

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

**Seventy-Fourth Session
February 21, 2007**

The Committee on Health and Human Services was called to order by Chair Sheila Leslie at 1:34 p.m., on Wednesday, February 21, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, 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

STAFF MEMBERS PRESENT:

Kim Guinasso, Committee Counsel
Sarah J. Lutter, Committee Policy Analyst
Bonnie Borda Hoffecker, Committee Manager
Katrina Zach, Committee Secretary
Patricia Evans, Committee Secretary
Olivia Lloyd, Committee Assistant



Chair Leslie:

The Committee on Health and Human Services will come to order. [Roll taken.] We have a few Bill Draft Request (BDR) introductions. The first one is from the Office of the Attorney General.

BDR 40-512—Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (Later introduced as [Assembly Bill 148](#).)

ASSEMBLYWOMAN WEBER MOVED TO INTRODUCE BDR 40-512.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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BDR 38-869—Makes various changes concerning the placement of a child into protective custody. (Later introduced as [Assembly Bill 147](#).)

ASSEMBLYMAN BEERS MOVED TO INTRODUCE BDR 38-869.

ASSEMBLYWOMAN PARNELL SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

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BDR 40-687—Requires the Department of Health and Human Services to establish a program to increase public awareness of health care information concerning the hospitals in this State. (Later introduced as [Assembly Bill 146](#).)

ASSEMBLYWOMAN GERHARDT MOVED TO INTRODUCE
BDR 40-687.

ASSEMBLYWOMAN WOMACK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

We are not going to hear Assembly Bill 113 today. We will be hearing it at a future date. The only work we have to do today, Committee, is our work session. We will start with Assembly Bill 68.

Assembly Bill 68: Revises provisions governing the operation of certain medical and care facilities and agencies. (BDR 40-505)

Sarah J. Lutter, Committee Policy Analyst:

Assembly Bill 68 expands the list of crimes for which the administrator of, or the person licensed to operate, a facility for intermediate care, a facility for skilled nursing, a residential facility for groups, an agency to provide personal care services in the home, or an agency to provide nursing in the home is authorized or required to terminate the employment or contract of either an employee or independent contractor. Assembly Bill 68 expands the list to include the abuse, neglect, exploitation, or isolation of elderly or vulnerable persons, violations or provisions relating to the State Plan for Medicaid, and any act concerning Medicaid or Medicare that is unauthorized or fraudulent.

The Office of the Attorney General suggested amending Section 1(a)(6) to reference the statutes in its pre-amendment form. Kim Guinasso [Assembly Legal Counsel and Bill Drafting Adviser, Legal Division, Legislative Counsel Bureau] suggested leaving Section 1(a)(6) as it is currently drafted in Assembly Bill 68. Kim Guinasso spoke with Mark Kemberling [Senior Deputy Attorney General, Office of the Attorney General]. He agreed to leave the amendment as it is. Kim Guinasso can certainly answer questions regarding the statute ([Exhibit C](#)).

The Office of the Attorney General proposed other amendments. One amendment would modify Section 1(a)(7) to include a seven-year limitation in order to establish conformity with other financial crimes listed in the statute. Another amendment would modify Section 1(a)(8) to restrict that provision to criminal convictions related to Medicaid or Medicare. As it is currently worded, the criminal records repository is required to look for criminal acts, but not for unauthorized or fraudulent acts. The final proposed amendment is to change the definitions in Section 3 to reference the statute where they are originally defined.

Chair Leslie:

All the amendments are coming from the Office of the Attorney General, with a correction our legal staff has suggested. Let us start with the first amendment, starting with Section 1(a)(6). I do not think there are any problems with that. Our legal counsel is suggesting we leave Section 2 as it was drafted. Apparently Mr. Kemberling was satisfied.

Kim Guinasso, Committee Counsel:

I want to point out why it is my recommendation to leave the statute the way it is drafted. It is my understanding that the Committee wants to ensure that both the abuse and neglect of a vulnerable or elderly person are included as well as the failure to report the abuse and neglect of a vulnerable or elderly person. It is my opinion that the statute should clearly state the conduct that is prohibited as well as the entire sub-head. We have four or five sections that require reporting on different levels. This would capture all the reporting requirements as well as the actual act of abuse, neglect, exploitation, or isolation. I spoke with Mr. Kemberling about it, and after showing him the statute, he was satisfied.

Chair Leslie:

Essentially we are rejecting Mr. Kemberling's suggestion, and leaving the statute the way our legal counsel drafted it.

Under Section 1(a)(7), we would have to seek an amendment. Is there any discussion from the Committee members about this, or is everyone okay with this? [There was no response.] We will seek that amendment. Under Section 1(a)(8), we will restrict it to criminal convictions related to Medicaid or Medicare. This requires an amendment to the original language of the bill.

Assemblywoman McClain:

Are we restricting it to criminal convictions as opposed to what was stated before?

Sarah J. Lutter:

As it is currently drafted, it requires the criminal records repository to look for acts that are unauthorized or fraudulent related to Medicare or Medicaid. Please correct me if I am wrong, but it is my understanding that unauthorized or fraudulent is undefined, whereas criminal acts would be more defined.

Kim Guinasso:

I believe that the terminology "unauthorized or fraudulent" would include acts that may not have a criminal penalty attached. It is definitely more inclusive than restricting it to criminal violations.

Assemblywoman Womack:

The bill specifies convictions, but if they are accused of and found guilty of fraudulent acts, but not convicted, that will not show up in the criminal repository?

Kim Guinasso:

Yes, that is correct.

Chair Leslie:

Yes, according to the proposed amendment, but it is more complicated than that. One difference is when someone is charged with a crime versus when they are convicted. You can have an unauthorized act or fraudulent act without it being a criminal act.

Kim Guinasso:

I believe that is the case. I am not familiar with the entirety of the statute governing Medicaid, but I believe that there are certain levels of conduct with which different penalties accrue, and although some conducts may be unauthorized, they may not rise to the level of a criminal act. Certain levels of fraud are usually criminal. Fraud might be included, but it would have to rise to a criminal level of conduct rather than merely unauthorized.

Chair Leslie:

An unauthorized act might be a mistake, so it might not be processed criminally. There might be other remedies.

Assemblywoman Womack:

Once someone has been charged with a criminal act, we should know about it. But can they work within that grey area on Medicare?

Chair Leslie:

I do not think we are authorizing them to do that.

Assemblywoman Womack:

My concern is that they will commit a crime over and over, and then it will never come up in a criminal investigation.

Kim Guinasso:

Assembly Bill 68 requires conviction. It says, "The applicant or licensee has been convicted of..." Then it has a list of egregious conduct such as murder and assault. The threshold requirement is that the conviction should be present, but we are expanding the types of offenses that would qualify one of these facilities to have its license revoked. A conviction for an unauthorized act, it would appear to me, is more inclusive than what the proposed amendment requires.

Assemblyman Beers:

There is a memo attached to A.B. 68, ([Exhibit C](#)), that gives clarification to Mrs. Womack's question. The first part of the memo expands those acts that can be labeled as criminal actions. The second part limits the criminal repository to search for criminal actions.

Assemblywoman McClain:

It makes sense. The intent is not to bog down the criminal background check by making them look for something they do not have access to in the criminal repository.

Assemblyman Hardy:

One of the challenges in caring for people who are in a hindered state is there may be misunderstandings about what was done, what was not done, and what should have been done. You can have accusations that would rise to this level if we did unauthorized or inadvertent acts. I do not think you have enough time or the resources to look at every complaint on this statute.

Assemblyman Stewart:

My comment refers to the word isolation in Section 1, paragraph 6. Sometimes people have to be isolated, as they might be antagonistic or violent. Will isolation limit the effectiveness of the nursing center?

Assemblyman Hardy:

There is a difference between medical isolation and abusive isolation. Our statute will have to address that. Doctors isolate people with infections, and they isolate people for behaviors. Mr. Stewart brings up a good point, and I hope our definition clarifies that.

Kim Guinasso:

These terms are defined in NRS 200.5092. Isolation means:

...willfully, maliciously, and intentionally preventing an older person or vulnerable person from having contact with another person by (a) Intentionally preventing the older person or vulnerable person from receiving his visitors, mail, or telephone calls, including, without limitation, communicating to a person who comes to visit the older person or vulnerable person, or a person who telephones the older person or vulnerable person that the older person or vulnerable person is not present or does not want to meet with or talk to the visitor or caller, knowing that the statement is false, contrary to the express wishes of the older person or vulnerable person and intended to prevent the older person or vulnerable person from having contact with the visitor, or (b) Physically restraining the older person or vulnerable person to prevent the older person or vulnerable person from meeting with a person who comes to visit the older or vulnerable person. The term does not include an act intended to protect the property or physical or mental welfare of the older person or vulnerable person or an act performed pursuant to the instructions of a physician of the older person or vulnerable person.

Assemblyman Stewart:

Thank you. That answers my question.

Sarah J. Lutter:

The final amendment in A.B. 68 is drafted with the full definition. The amendment references the original statute where it is defined.

Assemblywoman Parnell:

Do we need both references about the seven-year limitation?

Sarah J. Lutter:

It would be both. It is not an option. I apologize for the confusion. The seven-year limitation would listed in Section 1(a)(7) and Section 1(a)(8).

ASSEMBLYWOMAN PARNELL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 68.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

That was our first bill. We will move on to Assembly Bill 75.

Assembly Bill 75: Revises the provisions governing use of money in the
Anatomical Gift Account. (BDR 40-1031)

Sarah J. Lutter:

Assembly Bill 75 increases the maximum percentage of the average balance of the Anatomical Gift Account that may be used for administrative costs from five percent to 20 percent.

Behind the summary page, there is a mock-up ([Exhibit C](#)) that Kim Guinasso helped me put together. It shows the changes the Committee discussed during the hearing related to requiring the 20 percent to be calculated from the immediately preceding fiscal year.

Chair Leslie:

It looks like in fiscal year 2006 there was an ending balance of \$98,125. In fiscal year 2007, the projected balance is \$117,450. The question, Committee, is do you think they made their case to raise it from 5 percent to 20 percent? The amendment clarifies the language on how you would calculate the amount.

Assemblywoman McClain:

It seems unusual to me. Normally, when you are dealing with grant funding, they usually do not allow quite that much for administrative costs. This is different because it is donations.

Chair Leslie:

Yes, it is different because it is not our money, but we are concerned about administrative costs. The whole purpose of this is outreach, and they cannot do outreach without staff and with such a little amount of money.

Assemblyman Beers:

The staff consists of one woman doing a job, mostly on a voluntary basis. This is essentially to pay her for the work she has been doing.

Assemblywoman Weber:

I spoke with Dr. Trudy Larson, and she mentioned they will be working with the Office of Minority Health to increase the numbers for the registry. It is really promising news.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 75.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

We are on our third and last bill of the day, Assembly Bill 126. This is the bill we heard on Monday.

Assembly Bill 126: Makes an appropriation for transitional housing and supportive services for persons who are homeless. (BDR S-525)

Sarah J. Lutter:

Assembly Bill 126 appropriates \$10 million for each of the next two fiscal years from the State General Fund to the Interim Finance Committee for allocation to local governments to provide alternatives for persons who are homeless. Assembly Bill 126 directs the Interim Finance Committee to appoint a subcommittee to consider applications from local governments in order to make recommendations. The bill also directs the Committee to allocate the money in a way that encourages regional cooperation regarding alternatives for homelessness and that focuses on providing transitional housing and supportive services to those who are homeless ([Exhibit C](#)).

No amendments were proposed during the hearing.

Assemblywoman McClain:

I am a member of the Board of Trustees for Help of Southern Nevada, which will undoubtedly apply for these funds.

Chair Leslie:

I will make a counter disclosure. This bill has nothing to do with my program, and my program will not be applying for A.B. 126 funds. Some clients of the Mental Health Corps might avail themselves of these funds, but I want to state for the record that none of these funds will be coming to the District Court, where I work.

If we pass A.B. 126, it will go to the Ways and Means Committee, where it will sit. Since there was so much interest in this bill from the public, I thought we should have the discussion today, and decide what to do.

Assemblywoman Womack:

In light of the homelessness situation in Nevada, I just wish the funding was more than \$10 million, but it will help, and there are agencies out there who want to help. I think we found that this past weekend.

Assemblyman Beers:

A figure this small could come out of the existing budget surplus that we still have. That might not be a bad recommendation from the Health and Human Services Committee.

Chair Leslie:

We will leave that up to the Ways and Means Committee.

Assemblywoman Gerhardt:

What options do we have other than moving the bill through the Health and Human Services Committee and sending it along?

Chair Leslie:

There are not many options, unless you have \$20 million in committee funds. It is purely an appropriation bill. If we wanted to bring another bill to do something for the homeless, we would have to find another vehicle, but I am not sure where you are headed...

Assemblywoman Gerhardt:

Can we send a letter of intent? Is there anything else we can do?

Chair Leslie:

It is frustrating on the policy committees, because sometimes you spend so much time on the policy, and you are convinced it is the right policy. When we send it to the Ways and Means Committee, they do not have that kind of time, or interest. It will not get the same hearing that it got here.

We do not usually send letters. I certainly encourage you to talk to every member of the Ways and Means Committee, tell them about the hearing and tell them why you think it is a good idea. I think that would be the most effective thing you could do.

Assemblyman Hardy:

We could do away with the fiscal note, and fund the program through donations or contributions instead.

Chair Leslie:

I appreciate that thought, but the states should step up and take responsibility. We have seen some foundation and private sector support for the homeless over the years.

Assemblywoman Pierce:

This Committee received money from Help of Southern Nevada for homeless programs last session. Help of Southern Nevada stepped up in a remarkable way, in terms of agencies cooperating. Three hundred of the chronically homeless are now moving through this program of transitional housing, mentoring, and counseling. This program, and programs like this, is the most fiscally responsible way to deal with the homelessness problem. Right now, jails and emergency rooms are carrying the burden of homelessness. It costs a fortune to put homeless people in jail for loitering. This is a fiscally responsible bill, and I hope the Ways and Means Committee hears that. This saves huge amounts of money.

Chair Leslie:

There are five of us on the Health and Human Services Committee who are also on the Ways and Means Committee. That certainly bodes well. In order to fund it, since it is not in the budget, we have to find something to cut. That is the problem.

Assemblywoman Weber:

I am hoping there will be increased cooperation with local government. I hope community-based organizations and faith-based organizations will assist the housing program, whether it is emergency housing, transitional housing, or permanent affordable housing. Local government and the community need to get behind these organizations to allow these projects to go forward. I am hoping there will be outreach from folks in the community. We all need to band together to solve the homelessness problem.

ASSEMBLYWOMAN MCCLAIN MOVED TO DO PASS
ASSEMBLY BILL 126.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

We have no other business, but we want to open the floor for public comment. Is there anyone that wants to come forward with public comment? I do not see any. Next week, we will be discussing health care and emergency rooms. This meeting is adjourned. [2:19 p.m.]

RESPECTFULLY SUBMITTED:

Katrina Zach
Committee Secretary

APPROVED BY:

Assemblywoman Sheila Leslie, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: February 21, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	Committee on Health and Human Services	Agenda
	B		Attendance Roster
	C	Sarah J. Lutter, Policy Analyst, Committee on Health and Human Services	Work Session Document, dated February 21, 2007 to Committee Chair from Lutter