

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

**Seventy-Fourth Session
April 11, 2007**

The Committee on Health and Human Services was called to order by Chair Sheila Leslie at 1:34 p.m., on Wednesday, April 11, 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

GUEST LEGISLATORS PRESENT:

Assemblyman Bernie Anderson, Assembly District No. 31
Assemblyman David R. Parks, Assembly District No. 41

STAFF MEMBERS PRESENT:

Sarah J. Lutter, Committee Policy Analyst
Katrina Zach, Committee Secretary
Olivia Lloyd, Committee Assistant

Minutes ID: 620



OTHERS PRESENT:

Louis Ling, General Counsel, State Board of Pharmacy
Tom Clark, representing Methamphetamine Community Response Alliance
of Washoe County
Sam McMullen, Government Relations, Retail Association of Nevada
Liz MacMenamin, Government Relations, Retail Association of Nevada
Laura Hale, Social Services Chief, Director's Office, Grant's Management
Unit, Department of Health and Human Services
Lawrence Matheis, Executive Director, Nevada State Medical Association
Michael Hackett, representing American Cancer Society
Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County
District Health Department
Jon Sasser, Attorney, Washoe Legal Services
Connie McMullen, Chair, Strategic Plan Accountability Committee for
Seniors
Janice Ayres, Executive Director and CEO, Nevada 15 Rural Counties'
RSVP Program
Marietta Bobba, Director, Washoe County Senior Services
Paul Gowins, Private Citizen, Reno, Nevada
Bill Hale, Program Manager, Health Division, Department of Health and
Human Services
Mary Liveratti, Deputy Director, Director's Office, Department of Health
and Human Services
Jennifer Dunaway, Health Facilities Surveyor, Bureau of Licensure and
Certification, Health Division, Department of Health and Human
Services
Michael McMahon, Program Manager, Consumer Direct Personal Care

Chair Leslie:

This meeting will come to order. [Roll.] We will begin with our work session today and we will start with Assembly Bill 150.

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

Sarah J. Lutter, Committee Policy Analyst:

[Read Assembly Bill 150 and its proposed amendments ([Exhibit C](#)).]

Assemblyman Bernie Anderson, Washoe County Assembly District No. 31:

Ms. Lutter, thank you for guiding us through the amendments. I would also like to thank Tom Clark for spending countless hours on this legislation.

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

Assemblywoman Parnell:

Amendment 3, which was proposed by the Retail Association of Nevada (RAN), states, "Any unusual or excessive loss or disappearance" Does this include sales?

Sarah J. Lutter:

It is my understanding that it does not include the sale of the products. It only applies to theft or loss during the transit of the product.

Assemblyman Anderson:

For example, products can be damaged by water if a storage room roof breaks during a storm.

Chair Leslie:

Why are you suggesting a category C Felony?

Assemblyman Anderson:

A category C Felony is a known act that is endangering a large group of people. It would be more appropriate than a D or E felony. The E felony is automatically provisional, but a C felony will show that this is a serious issue. It sends a clear message to the public and the industry that we are serious about this issue. This is not a casual crime.

Chair Leslie:

You do not recommend the C felony lightly.

Assemblyman Anderson:

Correct. In fact, it is the only C felony that I am supporting.

Assemblywoman Weber:

Could someone explain Section C of proposed amendment 2? I do not know the meaning of "sales experience for the drug or product by the business prior to the effective date"

Assemblyman Anderson:

I will defer that question to the Nevada State Board of Pharmacy. We want these precursor drugs off the street.

Louis Ling, General Counsel, State Board of Pharmacy:

We want the Board to consider if the store has always sold cold medications or if the store is a new business and has never sold cold medications. The Board will look at the experience that these businesses have had with certain products. Federal law mandates that stores should keep records of certain products. The provision will allow the Board to see how well stores are complying with the federal law.

Assemblywoman Weber:

Oregon used to be number one in methamphetamine use, but now Nevada is number one. Does Oregon have this requirement?

Louis Ling:

I do not know.

Tom Clark, representing Methamphetamine Community Response Alliance of Washoe County:

Oregon does not need this legislation because they require prescriptions for precursor drugs.

Assemblywoman Womack:

Regarding the reporting part of proposed amendment 3, I thought the red flag is the inventory coming in and out of the store. Was this provision taken out of Section 2?

Chair Leslie:

Perhaps you can explain the difference between Section 1 and 2 of proposed amendment 3.

Tom Clark:

The intent is the ability to capture inventory coming in and out of the store. The Retail Association of Nevada proposed an amendment that removes that provision. The Methamphetamine Community Response Alliance and Assemblyman Anderson want that provision in the amendment because it would allow law enforcement to look at inventory information.

Assemblyman Hardy:

I received an email from representatives of Albertson's. They claim that if we pass this, they will be unable to comply with the electronic reporting requirement.

Chair Leslie:

Electronic reporting is not a requirement of the bill. As I understand it, the amendment requires the Nevada State Board of Pharmacy to provide recommendations next session.

Tom Clark:

Electronic reporting is a hybrid. Oklahoma has an electronic monitoring system. The store clerk enters the name of the purchaser of the drugs into a computer, and one would be able to see if the purchaser had purchased the drug previously. Electronic reporting is not considered in the amendment, but the board will review and make recommendations about this issue in the next session. The Department of Public Safety will set up a website that allows one to maintain a record of the store's inventory. Anyone with access to the Internet can access this information.

Chair Leslie:

The pharmacies were very engaged today. There were a lot of emails from the pharmacies, but I am not sure whether they understand the amendment. Mr. Ling, do you have any comment about the concern on Mr. Anderson's proposed amendment?

Louis Ling:

The Retail Association of Nevada can address that issue better than we can. The stores purchase these drugs through their own distribution systems or a wholesaler. If the store uses its own distribution systems, it should not be difficult to generate this data because they have direct access to inventory information.

Chair Leslie:

What is the purpose?

Tom Clark:

There are two elements. First, we want law enforcement to know how much product the store carries and how much was sold. For example, a store carries ten cases of a product, and in one month, the store sells two cases. In the next month, the store sells two more cases but orders ten more. We want to allow law enforcement to look at the log books and investigate what is going on. Secondly, law enforcement relies on pharmacists or store clerks to identify someone who may be breaking the law. While this is helpful, we want a new layer of reporting.

Chair Leslie:

The Committee will have to consider the potential burden on pharmacies versus the benefit of reporting information to law enforcement.

Louis Ling:

This provision will not primarily affect pharmacies. Pharmacies are selling precursor drugs as mandated by federal law. We are focusing on retailers, who will be required to register with the Board of Pharmacy if this bill becomes law. Before the Board of Pharmacy set up regulations regarding the sales of ephedrine-containing products, smoke shops all over Las Vegas were suddenly selling many cases of ephedrine-containing products under the table. Law enforcement is more interested in these retailers than pharmacies. If a retailer is not complying with the law, law enforcement can go to the store and investigate. Right now, I know of a store that bought a lot of ephedrine-containing products, but their records do not show that they sold any. Where did the ephedrine-containing products go?

Chair Leslie:

That is a good point.

Tom Clark:

During negotiations, some people suggested that small retailers should register, not pharmacies. We know from experience that methamphetamine addicts will stop going to mom and pop stores and go to pharmacies instead. We need to make sure that every store that sells ephedrine-containing products is regulated.

Chair Leslie:

Perhaps small retailers will stop selling ephedrine-containing products because of this legislation.

Assemblyman Hardy:

It is a felony not to register with the Board of Pharmacy and to sell certain products. Either way, you can commit a felony.

Tom Clark:

It would be a felony if one sold ephedrine-containing products and the store was not registered with the Board of Pharmacy. It would also be a felony if the retailer is registered, but one failed to report to law enforcement. If one failed to report and the retailer is unregistered, that would be two felonies.

Assemblyman Hardy:

Are those category C Felonies?

Tom Clark:

Yes, they are.

Assemblywoman Weber:

How many businesses across the State will need to register? How long can they wait to register before a penalty is implemented?

Chair Leslie:

Is there a phase-in period? Was that addressed in the amendment?

Tom Clark:

One will have to acquire a registration license from the Board of Pharmacy before one could sell ephedrine-containing products. There was a concern that small retailers will burden the Board of Pharmacy. The amendment lists the things the Board of Pharmacy can consider when registering a business. Rural communities will benefit the most. It is an opportunity, more than a restriction, for small businesses in rural communities to sell these products.

Chair Leslie:

The 7-11 stores, for example, are not selling those products.

Tom Clark:

Yes, that is correct. Corporate officials from 7-11 decided not to sell those products because there is increased awareness of ephedrine. Many businesses have taken the step to cease sale of precursor drugs.

Sam McMullen, Government Relations, Retail Association of Nevada:

Please remember that the idea behind this legislation is the restriction of sales. Sales are restricted to 3.6 milligrams of an ephedrine-containing product. We are trying to provide usable information to local law enforcement agencies. We are trying to be responsible, active, and assertive about this issue, and we want to point out some inefficiencies of this bill. We hope the Committee understands that pharmacies are already highly regulated. If a retail owner decides to sell these drugs, he should follow the state and federal rules. We want to be efficient with law enforcement tools and funding.

The issue of quarterly reporting was brought up by this Committee. Beginning inventory should match sales. If not, it is considered a discrepancy. One should understand that reporting mechanisms, as Mr. Clark described, already exist in pharmacies. Independent sourcing of data is necessary so someone is not intentionally changing data. It is a fundamental part of quality, inventory, sale, and employee control. Reporting lost products is required under the Combat Methamphetamine Act of 2005. Pharmacies have a lot at risk if they

do not follow these rules. Anomaly reporting is an efficient tool for law enforcement, and proposed amendment 3 shows the distinction between quarterly and anomaly reporting. It is not wrong if a store orders more products, but if products are diverted from the store, that should be reported.

Chair Leslie:

Could you comment on the category C Felony? Mr. Anderson is suggesting an addition to the disciplinary action part of the bill.

Sam McMullen:

I think it should be a felony if a store owner is selling precursor drugs without registering with the Board of Pharmacy. If someone violates the reporting rules, I believe it should be a negligent act, not a felony. On the other hand, if an employee is bad and does not follow any laws or regulations, I assume law enforcement will seek out those people individually. I do not know the appropriate penalty for that situation, but I know it is not a disciplinary penalty.

Assemblyman Hardy:

Do all entities involved in this legislation agree on the conceptual amendments?

Liz MacMenamin, Government Relations, Retail Association of Nevada:

After thorough consideration of the amendments, there were no disagreements.

Sam McMullen:

We agree, but I would like to provide some clarification. In proposed amendment 3, the second paragraph of Section B clearly allows a law enforcement official to retrieve records. This provision was never our intention.

Chair Leslie:

That is a good clarification, and I am sure the provision was not your intent.

Sam McMullen:

Perhaps the provision could apply to small retailers rather than pharmacies.

Assemblyman Hardy:

Do all entities involved agree on the fee that is imposed on the industry?

Sam McMullen:

We do not have a problem with the \$200 fee.

Assemblywoman McClain:

Does the category C Felony apply to both punishable acts as listed in proposed amendment 4? Would it be "and" or "or"?

Sarah J. Lutter:

It would be "or." As Mr. Clark explained, if one failed to register or report to law enforcement, they could be guilty of a category C Felony.

Assemblywoman Weber:

Regarding the penalties in proposed amendment 4, what are the provisions of the penalty for failing to report or register? Is it prison time?

Sam McMullen:

A category C Felony can be one to ten years.

Assemblyman Hardy:

Are we keeping Section 1 instead of Section 2 of proposed amendment 3?

Chair Leslie:

Both apply to pharmacies and other retailers, I believe. It states, "Any pharmacy or business registered with the Board of Pharmacy"

Assemblyman Hardy:

I have a problem with someone going to prison for 10 years simply because of a legitimate mistake.

Chair Leslie:

Are you talking about the reporting requirement?

Assemblyman Hardy:

Yes.

Chair Leslie:

Would you have a problem with the registering requirement?

Assemblyman Hardy:

I believe the registering requirement is reasonable.

Chair Leslie:

You are fine with penalizing someone for failing to register, but you are not okay with penalizing someone with a category C Felony for a reporting mistake?

Assemblyman Hardy:

Correct.

Chair Leslie:

The reporting could be considered a disciplinary action by the Board of Pharmacy.

Assemblyman Hardy:

It is a loop hole we may need to look at.

Assemblywoman Koivisto:

I agree with Dr. Hardy. The idea of someone going to jail because he did not report is draconian.

Assemblyman Beers:

We have created a whole new amendment. I am concerned if the Retail Association of Nevada is fine with this.

Assemblywoman Gerhardt:

If a business is registered, it will be very aware of the rules. If we decide to stay with the category C Felony, everyone will know the penalties.

Chair Leslie:

I am fine with the Board of Pharmacy handling infractions. The Board implements disciplinary actions for people who do not comply with rules.

Assemblywoman Weber:

I agree with Ms. Koivisto. I do not support penalizing someone with a category C Felony for failing to comply with the reporting requirements.

Assemblywoman McClain:

We can remove Section 1 of proposed amendment 4.

Assemblywoman Gerhardt:

Do we want to consider a different penalty rather taking that out? Mr. Anderson felt strongly about that. If we do not get the information reported, then law enforcement does not get the information. This is my concern, so perhaps we could keep the provision and change the penalty.

Chair Leslie:

We have to move on.

Assemblyman Hardy:

As I understand it, the amended motion includes the first section, but not the second section, which removes the category C Felony for the failure to register.

Chair Leslie:

No. The amendment keeps the category C Felony for failing to register, but it gets rid of the category C Felony for the failure to report.

Assemblywoman Gerhardt:

I would like the Committee to consider changing the penalty rather than taking out that section. Perhaps it could be a category E Felony?

Assemblywoman Koivisto:

Perhaps Mr. Ling could tell us what the Board of Pharmacy would do if someone failed to report. I know pharmacists must abide by a code of conduct.

Chair Leslie:

How does the Board of Pharmacy handle this situation? Do you believe the penalty needs to be stricter?

Louis Ling:

We notify the person that he did not report. We try to resolve the problem by attempting to get the reports first. The bill will allow us to regulate retailers that we do not normally regulate. It is fine if the person begins to report after we notify him of his failure to report. The bill is referring to a person that intentionally does not report. If there is a willful and intentional violation of the law, we will revoke the license. We want to consider if the act is intentional or a mistake.

Chair Leslie:

Revoking a license is a serious penalty. It is subjective.

Assemblyman Hardy:

What do we do if someone makes a mistake with valium or codeine? Is a category C Felony required if someone reports late?

Louis Ling:

Violating a reporting rule is a crime. Violating any provision in the Pharmacy Practice Act is a misdemeanor. If someone violates a reporting provision, we are allowed to revoke or restrict his license. We never had to go that far. This bill allows us to deal with new licensees that we have no experience with. A smoke shop may want to sell precursor drugs without reporting as long as they can without getting caught. This should be a crime. I believe this is why Mr. Anderson wanted the category C Felony.

Assemblyman Hardy:

This is sounding like a judiciary issue instead of a Board of Pharmacy issue.

Chair Leslie:

We are stuck with it now.

Assemblywoman Gerhardt:

Will someone be charged with a misdemeanor if he made a mistake with codeine?

Louis Ling:

Yes, theoretically.

Assemblywoman Gerhardt:

That is what concerns me. It is very subjective. Instead of getting rid of that section, we should change the penalty to a misdemeanor instead of a category C Felony.

Louis Ling:

Obviously, you understand our standards. To convict a person of a category C Felony, a prosecutor will have to convince . . .

Assemblywoman Gerhardt:

No, I am talking about removing the category C Felony.

Louis Ling:

We are looking at an intentional or willful violation of the law. A prosecutor has to prove the person intentionally did not report.

Assemblywoman Gerhardt:

I understand. I am asking the Committee to consider . . .

Chair Leslie:

How does the Committee feel about changing the penalty to a misdemeanor?

Assemblywoman Koivisto:

I think that is reasonable.

Assemblyman Hardy:

I would rather see a misdemeanor than a category C Felony.

Assemblywoman Womack:

Can the penalty be a misdemeanor and a possible loss of license?

Chair Leslie:

I believe the loss of license is already there. Do we want the penalty to be a misdemeanor or a loss of license?

Assemblywoman Womack:

I am more comfortable with a misdemeanor.

Assemblywoman McClain:

I do not have a problem with the penalty being the loss of a license.

Chair Leslie:

That is what I believe as well. We will go ahead with the way the motion is amended. Mr. Anderson will have the opportunity to offer a floor amendment. We need to take a motion, and we have an amended motion on the floor. The penalty will not be a misdemeanor, nor will it be a category C Felony.

ASSEMBLYWOMAN MCCLAIN MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 150.

ASSEMBLYWOMAN GERHARDT SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN BEERS, HARDY, AND
STEWART VOTED NO.)

Chair Leslie:

We will move to Assembly Bill 182.

Assembly Bill 182: Makes various changes concerning the Fund for a Healthy Nevada. (BDR 40-158)

Assemblywoman Kathy McClain, Assembly District No. 15:

[Submitted ([Exhibit E](#)).] I have been on the Task Force of the Fund for a Healthy Nevada, and I have seen that it does not do what it is intended to do. We started a process with the Department of Health and Human Services, the Grants Management Unit, and the Grants Management Advisory Committee. It is working well as far as combining different sources of revenue, and it is much more efficient. We revised the bill and made some drastic changes. Chair Leslie was one of the first people to put the Task Force together. The new bill will eliminate the Task Force, award grants to the Grants Management Advisory Committee, add members to the Grants Management Advisory Committee, and change the percentages for distribution of the tobacco funds. About 50 percent of the master settlement agreement's funds went to the Task Force for the Fund for a Healthy Nevada. The funds will be distributed as follows: 30 percent

will go to independent living grants, 30 percent to seniors, 10 percent to the disabled, 10 percent to children's health, and 10 percent to tobacco cessation activities. We are giving 5 percent of the tobacco cessation's funds to the disabled. The funds will be used for data collection, research, and other areas. There is a provision that allows the veterans to apply for benefits if they cannot get them somewhere else.

Laura Hale, Social Services Chief, Director's Office, Grants Management Unit, Department of Health and Human Services:

I would like to explain how the Grants Management Unit is organized. Several years ago, we tried to streamline several funding sources. We worked with several different advisory committees and the Task Force of the Fund for a Healthy Nevada. In the health and social services that we were funding, there was a lot of overlapping and duplication of effort. With the help of the Fund for a Healthy Nevada, we created subcommittees. Members from the Task Force of the Fund for a Healthy Nevada and the Grants Management Advisory Committee joined the subcommittees. We are trying to streamline the process, which saves a lot of staff time and makes it easier for our grantees and applicants. The bill moves some of the functions of the Task Force to the Grants Management Advisory Committee. It is highly efficient.

Assemblywoman McClain:

When I started on the Task Force, I remember receiving very large booklets of grant applications. Everyone on the Task Force was not an expert on grants. Joining the Grants Management Advisory Committee and breaking up into subcommittees helped. There are four or five people who focus on one project, whether it is seniors, children's health, or the disabled. It is much more efficient, and it is better bang for the buck. The people on those committees have more time and interest to look at the grant applications.

Assemblyman Hardy:

It may send the wrong message if tobacco prevention programs are cut. We need to make sure the supply side is limited as much as possible. Tobacco usage will not go away just because it is outlawed in restaurants.

Assemblywoman McClain:

Some of the grants that were approved were not doing what I thought they should be doing. There are some programs that are better than others. I believe health issues should be addressed more than tobacco prevention.

Assemblywoman Gerhardt:

There is a direct correlation between smoking and oral health. Is it possible to make that connection and address Dr. Hardy's concerns?

Assemblywoman McClain:

I have been making that statement for the last eight years. There is an absolute connection. In fact, I included a provision in the bill that grants funds for the improvement of the oral health of children and teenagers. I would also like to give leftover funds from the tobacco cessation to tobacco prevention programs for teenagers.

Lawrence Matheis, Executive Director, Nevada State Medical Association:

Beverly Daly Dix, the President of the Nevada Tobacco Prevention Coalition, would like submit written testimony for the record ([Exhibit F](#)). I serve on the board of the Nevada Tobacco Prevention Coalition.

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

Chair Leslie:

I would like to remind you that many of us were upset that a lot of money was diverted from health concerns.

Lawrence Matheis:

According to a stipulated agreement, all the funds were supposed to be for health related issues.

Michael Hackett, representing American Cancer Society:

We are opposed to Assembly Bill 182 for the same reasons that Mr. Matheis explained. We appreciate support for tobacco prevention programs for children, but cutting funds by 50 percent is a step backwards. The cut affects the American Cancer Society's intervention and education programs in minority communities. A coalition of policy directors from the American Cancer Society, American Heart Association, and American Lung Association put together a prepared statement ([Exhibit G](#)).

Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County District Health Department:

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

Jon Sasser, Attorney, Washoe Legal Services:

I would like to support several portions of the bill. I do not have the expertise to know if current tobacco prevention programs have worked, but I will defer that to Assemblywoman McClain, who served on the Task Force of the Fund for a Healthy Nevada. There is tremendous need for funds in the disability community. I would like to thank Assemblywoman McClain for listening to the interested parties and bringing this amended bill forward. The new bill would restore \$350,000 to independent living programs. The disability and senior

communities are happy that the new bill does not mix the two pots of money so that seniors are not competing with disabled people for funds. The new bill also keeps the statutory priorities of spending funds in place. In general, we are pleased with the progress.

Connie McMullen, Chair, Strategic Plan Accountability Committee for Seniors:

Originally, we were opposed to Assembly Bill 182, but the amendments make a tremendous difference. The new bill fits a lot of our strategic priorities. Last session, I testified with Assemblywoman McClain to advocate dental, vision, and hearing care for seniors. Our goal is to keep the community based services in place for people to use. We thank the Committee for their hard work, and we support this bill unanimously.

Janice Ayres, Executive Director and CEO, Nevada 15 Rural Counties' RSVP Program:

I worked with senior programs for 38 years. I also worked with the Division of Aging Services. Originally, I was opposed to this bill. The original bill denied independent living grants to the Division of Aging Services. Our program receives this funding, and we had a wonderful working relationship with the Division. I commend the bill change; I support it. Regarding the tobacco cessation, I drive by three schools every afternoon and there are droves of young people smoking cigarettes. I do not know the solution, but you cannot throw money at the problem. Parents and school programs should be a part of the solution. In conclusion, I like this bill now. I want to thank Assemblywoman McClain for changing the bill.

Marietta Bobba, Director, Washoe County Senior Services:

The Washoe County Senior Services consistently looks for best practices when awarding grants. I am supportive of the amendments.

Paul Gowins, Private Citizen, Reno, Nevada:

The drafter of this bill did a good job of meeting the concerns of the interested parties, and we appreciate that. If the funds are cut, people who need independent living services will no longer get the services they need. Seniors benefit from these services as well. There are a lot of young and disabled people in Nevada. I hope we can support the disabled population, and we appreciate the amendments.

Chair Leslie:

Thank you. I will close the hearing on Assembly Bill 182. We will open the hearing on Assembly Bill 443.

**Assembly Bill 443: Revises provisions relating to communicable diseases.
(BDR 40-1057)**

Assemblyman David R. Parks, Assembly District No. 41:

[Submitted ([Exhibit I](#)).] I would like to offer an amendment to Assembly Bill 443. I have been involved with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) issues for 25 years. Over 20 years ago, I served on the Governor's Statewide AIDS Advisory Task Force, which was created by former Governor Richard H. Bryan. The task force made recommendations to the Legislature in 1989. Throughout the years, the face of AIDS has changed. Unfortunately, there is complacency about the issue. Due to medical advancements, many believe that AIDS is simply a chronic disease, and one that is treatable by a regimen of medications. This perception has led to ambivalence about the subject. Rather than burdening the Committee with statistics on HIV and AIDS, I would like to state that there has been no significant change in Nevada's regulations and statutes on HIV and AIDS since 1989.

Assembly Bill 443 will update Nevada's statutes on post-AIDS test counseling. I have written testimony from Melva Thompson-Robinson, a faculty member from the Department of Health Promotion in the School of Public Health at the University of Nevada, Las Vegas ([Exhibit J](#)).

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

Assembly Bill 443 provides post-AIDS test counseling and other services so HIV positive individuals may live a long and healthy life.

Chair Leslie:

As I understand it, the bill brings Nevada's statutes in line with federal law.

Assemblyman Parks:

Yes. The Center for Disease Control and Prevention came forward with recommendations to change the existing statutes, but when I was drafting Assembly Bill 443, I was unaware that they were in the process of finalizing their recommendations.

Chair Leslie:

The amended version is quite good.

Assemblyman Stewart:

Is there no fiscal impact on the State?

Assemblyman Parks:

I am not aware that there is a fiscal impact.

Assemblyman Stewart:

Is a reimbursement to the county a fiscal impact?

Assemblyman Parks:

The fiscal note was removed from the original bill; it is fiscally neutral.

Chair Leslie:

There was a fiscal note, but the bill was revised dramatically.

Assemblyman Stewart:

Are certain counties, such as the smaller counties, exempt from this? The smaller counties might not have the resources to implement this program.

Assemblyman Parks:

I do not believe there is any exemption for any county. There are several counties in Nevada that have their own district health departments, and the Health Division covers all the other counties. The services provided are uniform.

Assemblywoman Pierce:

Are the first two pages of the mock-up the entire bill?

Assemblyman Parks:

Yes.

Assemblywoman Weber:

Section 8 states, "Counties, providers of health care and medical facilities" Can blood collection facilities be added to the bill? Is that considered a medical facility?

Assemblyman Parks:

The bill contains the word "medical laboratories." The bill deals with facilities that provide AIDS test results.

Assemblywoman Weber:

If there is an abnormal result, the blood collection facility will notify the person and provide counseling. I worked in blood collection facilities, and I had to counsel HIV positive individuals. You may want to consider looking at this.

Assemblyman Parks:

I was thinking of places where one would get blood work done for the doctor. I am sure blood banks have their own requirements on reporting abnormal results.

Assemblyman Hardy:

Has this bill addressed the possibility of an individual getting a blood test with no one else being involved in the process?

Assemblyman Parks:

It is not addressed in the bill, but I would like to defer that question to one of the experts from the Health Division.

Bill Hale, Program Manager, Health Division, Department of Health and Human Services:

I would like to thank Assemblyman Parks. He allowed us to provide input on this bill. Assemblyman Parks instructed us to review the original bill and provide suggested revisions. All of Nevada's health districts worked together to develop recommendations to make the bill neutral. There is no fiscal impact on the State. All the health districts agree that this bill is ready to be passed.

Jennifer Stoll-Hadayia, Public Health Program Manager, Washoe County District Health Department:

I can answer some of the Committee's questions. It is our understanding that a blood collection facility is considered a medical facility in the bill. As Mr. Hale said, there is no fiscal impact. The provisions of this bill simply codify current practices in *Nevada Revised Statutes* (NRS) 441A, and we are already adhering to these requirements and have the funding sources to do so. There are several provisions regarding the mandated reporting of a communicable disease in NRS 441A. The facility that administers the HIV test must report any HIV positive test to the local health authority, and then we would contact and notify the individual, and provide post-test counseling. There is already a system that provides a safety net for those individuals.

Chair Leslie:

Is there anyone that would like to testify on Assembly Bill 443? [There was no response.] We will close the hearing on Assembly Bill 443.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 443.

ASSEMBLYWOMAN WOMACK SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Leslie:

Let us move to Assembly Bill 576.

Assembly Bill 576: Makes various changes relating to certain personal assistance provided to persons with disabilities. (BDR 38-603)

Mary Liveratti, Deputy Director, Director's Office, Department of Health and Human Services:

[Read ([Exhibit K](#)) and ([Exhibit L](#)).]

Jennifer Dunaway, Health Facilities Surveyor, Bureau of Licensure and Certification, Health Division, Department of Health and Human Services:

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

Assemblywoman Womack:

Thank you for bringing this bill forward. Independent living services are very important for those with disabilities. It makes disabled people independent; they are allowed to make their own decisions. There were two proposed models for self-directed care. Would the Health Division be allowed to provide input into the second model?

Jennifer Dunaway:

An agency that provides personal care services allows the client to direct his own care. The services, however, are restricted to the statutory definition of non-medical services only.

Jon Sasser, Attorney, Washoe Legal Services:

The Health Division passed proposed regulations that required intermediary service organizations (ISO) to operate like a regular agency. Under a regular agency, the caregiver is an employee of the agency. Under the ISO model, the individual receiving the services does the hiring and firing of the caregiver. According to the proposed regulations, the agency personnel are forbidden from performing services under NRS 629. The Legislative Commission decided not to adopt the regulations, which would give the Legislature the authority to correct it. Assembly Bill 576 is a product of that effort. I believe we have a bill that we all support.

Chair Leslie:

Have you looked at these amendments?

Jon Sasser:

I did not get a chance to review the amendments.

Michael McMahon, Program Manager, Consumer Direct Personal Care:

Consumer Direct Personal Care operates a self-directed care program as an ISO. I want to voice my support for Assembly Bill 576 and its amendments. The bill resolves the unintended consequences that were created by Assembly Bill No. 337 of the 73rd Legislative Session. The intent of the bill was to provide regulatory oversight for home care agencies throughout Nevada, and provide an additional level of safety to people receiving care in their homes. Assembly Bill No. 337 of the 73rd Legislative Session was an industry-driven initiative. As a result, the provisions under Assembly Bill No. 337 of the 73rd Legislative Session required user fees, which were supported by industry members. The user fees indicated in Assembly Bill 576 are not new, and are merely a redirection of the fees in Assembly Bill No. 337 of the 73rd Legislative Session. Assembly Bill 576 will take the fees from the Health Division and place them under the Office of the Disability Services.

Paul Gowins, Private Citizen, Reno, Nevada:

I am probably the only person in this room that uses these services. The community supports this bill and we believe this is a workable compromise among all interested entities. I cannot believe people are not aware of the fees that they are required to pay, and we hope everyone involved can support the change in user fees.

Connie McMullen, Chair, Strategic Plan Accountability Committee for Seniors:

I testified on Assembly Bill No. 337 of the 73rd Legislative Session. There was concern about people providing home health services without a license, and I believe the bill corrected that problem. We have not heard many complaints.

Chair Leslie:

Is there anyone else that would like to testify? [There was no response.] We will close the hearing on Assembly Bill 576. 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: April 11, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A	Assembly Committee on Health and Human Services	Agenda
	B	Assembly Committee on Health and Human Services	Attendance Roster
AB 150	C	Sarah J. Lutter, Committee Policy Analyst	Work Session Document
AB 150	D	Assemblyman Bernie Anderson, Washoe County Assembly District No. 31	Prepared Testimony
AB 182	E	Assemblywoman Kathy McClain, Clark County Assembly District No. 15	Mock-Up of <u>A.B. 182</u>
AB 182	F	Lawrence Matheis, Nevada State Medical Association	<i>Nevada Tobacco Prevention Coalition Comments</i>
AB 182	G	Michael Hackett, American Cancer Society	<i>Testimony Opposing <u>A.B. 182</u></i>
AB 182	H	Jennifer Stoll-Hadayia, Washoe County District Health Department	Prepared Testimony
AB 443	I	Assemblyman David R. Parks, Clark County Assembly District No. 41	Mock-Up of <u>A.B. 443</u>
AB 443	J	Assemblyman David R. Parks, Clark County Assembly District No. 41	<i>Testimony of the Assembly Committee on Health and Human Services</i>
AB 576	K	Mary Liveratti, Department of Health and Human Services	<u>A.B. 576 Talking Points</u>
AB 576	L	Mary Liveratti, Department of Health and Human Services	<i>Amendments to <u>A.B. 576</u></i>
AB 576	M	Jennifer Dunaway, Department of Health and Human Services	<i>Changes to Personal Assistance to Persons with Disabilities</i>

