jack H. Kim:
HIPAA privacy laws apply only to EMRs. Most of Nevada privacy laws do not conflict with HIPAA. There are instances in which different consents are required.

Chair Leslie:
Why would our citizens want to give up their privacy on those issues?

Jack H. Kim:
Because we believe the quality of care aspect is enhanced.

Chair Leslie:
I see the point, but what if the citizen does not want his current provider to know he had a sexually transmitted disease?

Jack H. Kim:
That is why the patient can still "opt-out."

Chair Leslie:
Where is the "opt-out" release? I am rereading the bill, and I do not see anything about "opt-out" or "opt-in."

Assemblywoman RoseMary Womack:
I needed to have records transferred from Las Vegas to a doctor here in Carson City. Within half an hour my doctor faxed the information that we needed. It was not my complete file, but only the information requested. What is the difference between what he did, and what you are doing here?

Gregory Middleton:
The difference is the access to additional information. We can transfer information the way you had it done on a specific problem that we know to look for. What we are talking about is situations where the patient needs information that might not have been thought to have been transferred. There might be additional pieces of information that a provider did not request which may be relevant to that patient's care. As a health care provider, the more information I have about you, the better able I am to take care of you.

Assemblywoman Womack:
Had he needed additional information, I could have had it released. Why does it have to be a complete file?

Robert L. Schaich:
The other scenario that can come into play is that there are many members in the state of Nevada who are covered by more open-ended plans. These plans provide the freedom to directly access a specialist if these members have a suspicion about a particular issue, and the members do not need a referral. In those situations the individual may show up at a specialist and the specialist may want to see the information regarding current medications. That information would not be available to him. The provider would have to ask the patient to go back and get consent to release information. We are looking for a harmonization with the federal HIPAA laws on sharing information between treating providers that does not require explicit consent.

Assemblywoman Womack:
I did not have to go back to my doctor to sign a release. I signed it right here in Carson City. My doctor was able to get that information in 20 minutes. All he did was send that release to my primary care doctor who immediately released the information. Are we giving up the right to say "I do," or "I do not" want this information released?

Robert L. Schaich:
You still have the right to "opt-out," and not have that information released. I was giving an example of making this enabling legislation consistent with the federal rules on privacy. Security of medical information provides more flexibility to the patient and his multiple providers to have access to his medical

record information without going through the signing of the consent process. You may not have been able to access your primary care doctor to get that consent, and your specialist would have been handcuffed from accessing that information. This would slow down the overall medical process.

Assemblywoman Womack:
My concern is that it has to be the complete file and not only the area of concern.

Robert L. Schaich:
That is a very good point. We are obliged by the HIPAA privacy regulations to share information according to the "minimum necessary" rule. There is a requirement imposed by the federal regulations that says "If you are going to disclose information to covered entities, providers, or health insurance plans, it should be the minimum necessary to accomplish the task at hand." It is not necessarily the disclosure of the entire medical record. There are various controls and audits that we have in place in our electronic systems. We monitor every access by every person to every medical record. The patient can view that record. As information is shared, we random audit all providers to verify that they are accessing only the minimum necessary information.

Assemblywoman Ellen Koivisto:
We have been discussing EMRs and doing electronic medical prescriptions since 1999. Are other groups using this technology?

Jack H. Kim:
That is part of the issue. There are silos being built. Hospitals will have EMRs, clinics will have their records, and we have ours. We are trying to integrate the various silos. We need to look at the privacy law aspect of it. We need to harmonize one set of laws to follow. We are not trying to disclose medical records inappropriately. Under HIPAA practicing laws, the only people who access these records are entities which are covered by a privacy law. Those entities are doctors for treatment and payment purposes, hospitals for treatment, and health insurance companies for treatment or payment purposes. It is not an open-ended situation where I can release these records to an employer. These laws are focusing on the treatment of the patient and the payment of the bill. It is a narrower scope than people think.

Assemblywoman Koivisto:
Why would someone want to tie his doctor's hands by withholding certain information?

Jack H. Kim:
I do not think it is the patient's intent. I think they do not realize that they have to sign certain consents.

Chair Leslie:
The bill is confusing. The fear might be of the insurance companies accessing medical information. We all have insurance companies that do not pay for coverage we think should be paid. You are saying that HIPAA would prohibit this information falling into the hands of insurance companies, but you can understand why the public might not trust you on that.

Jack H. Kim:
Anytime you talk about privacy and loosening the standards in any way, it draws concern from people. We have put in safeguard upon safeguard in order to comply with HIPAA practices laws so our patient's information is protected.

Assemblywoman Gerhardt:
In Section 2, line 13 the insurance company is a covered entity who can access this information. You can check who has been there, but once they have been there the cow is already out of the barn. I would hate to see something that occurred previously to be interpreted as the beginning of a pre-existing condition, and have someone dropped from his insurance policy.

Robert L. Schaich:
The HIPAA rules do not provide an open-ended opportunity for any covered entity to gain access to any information in the health insurance or health care arena. We do not provide access to the health insurance arm of Sierra Health Services through Southwest Associate's medical records. That is exclusively limited to the health care providers and our patients. We are trying to gain the ability to share that information with other providers in the community, not with other health insurers. We do not share the information with our own Health Plan of Nevada (HPN). Health Plan of Nevada employees and administrators are not given passwords. They are not authorized to access. We are very concerned about monitoring that type of access.

Assemblywoman Gerhardt:
That worries me even more because you say that it does happen. We heard a bill earlier about advanced directives and how we could be sure that certain individuals had access to that information. Is there anything feasible so the patient has some control over who gets his information?

Robert L. Schaich:
We have password protected control to the information both for the providers and for the patients or members. That is how we are able to identify specifically who is accessing what. We tag that piece of information. In a paper-based environment someone could take a photo of a file. There would not be a trail of that incident. In the electronic environment that instance is tagged.

Assemblywoman Pierce:
Another concern is that things get hacked from the outside. This legislation has been passed in how many other states?

Jack H. Kim:
This type of legislation is being discussed in a lot of states. Our EMRs are some of the most advanced in the country.

Chair Leslie:
Why do you need this if you are already going down that path? What is the bottom line that this legislation gives you?

Jack H. Kim:
Many of our contracted providers who would like to have access to their patients cannot access because the member does not think about doing what needs to be done in order to allow that physician to access their records. This would encourage patients to give the doctors more opportunity to get their medical records on a timely basis.

Robert L. Schaich:
This is true especially in an emergency situation.

Chair Leslie:
Go ahead and finish up, because we need to take Senator Washington's testimony.

Jack H. Kim:
In Sections 31 and 32, provisions have been put into this bill where we do not think they should have been entered.

Chair Leslie:
You are requesting language be deleted in Sections 31 and 32?

Jack H. Kim:
When this bill was drafted, they included a number of sections which should not have been included. We deleted a number of sections in the Senate, but Sections 31 and 32 were overlooked.

Chair Leslie:
It sounds as though we have work to do to convince the Committee. Is there anyone else who wishes to testify for or against S. B. 536 (R1)?

Senator Maurice E. Washington, Washoe County Senatorial District No. 2:
This is one of the bills that came out of the 2005-2006 Interim Legislative Committee on Health Care. We had an opportunity to go to Sierra Health, ask questions, and be participants in the presentation. We tried to make sure we comported to HIPAA even though our state of Nevada laws may be more stringent than the federal requirements. It is important for the Committee to understand that the transporting of medical records, whether it is done through electronic medical records (EMR) or medical records from providers or practitioners, has to move in a direction with which the State can comply, but where we can provide the safety and the security that we are looking for in our EMRs. The presentation shows where we are. It provides a safety net that we have been looking for concerning our patients, so we are not misprescribing or misdiagnosing something which may be pertinent to the health and safety of that patient. If there is something in the bill that is of concern to yourself and to the Committee, if you would not mind getting together with me and my staff, we will address those issues. We will make sure the Committee feels comfortable.

Chair Leslie:
We need to continue this dialogue. I am not saying we are not going to pass this bill. There are issues the Committee has raised today that have to do with our citizens giving up their privacy rights. If we can clarify some issues, we will feel more comfortable about it.

Senator Washington:
The reason this has become so important is that most of us are familiar with the tragedy that took place in New Orleans with Hurricane Katrina. The federal government is way ahead of us on this issue. The veterans that were part of the hospital facilities that were transported throughout the county did not lose a step. Their EMRs followed them wherever the veterans were located.

Chair Leslie:
Is there anyone else who would like to testify in favor of this bill? [No response.] We will close the hearing on S.B. 536 (R1) and open the hearing on Senate Bill 533 (1st Reprint).

Senate Bill 533 (1st Reprint): Makes various changes relating to county hospitals. (BDR S-1388)

Senator Maurice E. Washington, Washoe County Senate District No. 2:
University Medical Center (UMC) is a hospital that takes care of 80 percent of the indigent care in Las Vegas. It is part of the cog to the medical delivery system in the state of Nevada. It is important that we as a state become concerned about the operations, fiduciary responsibilities, accounts receivable, and the accounts payable of that hospital to make sure it is not only sustainable, but that it becomes successful. Like any public hospital, it is not going to be profitable, but it can break even. Most of the credit is due to management and operations. Some mechanisms were put in place to ensure that UMC was going to be successful and that we would not continue to read the headlines that they are $60 million in the red.

We looked at what took place with Renown Medical Hospital (RMH). We asked how they made the transition from a public hospital to a not-for-profit hospital. Senate Bill 533 (R1) has only two provisions. Number one is to provide a legislative audit to be conducted on the performance of UMC with certain indicators: the practice concerning the payment of personnel of the hospital; the contracts that they are paying out; and the accounts payable and receivable. The legislative audit is due to the legislative commission on, or no later than February 1, 2009. The second provision of the bill provides that UMC provide a report to the Legislative Committee on Health Care, the Interim Finance Committee, as well as Governor Gibbons on certain operations within UMC. They would provide a report on the financial status of the hospital, the management and operations, and other information concerning the status of the hospital to see how it is progressing and implementing its plan to provide leadership, maintenance, and operations, how it is going to deal with its ongoing debt, and to insure they can continue to service the indigent in Clark County.

Chair Leslie:
The bill calls for the Legislative Auditor. Is there going to be a cost for this service? I do not see an appropriation.

Senator Washington:
There was not a fiscal note on the bill, but I imagine there will be some cost.

Chair Leslie:
An audit would be useful. We do not usually audit outside entities.

Paul V. Townsend, Legislative Auditor, Legislative Counsel Bureau, Audit Division:
It is not within our normal scope; however, we have done some audits with the Clark and Washoe County School Districts, and with UMC 20 years ago.

Chair Leslie:
Is there something that precipitated that audit?

Paul V. Townsend:
At that point UMC was experiencing some cash-flow problems and a deficit of $5.5 million in 1987.

Chair Leslie:
I hope this is not a prelude to UMC requesting funds because we do not have any money.

Senator Washington:
I agree with you. The County is a subdivision of the State, and if UMC defaults on its payables, the state of Nevada has to pay it. That means it is another burden on the tax-payer. The state of Nevada wants to make sure it covers itself, and one way we do that is by a Legislative Audit.

Chair Leslie:
I do not think we will have money next session either. If we passed this bill, what would the impact be on the rest of your work load? Would you prioritize this over something else?

Paul V. Townsend:
I was asked to prepare a fiscal note, and I did that. There is no money in the bill, so I indicated that the effect would be to delay some of the audits on some of our current programs. We would look at prioritizing some of the audits.

Assemblywoman Bonnie Parnell:
It would seem that any entity to which we would allocate funds would be under the jurisdiction of a legislative audit.

Chair Leslie:
We passed that bill today. It gives you authorization, but does not give you extra staff. It is a great tool for us to have.

Assemblywoman Parnell:
I am surprised that there was a question about whether or not this could be done. I would support the right of this Body to follow the taxpayer's dollars to make sure it is spent appropriately.

Chair Leslie:
Do you have any additional comments, Mr. Townsend?

Assemblywoman Koivisto:
Mr. Townsend, if you were to do an audit of UMC, would you audit every department in the hospital?

Paul L. Townsend:
The bill lays out three specific areas in Section 10. There would be practices concerning payment of personnel, contracts with payers, and accounts payable and receivable. We would be able to focus and do some detailed work in those areas.

Chair Leslie:
Mr. Musgrove, what is the position of UMC and Clark County on this bill?

Dan Musgrove, Associate Administrator, External Relations, University Medical Center, Las Vegas:
We are guardedly neutral. We were opposed to the original bill. Senator Washington adequately characterized the position of Chairman Rory Reid of the Clark County Commission.

While we appreciate the fact the Legislature wants to have dialogue about UMC, it is important that this Legislative Body understand the relationship between the State, the County, and the County's public hospital. There are a lot of misconceptions. I would speak to Intergovernmental Transfers (IGTs), and the fact that it is County dollars which are used to go to the federal government to get federal matching funds that then come back for indigent care. It is not State dollars. In fact the State likes to take a little percentage of that money to use for State programs. In other states, that money would go directly to the county hospital for the care of the indigent patients, or disproportionate share.

There are a lot of things that, now that I see this bill and think about the questions that you ask, I would like to have the opportunity to come in on a quarterly basis and report on status. You have heard about debt collection, and our trying to collect about 26 percent of self-pay that we have out there, and trying to do some creative things that have back-fired on us. We do not have a

problem with a Legislative Auditor taking a look, and if there are some things that we can improve, maybe he will see that the State has to kick in a little more money. This State provides a very small percentage to Clark County in relationship to other states. We have no problem with the bill as it is written in the first reprint.

Chair Leslie:
Are there any questions from the Committee members?

Assemblywoman Womack:
When we talk about the school audits, was there not an outside audit done on the Clark County School District and reviewed by the Audit Division here in Nevada?

Paul V. Townsend:
Yes, there were some audits done by the Audit Division. That was followed up on last session, and there was a bill passed to set in place a method by which all school districts would be subject to performance audits on a cyclical basis to be done by an outside consultant. That was to the extent that funds were made available. Funds were available, and the first audit was done by MGT consultants out of Florida.

Assemblywoman Womack?
Then the audit was reviewed by our internal auditor?

Paul V. Townsend:
It was reviewed by the Department of Education as well as an over-sight committee that had been set up for that purpose. My office reviewed for contract compliance.

Assemblywoman Womack:
This bill does not go into effect until 2009. I am looking for a way to speed this up so we have a better picture earlier than 2009.

Chair Leslie:
Actually, Ms. Womack, Section 12 says the Act is effective upon passage and approval, and it expires on June 30, 2009. I read that to mean that the audit has to be completed during this next interim.

Paul V. Townsend:
That is correct.

Chair Leslie:
Are there any other questions? Is there anyone else who would like to testify in favor or against S.B. 533 (R1)?

[Meeting adjourned at 3:32 p.m.]

RESPECTFULLY SUBMITTED:

Patricia Evans
Committee Secretary

APPROVED BY:

Assemblywoman Sheila Leslie, Chair

DATE:

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 7, 2007 **Time of Meeting: 1:48 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A	**********	Agenda
	B	**********	Attendance Roster
SB 171	C	Senator Joseph J. Heck	Nevada Academy of Health