

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

**Seventy-Fourth Session
March 28, 2007**

The Committee on Health and Human Services was called to order by Chair Sheila Leslie at 1:35 p.m., on Wednesday, March 28, 2007, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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:

Assemblyman John Oceguera, Assembly District No. 16
Assemblywoman Barbara E. Buckley, Assembly District No. 8
Assemblyman Bernie Anderson, Assembly District No. 31



STAFF MEMBERS PRESENT:

Risa B. Lang, Committee Counsel
Sarah J. Lutter, Committee Policy Analyst
Katrina Zach, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Denisse Roldán Newell, Director of Advocacy, American Heart Association, Las Vegas, Nevada
Dr. Scott Selco, Neurologist, Nevada Neurosciences Institute, Sunrise Hospital, Las Vegas
Lawrence Matheis, Executive Director, Nevada State Medical Association, Reno
Alex Haartz, Administrator, Health Division, Department of Health and Human Services, Carson City, Nevada
Rory Chetelat, EMS Manager, Southern Nevada Health District, Las Vegas
Rusty McAllister, President, Professional Firefighters of Nevada, Las Vegas
Robin Keith, President, Nevada Rural Hospital Partners, Reno
Bill Welch, President and CEO, Nevada Hospital Association, Reno
Keith Munro, Chief of Staff, Office of the Attorney General, Reno, Nevada
Conrad Hafen, Chief Criminal Deputy, Criminal Division, Office of the Attorney General, Las Vegas, Nevada
Liz MacMenamin, Director of Government Affairs, Retail Association of Nevada, Carson City
Tim Kuzanek, Lieutenant, Washoe County Sheriff's Office, Reno, Nevada
Joshua Martinez, Detective, Las Vegas Metropolitan Police Department, Nevada
Tom Clark, Government Affairs, Bristlecone Family Resources, Reno, Nevada

Chair Leslie:

The meeting will come to order. [Roll.] We will start with Assembly Bill 360.

Assembly Bill 360: Establishes the State Program for Vascular Health.
(BDR 40-392)

Assemblyman John Oceguera, Assembly District No. 16:

In our nation today, cardiovascular disease is the number one killer of men and women, and stroke is the third leading cause of death. Every second counts when treating life and death emergencies of stroke and heart attack patients. As a firefighter paramedic, I have certainly seen those types of cases. It is necessary that victims of stroke and heart attack receive the best care possible.

I brought this bill forward at the request of the American Heart Association. If you do not mind, Madam Chair, I will turn it over to them so they may further address the bill.

Chair Leslie:

That is fine. Do the Committee members have any questions? [There was no response.]

Denisse Roldán Newell, Director of Advocacy, American Heart Association, Las Vegas, Nevada:

[Read ([Exhibit C](#)).]

Chair Leslie:

Thank you. The first part of the bill looks like it is about the advisory committee.

Denisse Roldán Newell:

Correct.

Chair Leslie:

Can you explain Section 16?

Dr. Scott Selco, Neurologist, Sunrise Hospital, Nevada Neurosciences Institute, Las Vegas:

I moved to southern Nevada in 2005 to try to improve care for stroke patients. It costs a lot of money to take care of stroke victims. The current system of care in Nevada is fragmented and sub-optimal. This means that many stroke patients are not receiving the best care possible to achieve good post-stroke outcomes.

The bill sets forth a series of principles and establishes a state stroke committee. The committee will try to flesh out some of the details. We want the committee to develop a state stroke plan where they will determine if the stroke patients should be taken to certain centers. This will raise awareness among people that are at risk for stroke. I do not know if that addresses your questions about Section 16.

Chair Leslie:

I started to get a little nervous when the bill mentioned certain centers. What do you mean by that?

Scott Selco:

The bill states appropriate hospitals. We struggled with the concept of what is an appropriate hospital, and we felt it was useful to be inclusive rather than exclusive. The State of Nevada has two primary stroke centers certified by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). We were told Valley Hospital in Las Vegas is vying for primary stroke center certification. We hope that all hospitals would attempt to get stroke center certification. Many states that have faced this issue decided to get out of the business of certifying stroke centers and left that in the hands of an entity like JCAHO. Nothing is restricting any of our hospitals from trying to become a JCAHO stroke center. We hope that any hospital caring for stroke patients is competent enough that stroke patients will receive optimal care.

Chair Leslie:

We will let other people comment on that section. I am not sure where we are headed with that.

Assemblyman Hardy:

I am looking at Section 20. [Read Section 20 of [Assembly Bill 360](#).] The bottom line is that every hospital receives stroke patients. This language makes me nervous because I, as a doctor, cannot treat stroke patients anymore. I am a little discomfited by how the section is worded.

Scott Selco:

I appreciate that comment. That is absolutely true. I think it is time to think of stroke on the same level as trauma. We certify trauma centers because there are on-call trauma surgeons and anesthesiologists, and patients need to be triaged appropriately. Stroke patients should be taken to a center where they will be treated properly and receive reperfusion therapy if they need it. We are trying to elevate the importance of an acute stroke triage center.

Assemblyman Hardy:

Someone has a stroke in Boulder City, for example. Are you saying they have to go from Boulder City to somewhere else or they cannot get treatment? How do we define the stroke center? Even though there is a stroke center, a patient might go to a trauma center instead. I have problems with that.

Scott Selco:

That is an excellent comment. The language does not exclude any trauma patient from getting proper care in Boulder City Hospital, for example. If medical professionals in a particular hospital believe they can treat a patient, then they should treat that patient. You do not need to be designated as a stroke center to treat stroke patients. You need commitment from the physicians to do the treatment. This bill does not comment on certification of stroke centers or the certifying entity. Most emergency room physicians in the country treat stroke patients. If emergency room physicians want to triage and treat stroke patients, I strongly support that. I do not want to see a patient who is a candidate for stroke therapy sitting in an emergency room and not getting proper treatment. This is the concern.

Assemblyman Hardy:

Do stroke centers do thrombolytic (TPA) or lytic therapy? Do they use catheters or other invasive interventions? I would be reluctant to send a patient to a hospital because it is not a stroke center.

Scott Selco:

No. I hope that every hospital would be set up to do intravenous TPA therapy for stroke patients. Anything else is extra care. Every potential acute stroke candidate arriving after three hours should be considered for that therapy.

Assemblyman Hardy:

It is three hours after the stroke, not arriving after three hours.

Scott Selco:

The symptom onset

Assemblyman Hardy:

You and I know that they do not come in as soon as they should.

Scott Selco:

That is correct, unfortunately.

Assemblyman Hardy:

This would not preclude a hospital anywhere, whether it be a new hospital or otherwise, from using lytic therapy. Would the bill preclude the hospitals from doing other invasive techniques?

Scott Selco:

No. I do not think the state stroke plan would regulate medical procedure. These are therapies that are evolving and changing. Honestly, I cannot imagine the

members of the state stroke task force regulating that. You will simply need to set up minimum standards of care and competency. If you can do more than that, that would be great.

Assemblyman Hardy:

If you call the hospital a center for stroke treatment, then certain criteria must be met.

Scott Selco:

That is correct.

Assemblywoman Gerhardt:

I like the idea of stroke victims receiving the best possible treatment, but I am worried about the issue of time. If we are transporting patients from the hospital to the stroke center, is there a risk of complications during transport? Can a person be adequately stabilized so further damage does not occur during transport?

Scott Selco:

That is a great question. Ordinarily, when a stroke patient is picked up by paramedics, the patient's airway, blood pressure, and heartbeat is stabilized. For the most part, it is a brain emergency. Of the estimated 6,300 strokes that occur in Clark County each year, about 60 percent of them come within a five mile radius of one of four hospitals: Sunrise, Desert Springs, University Medical Center, and Valley. Those hospitals are not that far away by ambulance, even in rush hour. The human dynamics of the stroke patient is usually stable. I would not imagine that there is a lot of concern over stability during patient transport.

Assemblywoman Gerhardt:

You are talking about emergency medical services (EMS). Are you saying EMS personnel identify who is or is not a stroke victim? Do they take them directly to the specialty center or the closest hospital?

Scott Selco:

I encourage my EMS colleagues to address your question. We live in a patient choice state, which means if a stable and conscious patient is picked up in an ambulance, they have the choice of where they would like to go. Even for stroke victims, that happens in ambulances everyday. Unfortunately, stroke victims do not know about stroke centers and that certain centers are better equipped to care for acute stroke patients than other places. It is a haphazard transport system at the moment. I hope more facilities will be capable of providing specialized stroke treatment. It is in the patient's best interest to go to one of those centers because some emergency rooms are not equipped or

committed to treating strokes acutely. The stroke patient will get a CAT scan and blood work, but that delays proper treatment. After that, an ambulance is called back and the patient is transported to another facility. This is a circumstance we would like to avoid. We achieve best outcomes when we respond early. Unfortunately, the best care intimates by-passing some treatment.

Chair Leslie:

I think we fleshed out the issue. The Committee is concerned about this issue.

Assemblywoman Womack:

I like the idea of specialty centers. My granddaughter was in a trauma center and it saved her life. I understand the importance of specialty centers. The procedures and set-up are expensive. How is this open to insured and uninsured patients?

Scott Selco:

I daresay our health care system is quite broken. These are issues that we, as a society, must grapple with. As a physician, I do not care about insurance when I am treating a patient. We treat all patients. In fact, it is against the law for me to care about insurance when I am treating a patient. We treat many uninsured patients simply because we want to do what is best for the patient. It is expensive. I do not know how to answer that question without delving into societal issues regarding how we pay for health care. Someone who is uninsured should be allowed to get the best care possible.

Assemblywoman Womack:

Do you understand the concern?

Scott Selco:

I am not sure I do.

Assemblywoman Womack:

The concern is that the stroke center will be selective and not open to everyone.

Scott Selco:

Again, I ask our EMS provider colleagues to address that concern. I am not aware if they perform the so-called wallet biopsy. In other words, I am not sure if they search for insurance in people's wallets. I might be wrong.

Assemblywoman Womack:

My concern is not in transport but in the quality of treatment once the uninsured patient arrives.

Chair Leslie:

Thank you. Before you leave, can you address your amendment?

Denisse Roldán Newell:

I would like the Committee to consider changing the term "stroke victim." The correct term is "stroke survivor" because people who suffer from stroke do not consider themselves victims.

Lawrence Matheis, Executive Director, Nevada State Medical Association, Reno:

We support the idea of developing stroke plans and identifying areas that need work. It is definitely time to address this issue.

Assemblyman Hardy:

Regarding the transfer of patients, sometimes we have to call and ask the relative if we can transfer the patient to another facility. Are there mechanisms in a stroke center to make that automatic so you do not have to pick up the phone and call the patient's relative?

Lawrence Matheis:

I do not know.

Scott Selco:

For the most part, we do it the way you are describing. In our stroke center, the EMS providers let us know they are en route so we can be ready once the patient arrives.

Chair Leslie:

This discussion sounds like the discussion we had on trauma centers. Tell me we are not getting into another situation like that.

Alex Haartz, Administrator, Department of Health and Human Services, Health Division, Carson City:

[Submitted ([Exhibit D](#)).] That is a warm thought. This is a comprehensive bill that lays out a lot of activities for the Health Division. The work creates a fiscal impact on the Health Division because there is no funding. We should have enabling legislation. This Committee has done a lot of work on diabetes, cancer, and arthritis in terms of providing the statutory authority for the Health Division, and demonstrated legislative commitment towards an issue. We submitted a grant application earlier this year to fund activities such as advisory committees

for staffing. We have already created a cardiovascular disease profile that looks at the issue in the state of Nevada.

Chair Leslie:

Would you prefer to go down that path rather than have a detailed statute on the advisory committee?

Alex Haartz:

I am sorry if I misspoke. It is helpful if there is statutory detail because it provides clarity and it allows us to present it to our federal partners and private funding sources.

Chair Leslie:

Are you fine with the way it is written?

Alex Haartz:

The only point I will make is that it makes the Office of the Administrator both the appointer, ex officio, and voting member. This may cause conflict. I recommend that the State Health Office serve as an ex officio member.

Chair Leslie:

Those are excellent suggestions.

Alex Haartz:

The bill has enabling language, and it provides legislative intent and direction. Again, we submitted a grant application and if it is approved, it will accomplish a lot.

Rory Chetelat, EMS Manager, Southern Nevada Health District, Las Vegas:

I am here to support the bill and answer some questions that Dr. Hardy and Assemblywoman Gerhardt asked. The EMS community struggled to develop stroke protocols. It is difficult for us to divert stroke patients to stroke centers. We look for assistance in identifying hospitals that provide proper stroke care so we can develop appropriate protocols for transporting patients.

Rusty McAllister, President, Professional Firefighters of Nevada, Las Vegas:

I am neutral on this bill. There is no one on the advisory committee that represents the emergency medical providers in the field. There are two emergency room physicians on the board but there are no EMS providers.

We are concerned about the regulations as they can be harmful in many ways. From the EMS standpoint, we are dealing with wait times in emergency rooms. If we establish protocols on where we take patients, wait times in emergency

rooms may increase. The bill states stroke patients should be taken to a stroke facility, but if that facility has a wait time of over 30 minutes, how does that help ambulances and patients?

In Las Vegas, there are trauma centers for specific injuries. If we establish stroke centers, will advance life support facilities be passed when transporting a patient? The stroke center may provide higher levels of care, but what liability do the EMS providers have if they pass a facility that can provide life support care?

There is another concern about guidelines on establishing stroke centers. According to Section 20 of the bill, the Health Division determines if there is a need for a stroke facility. That being said, will some hospital facilities be cut from the network of cardiovascular care? Or can any facility be a stroke center if the facility meets certain standards? We have 11 hospitals in Las Vegas. Could all those hospitals be cardiovascular care centers?

Chair Leslie:

I think there is a lot of concern about the second part of the bill. You pointed out a deficiency which is very important. The emergency responders definitely need to be represented. Thank you for pointing that out. The Committee will look closely at the second half of the bill.

Robin Keith, President, Nevada Rural Hospital Partners, Reno:

We support this bill. Anything that improves cardiovascular care is well worth the discussion. I believe the hospitals should be included on the advisory committee.

Section 13 of the bill says, "Establish a mechanism for evaluating whether a medical facility provides proper care to victims of stroke." That is a large task. What are the standards? Who will develop them? Who will be represented in the group that will be developing them? More importantly, how will the standards be applied and by whom? This bill needs clarification with regard to the role of the Bureau of Life Insurance Certification. The language suggests that the coordinator, with the guidance of the advisory committee, would be evaluating and applying these measures. This merits further discussion and exploration.

Page 7 and 8 of the bill discusses a telemedicine network. The telemedicine network exists throughout the state of Nevada. Nevada's rural hospitals, clinics, and schools are connected to the network. It is a very useful tool; we use it for radiology and stroke. The first few hours of stroke care are very important. Physicians that work in our emergency rooms are not neurologists, but it would be wonderful if they were supported by this technology.

Page 8 of the bill states a system must be implemented. For me, this means dollar signs. The money required to augment the telemedicine system should be considered in the fiscal note.

Bill Welch, President and CEO, Nevada Hospital Association, Reno:

We support the first half of the bill. We support advancing the knowledge and awareness of the public, coordination stakeholders, and the development of an advisory committee. I believe the advisory committee, however, should include representatives from the EMS, hospital, and rural healthcare provider communities. We also need to consider the health insurance of patients who go to stroke centers. There are many issues that need to be addressed in the advisory committee.

We have heartburn with Section 15. The bill implies the advisory committee will have significant authority over developing standards of care, and it creates overreaching regulations that we believe the legislators should be involved in. While we support the creation of an advisory committee, there must be more oversight.

Chair Leslie:

Is there anymore testimony? [There was no response.] I will close the hearing on Assembly Bill 360. The Committee will have a work session and then we will hear the second bill on our agenda. I will turn it over to Ms. Lutter.

Assembly Bill 247: Makes various changes concerning billing for, collecting and bringing actions and enforcing judgments for delinquent payments for services rendered at a hospital. (BDR 40-819)

Sarah J. Lutter, Committee Policy Analyst:

Assembly Bill 247 and Assembly Bill 261 have new amendments. I will turn it over to Assemblywoman Buckley so she can explain the amendments.

[Read Assembly Bill 247 of ([Exhibit E](#)).]

Assemblywoman Barbara E. Buckley, Assembly District No. 8:

[Submitted ([Exhibit F](#)), ([Exhibit G](#)), ([Exhibit H](#)), ([Exhibit I](#)).] Thank you for the opportunity to speak about the amendments. There are last minute concerns from the rural hospitals.

[Read ([Exhibit F](#)).]

Chair Leslie:

Thank you. I am assuming you found it necessary to clarify the statute because there is more than one hospital doing that.

Assemblywoman Buckley:

That is correct.

Chair Leslie:

Hospitals are charging patients the top rate even though they have insurance?

Assemblywoman Buckley:

That is correct. Basically, they are liening the settlement.

Assemblywoman Weber:

Does hospital care include all aspects of care?

Assemblywoman Buckley:

What is covered by *Nevada Revised Statutes* (NRS) 449 would be covered by this. I do not have the applicability memorized.

Assemblyman Hardy:

If the insurance pays directly to the patient, does this preclude the hospital from liening that settlement? Is there a discussion on interest payments if it takes years for the settlement to be completed?

Assemblywoman Buckley:

The insurance company typically puts the patient, lawyer, or anyone who has the lien on the check so that no one can cash it. If there is a lawyer involved, it goes into a trust account and the trust account pays the lien. That is something they do to protect themselves because if you pay one person and there is a lien, it goes back to the insurance company. With regard to interest, that is done contractually. For example, if you have health insurance and a settlement, your insurance company pays the hospital. That is already governed by the contractor of the statute.

Chair Leslie:

You did an awesome job. It certainly meets the intent of what we worked on last session. Are there any questions? [There was no response.]

ASSEMBLYWOMAN PARNELL MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 247.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

Let us move to the second bill of our work session, Assembly Bill 261.

Assembly Bill 261: Makes various changes to provisions relating to child abuse and neglect. (BDR 38-870)

Sarah J. Lutter:

There are proposed amendments as well as a new mock-up for Assembly Bill 261. I will lay out some amendments and then I will turn it over to Assemblywoman Buckley.

[Read Assembly Bill 261 of ([Exhibit E](#)).]

Chair Leslie:

Ms. Buckley, let us hear your suggestions.

Assemblywoman Buckley:

These amendments address very small issues. We have incorporated every suggestion, and we ran it by federal officials to make sure we are not endangering any funding. They reviewed and signed it. These changes make the bill a better bill. This will go a long way in making what information should or should not be released more clear. It will create more transparency and faith in the system, and there will be less litigation.

Chair Leslie:

Does your mock-up (Exhibit I) match the amendments that Ms. Lutter presented?

Assemblywoman Buckley:

Yes, they are all consistent.

Chair Leslie:

Is the near fatality language acceptable to you?

Assemblywoman Buckley:

Yes, that language is fine.

Chair Leslie:

Committee, we will be adopting Ms. Lutter's amendments. We did add the legislative auditor.

Sarah J. Lutter:

[Read Section 11 of Assembly Bill 261.]

Assemblywoman Buckley:

That was always in there. That was the mechanism that developed so the person who does not want to release the records is not in charge of deciding what information should or should not be released. They would still have the primary responsibility, but we would have an independent mechanism to ensure disclosure.

Chair Leslie:

We talked about that at the hearing.

Assemblywoman Buckley:

Yes, we did.

Chair Leslie:

We talked about the legislative auditor in a different bill.

Assemblywoman Buckley:

Yes, but this is a different function. This will assist us if there are problems down the road with regard to the release of records.

Chair Leslie:

I believe there is a conflict in Section 3.

Sarah J. Lutter:

There has to be a distinction between A and B of Section 3. This regards the amendments on near fatality.

Assemblywoman Buckley:

That is a compromise. It allows more disclosure.

Chair Leslie:

Assemblywoman Buckley indicated she would like the second option.

Assemblywoman Pierce:

We did not add gender in Section 12. We should add that.

Chair Leslie:

I think that is appropriate.

Assemblyman Hardy:

On page 2 of the mock-up, we have to make a decision about letter I, not letter B, of that section.

Sarah J. Lutter:

I think it is the same thing. It is just a more expansive and detailed definition.

Chair Leslie:

Are there any more clarifications or comments? [There was no response.]

ASSEMBLYWOMAN MCCLAIN MOVED TO AMEND AND DO PASS
AS AMENDED ASSEMBLY BILL 261.

ASSEMBLYMAN BEERS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

We will hear Assembly Bill 456.

[Assembly Bill 456](#): Revises provisions governing the billing practices of hospitals. (BDR 40-795)

Assemblyman Beers:

I am a heart attack survivor and I have been treated extremely well by Nevada's hospitals. I am alive today because of that care. I do not have a problem with the care, but with the hole in a Nevada law.

Because I am a heart attack survivor, sometimes I spend a night in a hospital for testing and check-up. The last time I stayed at the hospital, I was not in a room. I was situated at the end of a hallway with another bed next to me. There was no privacy curtain. If I wanted to contact the nurse's station down the hall, I had to ring an old fashioned hotel desk bell. In case of an emergency, I was instructed to walk to a telephone several feet away. Regardless of that, the care that I received was fine. I had, however, a problem with the bill. They charged me for a room. I called the lien department and challenged the bill, but they did not accept the challenge and said that Nevada law allowed the hospital to charge me for a room even though I did not stay in a room. I said, "That is not a good law" and they replied, "So change the law." They did not realize who they were talking to.

Assembly Bill 456 simply states, "A hospital shall not charge an inpatient for a service, a room, equipment, supplies, or medication unless actually used by or

provided to the inpatient." I was given very competent nursing service, but I was not provided for everything that is in a room. I was charged a full room rate. I think this is a hole in our law that needs closing.

Chair Leslie:

That is interesting. Are there any questions? [There was no response.] Is there anyone that would like to testify on this bill? [There was no response.]

Assemblywoman McClain:

Maybe you should get a discount on your entire bill for spending the night in the hallway.

Assemblywoman Gerhardt:

A member of my family experienced a similar situation during the birth of her child. She did not want a private room because her insurance company only pays for a double room. If the hospital does not fill the other bed, the hospital charges the patient for a private room. We need to address that issue as well.

Assemblyman Hardy:

Page 3 of the bill lists all the things an inpatient should not be charged for if it is not provided. Sometimes we give the patient oxygen but we take them off it to see how they do without it. The same applies for medicine and blood transfusions. There are times during the course of treatment where we do not use some things, but the cost is still there.

Chair Leslie:

It is a good point. I would like to hold this bill and talk to some people about it.

Assemblywoman Womack:

Some of my constituents were able to get a list of what was charged on their hospital bills, but when they requested an itemized bill, they could not get one. If the insurance company is billed, the patient is not given an itemized bill.

Chair Leslie:

I think you are getting into a different issue.

Assemblyman Beers:

Page 2, line 10 of the bill should answer the question regarding medicine or other services provided.

Chair Leslie:

It is interesting that there is no testimony. I will close the hearing on Assembly Bill 456. Let us move to our work session, and let us hear Assembly Bill 148.

Assembly Bill 148: Enacts provisions governing the sale of products containing materials that are used in the manufacture of methamphetamine and other controlled substances. (BDR 40-512)

Sarah J. Lutter:

[Read Assembly Bill 148 of ([Exhibit E](#)).]

Chair Leslie:

The Retail Association of Nevada wants to drop Section 9 completely. Please tell us what you would like to do with Section 9.

**Keith Munro, Chief of Staff, State of Nevada Office of the Attorney General,
Reno:**

I met with representatives from the Retail Association and we have agreed upon amendments. Conrad Hafen will go through the amendments for the Committee.

**Conrad Hafen, Chief Criminal Deputy, State of Nevada Office of the Attorney
General, Criminal Division, Las Vegas:**

Do you want me to begin with Section 9 or would you like me to go through each amendment?

Chair Leslie:

Let us talk about Section 9. It is the section with the greatest discrepancy.

Conrad Hafen:

The amendment deletes "guilty of a misdemeanor." It will be changed to "civil penalty." We are also deleting the word "gross misdemeanor." This amendment removes the criminal penalties and imposes a civil penalty instead.

Chair Leslie:

Do you agree with this change?

Liz MacMenamin, Director of Government Affairs, Retail Association of Nevada:

We do agree and I thank the Office of the Attorney General for working with us. We have no problem with how it read.

Assemblywoman Pierce:

We are not taking out all of Section 9?

Keith Munro:

That is correct.

Chair Leslie:

Ms. MacMenamin, do you have any problems with the other amendments the Office of the Attorney General suggested?

Liz MacMenamin:

We are in complete agreement with the Office of the Attorney General on the changes. They have considered some of our concerns. The bill, however, does not include a provision for education and training of our employees. We have discussed this with them and we will work on it at a later time.

Assemblyman Hardy:

How does this comply with the federal act?

Keith Munro:

The goal of this bill is to comply with the federal act.

Chair Leslie:

Thank you. It looks good to me.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS AS
AMENDED ASSEMBLY BILL 148.

ASSEMBLYWOMAN McCLAIN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

We will move to Assembly Bill 150.

Assembly Bill 150: Makes various changes pertaining to methamphetamine and other controlled substances. (BDR 40-667)

Sarah J. Lutter:

[Read Assembly Bill 150 from ([Exhibit E](#)).]

Assemblyman Anderson:

The intent of Assembly Bill 150 is to mirror the law in Oregon that makes amphetamine-based over-the-counter medications available only by prescription. I believe this is the best way to keep these drugs out of the hands of addicts who will use them to make methamphetamine.

I offer an amendment that will allow pharmacists and retailers to continue to sell these medications while limiting access and tracking the sale of these drugs on a state and county basis. This amendment removes the requirement of a prescription to acquire amphetamine-based drugs. The precursor drugs, however, can only be sold by pharmacies that are currently licensed and regulated by both the state and federal governments.

Recognizing that many communities in our state do not have 24 hour pharmacies, this amendment also provides a process that allows non-pharmacy retailers the ability to register with the State Board of Pharmacy so that they can sell amphetamine-based prescription products. Once they register, they will be required to comply with the same laws that pharmacies must follow. In addition to behind-the-counter locked boxes and log books, the State Board of Pharmacy will provide the necessary forms and guidelines for a non-pharmacy retailer.

Electronic monitoring of purchases of these drugs goes further than log books. Electronic monitoring is a good idea but there is speculation as to what software or web-based programs will be used. Information will be provided to law enforcement and the consumer's medical information will be protected. This amendment requires the State Board of Pharmacy to research these electronic programs and recommend in the next legislative session the best way for the State to implement an electronic monitoring program.

For law enforcement to track the amount of amphetamines that are sold in the state of Nevada, pharmacies or approved registered retailers must report the quantity of precursor drugs ordered and sold on a quarterly basis to law enforcement and the District Attorney. This requirement is two fold. It will allow law enforcement to identify when communities are selling more of these products and to investigate why sales are peaking. It will also identify when precursor drugs are sold outside of retailers.

This amendment goes a long way in helping Nevada's law enforcement, but it will not restrict our constituents from acquiring those precursor drugs. Amphetamine drugs will be sold only in state and federal licensed pharmacies. Pharmacies that track sales electronically must provide electronic data to law enforcement upon request and must provide inventory data to the Sheriff and District Attorney of the county in which the pharmacy operates. We want to make sure that the proprietary information is protected.

Non-pharmacy retailers, both rural and urban, may only sell amphetamine-based drugs and other precursor drugs after registering with the Board of Pharmacy,

and they must provide inventory data to the Sheriff and District Attorney. The report should be done on a quarterly basis, but it is important for them to provide it upon request. Non-pharmacy retailers that do not register with State Board of Pharmacy are guilty of a category C felony. The State Board of Pharmacy is required to research, identify, and recommend an electronic monitoring software program to the 2009 legislature.

This amendment will go a long way in helping solve this problem. We have to change our behavior to end this particular scourge. We have to change the way we think about drugs and their availability. We have to give people the opportunity to do the right thing. This will mean that retailers and law enforcement have to think differently and change their methods on this particular issue. It will require everyone to make this a priority if we want to break the cycle.

Chair Leslie:

Thank you. Is the mock-up behind the outlined amendments Mr. Anderson's amendments?

Sarah J. Lutter:

That is correct. It also contains Mr. Anderson's proposed amendment to remove the provision about prescriptions. Also, I replaced the Office of the Attorney General with the State Board of Pharmacy in number 3 subsection C of the work session document ([Exhibit E](#)).

Chair Leslie:

This is what Mr. Anderson wanted?

Assemblyman Anderson:

We were shopping for a place that would be readily accessible. The State Board of Pharmacy seems like a logical place. It will take some understanding about the industry and the current federal requirements.

Chair Leslie:

I think you struck a middle ground. You responded to the concerns about the provision on prescriptions and tightened it up so that the law books are more meaningful. That is what I like about this amendment.

Assemblyman Anderson:

In reviewing the state laws, I wanted to find middle ground between similar laws in Oregon and Oklahoma. This bill is not as specific as other state laws. There is a middle ground between federal and state law. The other day I picked up a prescription from a major pharmacy and I saw a huge array of cold

medications. Before I left, I asked the district manager, "How is it possible that you can sell these medications?" The district manager said it was fine to sell them, and I replied, "How do we know? There is a new law against it." The district manager said, "All these medications meet the federal guidelines."

Chair Leslie:

You worked on this amendment with the Retail Association of Nevada. Is there anyone from law enforcement who will speak today?

Assemblyman Anderson:

I have heard anecdotal stories about whether or not law enforcement officials are involved. I am not sure.

Liz MacMenamin, Director of Government Affairs, Retail Association of Nevada, Carson City:

We thank the Chair for working with us on this legislation and we do realize the problem within our community. We want to step forward and help. In reviewing the amendments, we have difficulty with the requirement on providing inventory data to the sheriff and the district attorney's office. We want to tweak the language to make it comply more with what we are currently doing. We want to provide information to law enforcement, but we also want to protect our proprietary information. We have difficulties in providing quarterly reports.

Chair Leslie:

Are you suggesting we limit the release of information to law enforcement agencies?

Liz MacMenamin:

Absolutely.

Assemblyman Anderson:

I want to make sure there is a clear understanding of the inventory on a quarterly basis. It is a monitoring device. I also want to make sure that law enforcement has the opportunity to look at the information.

Chair Leslie:

Are you okay with limiting the information to law enforcement? Or are you concerned the Board of Pharmacy will not be able to . . .

Assemblyman Anderson:

I want to make sure the Board of Pharmacy has the opportunity to receive that information on quarterly basis.

Chair Leslie:

The purpose of that provision is so they can monitor how much of a certain drug is being sold?

Assemblyman Anderson:

Because of their knowledge, the Board of Pharmacy could identify an abnormality in sales. Given their level of expertise, they should be apart of the solution.

Chair Leslie:

Ms. MacMenamin, you have an objection to that because people would know what stores are selling more products if the information is released to the public?

Liz MacMenamin:

Law enforcement said it is corporate paranoia. It is proprietary. We have anti-trust laws and many other things that protect this proprietary information. It was my understanding that the quarterly reports would report information on non-pharmacy providers of these drugs. We are talking about huge amounts of documents to provide this information. Not all information is electronically available. We will agree to make this information available to law enforcement agencies.

Chair Leslie:

You do not want to send it to the Board of Pharmacy?

Liz MacMenamin:

Not at this time.

Assemblyman Hardy:

I want to make sure we include the Board of Pharmacy in the process if that is where we are going. Right now, it just says Sheriff and District Attorney.

Chair Leslie:

I am not sure if that is what he is talking about. The way I understand it, the quarterly reports go to the Board of Pharmacy, but I also do not see that.

Assemblyman Hardy:

I do not see it there in the mock-up.

Chair Leslie:

Let us hear from representatives from law enforcement. Perhaps they can help us.

Tim Kuzanek, Lieutenant, Washoe County Sheriff's Office, Reno, Nevada:

I have ten years experience in the investigation of methamphetamine manufacturing.

Chair Leslie:

Have you seen the amendments?

Tim Kuzanek:

This is the first time I have seen it.

Chair Leslie:

You have heard Mr. Anderson talk about his amendment. Do you think that is consistent with your understanding? Do you support it?

Tim Kuzanek:

I support it. Any issues that I wanted to discuss have already been discussed by Mr. Anderson. From a law enforcement perspective, we certainly respect the request to keep proprietary information confidential. I am concerned that we will not have access to information for purposes of investigation simply because the information is proprietary.

Chair Leslie:

I believe Ms. MacMenamin is talking about the quantity of product that is sold.

Liz MacMenamin:

Actually, it is the entire documentation. The bill talks about inventory data, but it is not clear within the amendment. I am not sure what they are looking for. Is it the wholesale price? Is it the retail price?

Chair Leslie:

I do not think we are interested in price.

Liz MacMenamin:

I know that. What we are trying to do is keep it where it is right now. We want to release information only to law enforcement and we have no problem with that. We have red flags in place if there is a problem, and we report that.

Chair Leslie:

You just do not want to report it.

Liz MacMenamin:

Actually, we do not mind reporting it to law enforcement if they need it. It is not a problem. The quarterly reporting would release quite a bit of information.

Assemblywoman Gerhardt:

Have we been using the federal system in the past? You talked about red flags. Obviously that is not working. If we do not give the information to the Board of Pharmacy, how are we going to identify a problem?

Liz MacMenamin:

We have been using the federal system, but it has been in place for less than six months. We do not know if the system is effective. We do know it is working on a national level and we are seeing changes.

Assemblywoman Gerhardt:

I will not be happy if the Board of Pharmacy does not get the information.

Chair Leslie:

The Committee will have to decide that.

Assemblyman Anderson:

Obviously the retailers have a concern over proprietary information. Many common prescription drugs, which are the core product of their inventory, are reported to the Board of Pharmacy on a regular basis. We are not dealing with something that is out of the ordinary.

Assemblyman Hardy:

Is the goal of the report to retrieve information on a store level or an individual level? Is it a combination of both?

Assemblyman Anderson:

It is a combination of both. Stores are currently following federal guidelines with little or no problem. We want local law enforcement and the State to have access to information. We need to do this to large and small operations. It would only be fair and equitable.

Assemblyman Hardy:

Does the open meeting law apply to the Board of Pharmacy?

Assemblyman Anderson:

Any professional board is subject to the open meeting law. The records are not open unless there is a disciplinary action.

Joshua Martinez, Detective, Las Vegas Metropolitan Police Department, Nevada:

We worked with Tim Kuzanek from Washoe County and the Retailer's Association of Nevada. We agree with the amendments that Assemblyman Anderson offered. Our agency does not have a problem with the Board of

Pharmacy receiving the same information that local law enforcement agencies receive. It will provide a check and balance. The Board of Pharmacy might notice something that our agency might not have noticed.

Liz MacMenamin:

Going back to Assemblyman Hardy's question, we are concerned the information would be open to other entities. I feel law enforcement will be more confidential with the information. I believe that the Board of Pharmacy may have some difficulty handling quarterly reports from every entity.

Joshua Martinez:

If we have this information, we could use this information for a subpoena to obtain arrests or criminal procedures. Once the case is adjudicated, all subpoenas are open to public record and the store information will be there. We do not want to see cases get thrown out because the information is proprietary.

Chair Leslie:

Is anyone from the Board of Pharmacy present? [There was no response.]

Assemblyman Hardy:

What are some of the things that do not pertain to the open meeting law?

Risa B. Lang, Committee Counsel:

I think there are some provisions in place. I will have to go back and look it up.

Chair Leslie:

I would like to move this bill, but if there is enough concern about that . . . I am concerned the Board of Pharmacy is not here. We need some clarification from them.

Tom Clark, Government Affairs, Bristlecone Family Resources:

I worked closely with the sponsor of this bill. I talked to the Board of Pharmacy this morning, and they support regulations that would require non-pharmacy operations to register.

Chair Leslie:

Let us have them attend the next meeting. Perhaps we need to change some language regarding regulations or address the open meeting law.

Tom Clark:

There is a lot of talk on what is going to be reported. We are looking at the quantities of precursor drugs, not names, social security numbers, or addresses of customers.

Chair Leslie:

Perhaps we will tighten up the amendment to reflect that. Are there any other concerns? [There was no response.] We would like to address the Retail Association of Nevada's concerns, but there is a chance that we might not do that. At some point, we will have to choose. We will hold this bill, and we will try to finish it on Monday. This meeting is adjourned. [3:42 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: March 28, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	Committee on Health and Human Services	Agenda
	B	Committee on Health and Human Services	Attendance Roster
AB 360	C	Denisse Roldán Newell, American Heart Association	Prepared Testimony
AB 360	D	Alex Haartz, Department of Health and Human Services	Prepared Testimony
AB 247 AB 261 AB 148 AB 150	E	Sarah J. Lutter, Committee Policy Analyst	Work Session Document
AB 247	F	Assemblywoman Barbara E. Buckley	Effect of Amendments
AB 247	G	Assemblywoman Barbara E. Buckley	Additional Amendments to Mock-Up
AB 247	H	Assemblywoman Barbara E. Buckley	Proposed Amendment 3324
AB 261	I	Assemblywoman Barbara E. Buckley	Proposed Amendments