MINUTES OF THE
SENATE COMMITTEE ON COMMERCE AND LABOR

Seventy-fourth Session
March 28, 2007

The Senate Committee on Commerce and Labor was called to order by Chair Randolph J. Townsend at 7:06 a.m. on Wednesday, March 28, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Randolph J. Townsend, Chair
Senator Warren B. Hardy II, Vice Chair
Senator Joseph J. Heck
Senator Michael A. Schneider
Senator Maggie Carlton

STAFF MEMBERS PRESENT:

Laura Adler, Committee Secretary
Kelly S. Gregory, Committee Policy Analyst
Wil Keane, Committee Counsel
Gloria Gaillard-Powell, Committee Secretary

OTHERS PRESENT:

Melinna Giannini, President, ABC Coding Solutions
Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Heath and Human Services
Fred L. Hillerby, Nevada Association of Health Plans
Lawrence P. Matheis, Nevada State Medical Association
Sabra Smith-Newby, Director, Intergovernmental Relations, Clark County
Billie Shea, L.M.T., Chair, Board of Massage Therapists
Deborah B. Klein, R.D., Nevada Dietetic Association
Bobbette Bond, Culinary Health Fund
James Jackson, Nevada Homeopathic and Integrative Medical Association

Pamela Hogan, P.T., O.C.S., F.S.O.M., Chair, State Board of Physical Therapy Examiners
Denise Selleck Davis, Nevada Osteopathic Medical Association
F. Fuller Royal, M.D., H.M.D., Board of Homeopathic Medical Examiners
John H. O. La Gratta
Daniel F. Royal, Board of Homeopathic Medical Examiners
Former Assemblywoman Sharron Angle
Jim Jenks
Hans Frischeisen

CHAIR TOWNSEND:
I will open the hearing on Senate Bill (S.B.) 432 and S.B 413.

SENATE BILL 432: Enacts provisions governing complementary integrative medicine. (BDR 54-694)

SENATE BILL 413: Revises provisions relating to health care. (BDR 57-1004)

SENATOR SCHNEIDER:
It is time we take a look at a topic that will bankrupt this State unless we change the way we do business. This morning we have a unique opportunity to review and discuss legislation which will positively contribute to improve the future of health care in Nevada. In light of the recent *Nevada Strategic Health Care Plan,* we must take steps to address the problems we are facing with health care in Nevada. It was reported to the Legislative Committee on Health Care in January 2007 and found the following problems: We have a shortage of health care professionals. We rank 48th among the states in the number of physicians for each 100,000 population and 49th in the number of nurses for each 100,000 population. We have problems and need money to fix them. Health care is one of our biggest problems. By 2030, Nevada will double again in population. With our shortage of physicians, nurses and the escalating price of heath care, it shows we need to do something fast. Nevada's overall health status has us ranked thirty-eighth in a survey performed by the United Health Foundation. The bills we have today are complicated and take a swipe at every phase of the medical industry.

Senate Bill 432 establishes the Board of Complementary Integrative Medical Examiners (CIME). The CIME Board will replace the Board of Homeopathic Medical Examiners with this bill. The term "complementary integrated medicine"

more clearly identifies the type of medicine being practiced by our alternative medicine physicians and practitioners in Nevada. We have been regulating the practice of alternative medicine in this State since 1983. After 24 years of regulation, it is time to more clearly establish a scope of practice for alternative physicians and practitioners which are distinct from that of the allopathic and osteopathic medical boards.

Sections 1 through 15 provide the freedom of health declaration and define the scope of practice which requires dual licensure for physicians. We are bringing in physicians who want to practice alternative medicine, medical doctors and doctors of osteopathy. They come in under the CIME Board and are licensed to practice alternative medicine. Currently, under their scope of practice they cannot practice medicine.

In sections 16 through 34 the CIME Board and its duties are defined; they also authorize a, 26 *United States Code* 501(c)(3) foundation as an additional funding source.

Sections 35 through 40 outline the requirements for licensing and create the additional title of CIME nutritionist.

Sections 41 through 46 provide requirements for application renewal fees.

Sections 47 through 84 define unprofessional conduct, malpractice and disciplinary proceedings and allow for temporary licensure.

Sections 85 through 133 insert changes in the affected *Nevada Revised Statutes.*

Sections 118 and 119 describe the use of the ABC coding for insurance billing.

In section 124, managed care organization is defined.

This bill provides Nevada citizens with greater access to complementary and alternative health care services, maintains the rights for Nevada health care practitioners to obtain dual licensure and encourages additional health care practitioners to come to Nevada. The ABC coding fills the gaps. You get better health care to more people, costing less.

MELINNA GIANNINI (President, ABC Coding Solutions):
The ABC codes are not meant to overcome the medical codes developed by the American Medical Association jointly with the federal government. I have designed and sold self-funded medical plans for large employer groups before getting into the ABC Coding Solutions business. I had a personal health issue and realized how difficult it is getting a claim processed when using an alternative medicine practitioner for care. The result is 4,400 procedural codes that describe alternative medicine, nursing, behavioral health care services, nutrition, and indigenous medicine. Our code development process draws on expertise not our own. The practitioners ABC represents in the United States are larger than the medical population. This represents 80 percent of the licensed health care givers. In your packet (Exhibit C original on file in the Research Library) is a pie chart that shows the make-up of practitioners who are licensed in the United States and do not have sufficient codes to process health care claims. The difference with these practitioners versus medical doctors is different scopes of practice in every state. We gathered the state scope of practice information and tied it to each coded procedure. The result is 15 million references to statutes, administrative regulations and case law in each state, coupled with training standards for each practitioner type to help quantify who is allowed to do what. Without substantiation of who is allowed to do what on a state level, you could incur fines to insurance companies of up to $10,000 a claim because they would be paying for a service that was outside of the scope and therefore illegal. I have provided information in the packets that show how the information is tied to codes by practitioner type.

As it stands right now, the federal government is in charge of who uses which codes in electronic health care claims transactions. They require the use of Current Procedural Terminology (CPT) and Healthcare Common Procedure Coding System (HCPCS). These codes were developed jointly by the American Medical Association and the federal government. We have mapped ABC codes to the closest possible medical code in CPT and HCPCS to make sure people can still process electronic claims and then document appropriately what they are doing at the same time.

SENATOR SCHNEIDER:
Could you tell us about the Alaska experience, since they use your ABC coding? This is what really got me excited about ABC coding.

MS. GIANNINI:
We got the exception under the Health Insurance Portability and Accountability Act (HIPAA) legislation from Secretary of Health and Human Services, Tommy Thompson. We were given a period of two years to use these codes commercially in what are called HIPAA transactions. The federal government put together standards so people can communicate across boundaries and businesses. Code sets are used to complete this. They let us test ABC codes inside of these mandatory standard transactions. We processed over 500,000 HIPAA transactions using ABC codes. We were able to quantify that the state was able to save half the cost of providing paraprofessional care versus professional care in rural and bush communities where they had no professionals. The codes would sail through the electronic pipeline and would not cause any disruption. Practitioners could file claims electronically to the state behavioral health program without any disruption in business processes. The state could process the payments electronically using ABC codes. They could capture the cost outcome data because ABC codes are paired with those relative value units. The relative value units are developed with the same methodology as relative values for medical codes.

SENATOR SCHNEIDER:
For us novices, it saved the state of Alaska up to 50 percent in their health care costs for their Medicaid behavioral health care program.

CHAIR TOWNSEND:
Please describe how that was done.

MS. GIANNINI:
The state used both medical codes and ABC codes. In about 50 percent of the instances they used ABC codes and in 50 percent of the instances they used the medical code sets. They trained the providers to use ABC code. It took about three pieces of paper to show them which codes were available. They instigated the codes in their electronic claims routing systems and they began after six months of setting it up to process the claims.

CHAIR TOWNSEND:
You said there was a 50-percent savings. Please tell us where the mechanism came from.

MS. GIANNINI:
Paraprofessionals cost less than professionals.

CHAIR TOWNSEND:
Was this for behavioral health only? Was this in the rural areas?

MS. GIANNINI:
It was bush and rural communities.

SENATOR SCHNEIDER:
It is my understanding that mental health is a real problem in Alaska. To save up to 50 percent on one test run was interesting. Nevada, being a small state, should look at testing this in our own Medicaid system.

SENATOR HECK:
A paraprofessional is going to cost less than a professional, but that is where the cost savings comes in. You are changing the level of service, which would have happened regardless of ABC codes. If you see a physician or psychiatrist versus a counselor, the cost will be different. How did the ABC code affect the decrease in the cost?

MS. GIANNINI:
It allowed the program to plug into the existing infrastructure of the state so they could process the claim. Without the ABC codes, they did not have the tools to process the claim. That is the difference.

SENATOR HECK:
The paraprofessions do not have a current way of submitting billing information for the services they provide through the current CPT or HCPCS code.

MS. GIANNINI:
Unless they use something that is called an unlisted procedure, which gives no information in it, they are at risk of filing fraudulent claims. Part of the HIPAA regulations has the fraud and abuse provision that says "thou shall not process incorrect information."

SENATOR HECK:
The ABC codes allow the paraprofessional to provide and bill for the service, hence the ability to decrease the cost. The professional is not providing the

service for billing. Could you give me some examples of what were included in the definition of paraprofessional?

MS. GIANNINI:
Alaska actually trained behavioral health personnel to go into the communities. They had a special program installed to handle this one group of people. There were about 4,000 critically mentally ill people in bush communities to whom they could not get any other care.

SENATOR HECK:
Even though you are able to have paraprofessionals bill, you are having a paraprofessional provide the service as opposed to a professional. That is really the cost savings.

Ms. Giannini:
It truly is. We try not to make judgments whether the care is effective or not. If you are an insurance company, you are making a value judgment by how much the patient costs the plan during the year.

SENATOR CARLTON:
In the hotel that I work in, I am a volunteer shop steward. The most important thing we deal with is health care. People are willing to walk off their jobs to make sure their health care is secure. I am apprehensive because this sounds like any willing provider to me. If that would happen with a union that represents 60,000 people, where would the cost of our health care go? We have to negotiate the cost with the employers. I understand you are talking about saving money, but there is no control mechanism. I feel we could send a system that is finely balanced in southern Nevada off the edge, if we went to any willing provider scheme.

MS. GIANNINI:
What do you mean by any willing provider?

SENATOR CARLTON:
You are saying any qualified, licensed professional would be able to submit a bill to the insurance entity that was covering the person.

MS. GIANNINI:
There is what is called National Committee for Quality Assurance.

The network you use has made sure the person's credentials are true, made sure they have not harmed anyone and made sure they have negotiated a fee with the plan or with the managed care network that is fixed.

SENATOR CARLTON:
This is not any willing provider. This is the booklet with the provider network. They would have to comply with the network first.

MS. GIANNINI:
That is correct. We are not trying to disrupt current coverage. It is our recommendation you do not block these people artificially from participating on the panels or from receiving reimbursement when they are qualified to provide the care.

SENATOR CARLTON:
I cannot see someone off the panel and go ahead and bill. What are the artificial blocks that we are talking about that you are trying to eliminate?

MS. GIANNINI:
Advanced practice nurses are qualified and licensed in every state to bill directly to the insurance companies. Those nurses are not able to bill directly to insurance companies in most instances because they lack the tools to do so.

SENATOR CARLTON:
Is that because they are not on the network?

MS. GIANNINI:
No. In some instances they are on the network, but they still have a real problem getting a claim through an insurance company because the insurance company does not know what they are allowed to do. It becomes an artificial barrier when they do not have the right tools to bill.

SENATOR CARLTON:
If a provider is listed in the network provider book, I can go to that provider and pay the co-payment. There is an entire system, and you have to follow the rules.

MS. GIANNINI:
The code that costs the United States government $14 billion a year is called a 15-minute office visit for an existing patient. When you get into the language of that code, it says "as provided by a physician." It does not say as provided by a nurse. The code that is most frequently used in the United States, when used by a nurse, could trigger a fraud fine. The insurance industry would be at risk for processing a payment if they allowed that nurse to do the service. It is happening every day because there is no other option.

SENATOR CARLTON:
We are not talking about opening up all the networks and letting anyone send a bill. You still would have to be part of the contractual agreement.

MS. GIANNINI:
We try to provide a code-by-code reference to the laws in Nevada for massage therapist, nurses, acupuncturists, chiropractors and so forth.

SENATOR CARLTON:
The ultimate decision on the network still lies with the insurance provider.

SENATOR HECK:
Do you have a pilot program going on with the United States military?

MS. GIANNINI:
Yes, we do. The Department of Defense has been using this code set for critical care nursing services to measure the resources required for advanced practice nurses in critical care settings. The project should have a report out this year. In addition, we helped the Navy develop codes for chaplains. They wanted to measure the effectiveness of chaplain care on enforced readiness retention, rehabilitation and reintegration. In New Mexico, we have had a data test program since l999 where a Medicare Health Maintenance Organization (HMO) has been paying for alternative medicine services. The project has grown from 500 seniors paying $5 a month for access, to 21,000 seniors who no longer pay the access fee, presumably because the health plan is having a positive result.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Heath and Human Services):
I am responsible for the State Medicaid program as well as the State Children's Health Insurance Program called Nevada Check-Up. We are neutral on this bill but I wanted the opportunity to provide you with a number of concerns that we have associated with this bill, as well as S.B. 432. I do not disagree with the discussions that have occurred this morning with the need to recognize a wider array of paraprofessionals and other providers to deal with our growing workforce shortage in Nevada. I work in an environment that is significantly limited by federal regulations. In order to make sure we get federal financial participation for the programs we administer, we have to stay within those regulatory boxes. There are two concerns I have with respect to these bills. I have outlined my concerns in my handout (Exhibit D). Medicaid does not pay for alternative medicine and homeopathic remedies. They are not allowable under federal regulation. Secondly, ABC coding schema is a criterion that is no longer allowed under the HIPAA electronic data interchange, standard transaction code set rules. It was allowed until October 16, 2006, as a pilot, but I do not think it is allowed any longer. If we were required to adopt such a nomenclature, we would have to work with the experts to develop our capabilities to accept those codes. There would probably be a fiscal impact to the Division of Health Care Financing and Policy, Department of Health and Human Services, in order to develop these with no federal financial participation in the cost.

Medicaid does not allow coverage of homeopathic and alternative medicines and we have concerns with the code set that is being proposed. Any of our managed care organizations contracted with us to provide Medicaid services would have to be exempt from providing these services and using that code set.

CHAIR TOWNSEND:
We share in the cost with the federal government for Medicaid. Does the federal government dictate what practitioner is reimbursed?

MR. DUARTE:
They allow reimbursement for those licensed practitioners of the healing arts which are recognized by the State. It does not include the services rendered by someone who might be licensed to provide alternative medicines such as acupuncture. There is no reimbursement for acupuncture in Medicaid. It does recognize the licensed practitioners of the healing arts in the State, but does not

recognize all of them, and in particular does not recognize alternative medicine practitioners.

CHAIR TOWNSEND:
Does the federal government make the choice when they negotiate with you?

MR. DUARTE:
Yes. It is required under federal policy.

CHAIR TOWNSEND:
Is that done throughout all the states?

MR. DUARTE:
There may be some states experimenting with payments on certain types of treatment. I understand Medicaid was involved with the development of reimbursement for paraprofessionals in Alaska because of the tremendous need in native Alaskan and Native American communities which are way out in the bush. There was some collaboration and a recognized need was established. They did develop reimbursement policies for them.

CHAIR TOWNSEND:
Does the State of Nevada have the opportunity to petition the government for specific waivers relative to rural mental health?

MR. DUARTE:
I believe we could always petition them with proposals to extend federal financial participation to cover mental health paraprofessionals in rural communities.

We had in our mental health redesign for Medicaid, a service that was promoted by the Commission on Mental Health. It was recommended we cover a service called family-support services. It is a service that supports a family with a child that has severe mental illness or serious mental disturbance. It helps them deal with the child's needs and trains them to deal with it. The federal government told us to take it out of our State plan. They would not reimburse the costs because they do not believe it is a service to the child. They will only pay for services to the child. We tried to explain the milieu of the family is therapeutic and they would not buy it. We had to cut it out of our program and the service

was eliminated. There are significant limitations to what we can pay. In terms of reimbursement, we do work under serious restrictions.

FRED L. HILLERBY (Nevada Association of Health Plans):
We have Medicare because it finally got to the point that counties and cities convinced Congress that they could not afford to continue to pay for the elderly and their needs. We were sending all of our money to the federal government. In I965 we had what was called an access problem. That is when Medicare was created. We realized we could not afford all the access that Medicare brought. We tried to deal with how you take care of the elderly without unlimited access. We are all trying to look at ways to restrain the costs of health care.

In reading my proposed amendment (Exhibit E), page 3 under reimbursement, "any licensed health care provider who is authorized by the State of Nevada," I am not sure who is being included, but coverage has to be provided. I would be careful when you define health plans with insurance law. You need internal consistency. I see this as any willing provider and see it as mandated benefits as we describe what the integrated alternative medicine or providers are and what they do. I am trying to link these bills all together and it has not been easy. Senate Bill 414 talks about a new Board being created. In section 20, subsection 5, the responsibility is to work to gain recognition for ABC coding, then there is a bill that mandates our company implement ABC coding. I think we have the cart ahead of the horse. It is mandated, but we have not gone through a process. There are coding systems mandated by Medicare and Medicaid that our company implements and use across the board and now you are asking for a different kind of coding system. Some of the experiments were tried and did not work. This is going to be a work in progress to try to figure out where we are going.

SENATOR SCHNEIDER:
We need to look at how we can redo this. I feel we need a restructuring of the health care system.

MR. HILLERBY:
Insurance companies do not just evaluate their providers. We have stressed evidenced-based medicine and we want to cover the things that have been proven to be effective.

LAWRENCE P. MATHEIS (Nevada State Medical Association)
We do oppose the bills in their current form. The initial idea of the HMO was to focus on preventative care. At that time, the insurance industry opposed the federal HMO act. The original idea of HMO was you would spend a lifetime in the organization. Trying to prevent illnesses was in the best interest of the whole group. On S.B. 413, there has been some confusion. The issue of adopting an alternate coding system for reporting claims has some value. It is not a substitute for having professional services. All nurses and other professionals bill using the CPT codes or the HCPCS code which are recognized by the federal government and HIPAA transaction required codes. This is about trying to find a way for services that currently are done by alternative, complementary or integrated services. Some of the services are not covered in the existing code sets, and I think that is the initiative for adopting a different coding system.

If something is complementary and integrative, what does it complement and what does it integrate? We think it is complementary to the practice of medicine and it integrates with the practice of medicine. This legislature has already created licensing boards that license physician practices.

We would encourage you to address the issues of concern regarding the Board of Homeopathic Medical Examiners. Patient safety is the most important issue. The idea of setting up a new board or structured system in order to assure there will be less government intrusion is another set of bureaucracy to navigate through. I want to say as the bills stand now, they are not central to fixing the big issues.

SENATOR CARLTON:
We have been behind the consumer. They try to figure out what is best for them and then we have to catch up with them. If we are going to fulfill our responsibility, we are going to have to make sure if the patient decides they want to use one of the integrative, alternative modalities, that it is safe. I want to make sure everything is addressed in these bills.

MR. MATHEIS:
My concern is these bills make the public less safe because the information is less reliable. The integration of the licensing of medical care will be more segregated than integrative.

SABRA SMITH-NEWBY (Director, Intergovernmental Relations, Clark County):
We are in opposition of S.B. 413 but staff has not had a chance to review the amendment and we look forward to working with Senator Schneider.

BILLIE SHEA L.M.T. (Chair, Board of Massage Therapists):
Complementary, alternative medicine encompasses a huge level of modalities and different professions. I am in favor of complementary, alternative medicine. I am concerned about the cost it will incur on the profession. My concern is that most massage therapists do not make the kind of money to support a program like this. Hiring collection agents or billing agents for insurance would be counterproductive to our profession. The average salary is much less than $100,000. Our costs would have to go significantly up to the consumer. I am concerned that will be an issue going forward, if this passes as written. We have about 1,500 licensees in the State currently and before our grandfather provision expires in June, we will have about 3,500. I think 10 percent of them would actually participate in a billing venture of this type. Most are doing massages for relaxation. We work closely with the medical community as we are sometimes the front-runners for sending people to allopathic physicians to get treatment for conditions that we recognize, but cannot treat or diagnose. We are already working with the medical field. I wanted to put my concerns on the table that this may not be cost effective for everyone in the profession.

SENATOR SCHNEIDER:
Senate Bill 413 proposed amendment (Exhibit E) addresses insurance coverage for Nevada citizens and reimbursement for health care services administered by qualified health care providers in Nevada. It seeks to eliminate discrimination in health care coverage and encourages our citizens to take more responsibility for their own health. We will implement the ABC codes and relative value units as standardization for health care service fees requiring reimbursement for all qualified health care providers in Nevada. This will allow Nevada citizens to contract with health care providers outside of their health plans and encourage health savings accounts.

The primary purpose of this bill is to create a more uniform system of health care coverage and reduce health care costs. We can create a more uniform insurance reimbursement system by introducing ABC codes and relative value units as standardized means for determining health care service fees. We can reduce health care costs by expanding the ancillary health care practitioner base. The health care quality of our citizens is improved by allowing insurers to

contract outside their health plans with qualified health care providers and encouraging all citizens to take more responsibility for their health care by investing in health savings accounts. The bill in its present form is in need of being amended because the current language does not reflect my intent. I am submitting the amendment that will make the necessary corrections to the language.

In order for us to overcome problems outlined in the *Nevada Strategic Health Care Plan*, we need to look at innovative solutions. The bills being proposed today seek to solve a shortage of health care practitioners, a rapidly growing population in need of health care services and our low overall health status. These are reasonable, not radically approaches to improving our State's health care system.

CHAIR TOWNSEND:
We will close the hearing on S.B. 413.

DEBORAH B. KLEIN, R.D. (Nevada Dietetic Association):
I am a believer and supporter of complementary and alternative medical care. I have used these services. Once a year, I go to Washington D.C. to talk about the cost saving effects of preventative medical nutrition therapy in education. The field of dietetics and nutrition was seen as totally alternative care. I believe in preventative care. I would like to say that state governments play a vital role in creating and implementing policies that serve and protect the public. States license health care and other providers to assure the public those individuals providing health and personal services have met education, experience and examination requirements.

I have concerns with S.B. 432. My concern relates to the certification of complimentary integrative medical nutritionists.

The proposed amendment (Exhibit F) page 3, lines 19 through 29 of the bill states that the medical nutritionist is issued a certificate by the Board. On page 10, line 25, section 19, it defines the 7 member Board. I question their education and training to issue a certificate for medical nutritionist. The Board would consist of one nurse, one pharmacist, two members actively participating in complementary integrative medicine or homeopathic medicine and three members of the general public. On page 7, line 42, the bill states nutrition includes without limitation the recognition, evaluation, treatment and correction

of unique dietary needs of a patient. The medical nutritionist does not meet the qualifications to do this. On page 9, line 20, the bill states its purpose is licensing and certifying to protect the public health and safety and the general welfare of the residents of this State. The qualifications for medical nutritionist are too vague and do not protect the public. The public will be deceived in believing the person is qualified when in fact they are not. On page 12, line 9, once again the bill is talking about the Board determining the qualifications for licensure or certification and I question the Board's education and training to make that determination. On page 20, line 44, the bill calls for the establishment of the requirements for continuing education of a complementary integrative medical nutritionist. This again is too vague and the Board must have the expertise to set these requirements.

I would like to request that complementary integrative medical nutritionist be stricken from the bill as currently written. I would not object to the qualification of registered dietician as necessary to meet the criteria. You may wonder what distinguishes a registered dietician from a nutritionist. Anyone can call themselves a nutritionist. They do not have the qualifications of a registered dietician.

SENATOR SCHNEIDER:
There is a demand from the public for better health care. We need to have a disclaimer on store clerks who advise patrons on different ailments. They are almost practicing health care. There needs to be a disclaimer in the stores, or they need to get a professional health care person that is trained to help the public.

MS. KLEIN:
I agree with you. I absolutely think nutrition is the key to preventing illnesses. When you give someone a certificate, you are giving the public a sense the person with the certificate is knowledgeable. I would want to make sure those people have the requirements that state they do have the knowledge.

CHAIR TOWNSEND:
We will have a short recess and return at 9:06 a.m.

BOBBETTE BOND (Culinary Health Fund):
The Culinary Health Fund is one of the organizations in the State that has members that will join us when they are 19 to 20 and stay with us until they

are 40 or 50. They will move their way through several careers and hotels. Even through we operate as a cross between a health fund and an insurance company, we are responsible for health care for each of those long-term members. We have a lot of interest because we hang on to our people for years. We do not have a structure to provide alternative or homeopathic care. We want to be on the record that we understand there is a real disconnect between the current health care system, current coding system, payment system and the needs our clients are starting to request and need for long-term health.

SENATOR SCHNEIDER:
Your membership has changed drastically in the past decade. You now have a lot of Asians and Hispanics who are used to a different type of medical treatment than we currently have in the United States. The Asians are used to the Oriental medicine and the Hispanics have herbs and different treatment. They are not used to our allopathic type medicine. We are trying to address the population who are demanding different types of health care.

MS. BOND:
I think we do allopathic medicine really well. We do not have our arms around the best way to provide care for alternative medicines. We know the demand is there, the interest is there, and we know the positive things alternative medicine can do. Because we keep our people for so long, we have an interest in trying to see if we can make it work.

MS. SHEA:
I have serious concerns about the terminology used in S.B. 432. Massage therapists use manipulation of soft tissue, and trigger point therapy. These are massage terms and they are taken out of context. Injections for prolotherapy or trigger point injections might be acceptable. I am concerned this bill may be used to encompass or incorporate other boards that are established already. There are concerns in the Board of Massage Therapists that we will come under another licensing agency. That has been a big problem for massage therapy because in Clark County they sometime have to carry three local licenses, and now a State license as well. It is very cost-prohibitive. I agree that we need something that protects the public and I feel we are doing an adequate job with the Massage Board. I would like to keep this Board going rather than being swallowed by another board.

JAMES JACKSON (Homeopathic Integrative Medical Association):
There are six points I would like to go over about S.B. 432 that the Homeopathic and Integrative Medical Association wanted me to indicate on the record. The Association believes the current structure of the Homeopathic Board is fine. Changes need to be made, but overall we feel the Board is doing a good job in protecting the citizens of the State of Nevada and also holding homeopathic and integrative medicine practitioners accountable for their actions and practice.

Section 18 is the association or relationships of a licensed practitioner, whether it is under the current scheme or the proposed scheme. Our concern is the association between a licensee and a nonlicensee if it is a related business or relationship. The language, as we read it, is the practitioner has the duty to disclose the interest in the entity. We are concerned that if a practitioner is going to engage in a side business, we believe that individual should be disclosed as well. We are asking for full transparency on those kinds of relationships. We think the patients deserve it; it adds a level of accountability that is needed.

Section 19 has to do with the make-up of the Board; this is a drastic change from the current make-up of the Board. The people who step forward from those organizations have a "significant interest" in this type of practice. We would like to have further discussions with Senator Schneider and Senator Carlton. We would like to address some of our concerns more directly, rather than taking up time here.

Section 25, subsection 5, indicates this Board shall supervise the Nevada Institutional Review Board created by the *Nevada Revised Statute* 630A.865. We support this. We believe as an association there does need to be oversight and accountability of the group. We believe in oversight, whether we go with S.B. 413 or the present scheme indicated in S.B. 432. Oversight should remain for all the reasons I previously indicated.

Section 35, subsection 1, paragraph (b) indicates they must complete at least three years of postgraduate training in allopathic or osteopathic medicine approved by the Board. There is not currently a program for that type of training available. We would suggest you keep the requirement, but make it a requirement when training is available.

Section 41 requires people who are currently licensed as homeopathic assistants and advanced practitioners of homeopathy to reapply. People who currently hold a homeopathic license would be grandfathered in and we believe the others should be as well. They have satisfied the licensing requirements already and should not have to go through that process again.

There has been a lot of discussion about the ABC codes and we do not take a position in support or opposition. We believe we need to open up treatment opportunities for patients who otherwise do not have the ability to access this type of care due to financial funds.

PAMELA HOGAN (P.T., O.C.S., F.S.O.M., Chair, State Board of Physical Therapy Examiners):
The State Board of Physical Therapy Examiners is opposed to this bill, specifically section 17, subsection 1, paragraph (a). The practice of physical therapy is not mentioned and that is why we are opposed to this bill. The proposed draft in its current state (Exhibit G) is what we object to. If the practice of physical therapy was included in this section, we would rescind our opposition.

DENISE SELLECK DAVIS (Nevada Osteopathic Medical Association):
The Nevada Osteopathic Medical Association supports integrative medicine. Many patients who are not helped by traditional medicine can benefit from an integrative approach. The body of knowledge of medicine is estimated to grow three times every year. Some medical schools, including Harvard, have considered a fifth year to cover the expansion of knowledge. The University of Arizona has started a new residency program in integrative medicine. The most important thing a physician can do for a patient above treatment is diagnosis. It requires an assessment of the patient's full health. Vitamins are good for most of us, but the wrong vitamins for the wrong patient can be deadly. A physician I spoke to told me about a patient who had a bowel resection. She was not feeling well and went to the local health food store and they gave her megadoses of vitamins. Because of her absorption failure, she went into liver failure and came close to dying. The component of life modification sounds like a good idea. Osteopathic physicians base their practices on health and lifestyle changes to evaluate where the patient is and what they can do in order to encourage their own good health. Giving a great exercise program to a patient with unknown heart problems could potentially kill him. The diagnostic component is very important. When the State of Nevada licenses an individual,

they tell the public that person can treat them in the area they practice with safety. When the State tells a patient something is safe, the patient gives over their own choice and their own good thinking. Choosing a health care provider and making choices on the type of health care one chooses is not like going to *Consumer Guide* and deciding between a Chevrolet or a Dodge. We would like to know the practitioners of our health care are the best trained they possibly can be.

F. FULLER ROYAL, M.D., H.M.D. (Board of Homeopathic Medical Examiners):
Senate Bill 432 and S.B. 414 directly affect the Homeopathic Board. It would have been nice if the Board could have been involved in this particular process. The Board did not see the proposed amendment until March 29, 2007. The bills have an impact on the Homeopathic Board by dissolving it and reestablishing a new board. We feel the best thing that can be done would be to establish an interim committee between sessions where a lot of these problems could be worked out.

SENATE BILL 414: Revises provisions relating to the Nevada Institutional Review Board. (BDR 54-709)

Senate Bill 414 on page 2, line 9, states the Board is proven to be insolvent; this is not true. On line 11, I do not believe that is true either. The 2005 Legislature mandated the Homeopathic Board to supervise the Nevada Institutional Review Board (NIRB) including, without limitation, approving or denying the regulations adopted. We have done that to the best of our ability. We could find nothing in the law that was passed to indicate this was a temporary thing, as has been indicated. We asked for the Legislative Counsel Bureau's opinion on this matter and there is nothing in there to indicate this was meant to be temporary. The NIRB has not submitted one written report to this Board. This is one of the reasons the changes were made last year. The Board has no money in its bank account. The officers who were replaced on the Board have refused to give over the records of the NIRB to the president. I would hope you consider all of the comments from those representing other Boards or associations and set up a committee between sessions.

JOHN H. O. LA GRATTA
The Board of Homeopathic Medical Examiners has had a bumpy road over the last year with the relationship with the NIRB. There was an audit authorized by the Legislative Commission and the Board is working hard to abide by the audit.

All Boards or bodies would love to be unfettered. Speaking as a new member of the NIRB, it is imperative the NIRB be monitored by someone. The Homeopathic Board would be good choice to supervise the NIRB.

You have all sort of modalities and levels of practice. I would suggest making a conglomerate out of alternative medicine groups. Having them discipline each other seems to be more of problem than a solution.

CHAIR TOWNSEND:
I will close the hearing on S.B. 432 and open the hearing on S.B. 414.

SENATOR SCHNEIDER:
This is to revise the bill. I have heard from people across the nation and they are amazed that we passed this. They feel it is very positive. They are going to be doing serious research in Nevada and we could be leading the nation. We want to perform well. My suggestion would be they report to the Legislature for the first couple of sessions so we can keep a handle on it. The NIRB could report to the Legislative Commission during the interim and them report back to full Legislature every session.

Senate Bill 414 primarily makes the Nevada Institutional Review Board a separate or independent board. This bill is a revision of previously approved legislation from 2005 when the NIRB was temporarily placed under the supervision of another board. The purpose of the NIRB is to review and monitor biomedical research involving human subjects in Nevada. What makes this research Board unique, is its mission to evaluate research projects specifically for complementary and alternative medicines. The NIRB helps to determine the following: qualification guidelines for submission of research projects; safety, efficacy, reimbursement and availability of diagnostic devices; substances and other modalities used in complementary, integrative medicine; the clinical outcomes of the research studies; the social impact of the research studies, and the economic impact of the research studies.

Because of the NIRB research studies, Nevada citizens will have greater access to medical alternative devices, therapies and substances that would otherwise be unavailable. Physicians and health care practitioners will better understand how to use complementary integrated medicine. The people of Nevada will benefit through additional protections provided through subsequent legislation

resulting from NIRB activities and our State will become a more attractive environment for out-of-state industries and practitioners supportive of complementary integrated medicine to establish business in Nevada.

I met a lady who heads a private firm that does stem-cell research worldwide. She is very interested in the legislation and is prepared to move to Nevada. She thinks with this legislation, Nevada will be the research center of the United States.

CHAIR TOWNSEND:
Section 16 deals with the Nevada Institutional Review Board. One member appointed from the Board of Homeopathic Medical Examiners, one member from the Nevada State Medical Association, one member chosen by the State Board of Osteopathic Medicine and one is chosen by the State Board of Pharmacy. The people are members of the Board and chosen by the Board. Is there a reason you did not use the Board of Medical Examiners?

MR. LA GRATTA:
I believe I was testifying on S.B. 414. The issue of the NIRB is for non-allopathic research, so it would be a good reason not to invite the allopath.

CHAIR TOWNSEND:
Are you picking someone from the State Medical Association who is an allopathic doctor?

MR. LA GRATTA:
They tend to be unsympathetic to non-allopathic research.

By having different modalities and each one representing and monitoring the NIRB, that would constitute no monitoring. They do not communicate well with each other.

CHAIR TOWNSEND:
I am not opposed to Senator Schneider's approach of having the Legislative Commission review.

MR. LA GRATTA:
I would say that most Senators are not experienced with monitoring medical things. The same might be true with the Commission. You might be better served by having a medical group monitor the Board.

DANIEL F. ROYAL (Board of Homeopathic Medical Examiners):
Regarding your question on the make-up of the Review Board, I had some consulting input on the writing of this legislation. We consulted with the Board of Medical Examiners directly and they refused to participate in the make-up of the Institutional Review Board but the Medical Association was willing to participate. Much work was done following the 2005 Legislative Session. We met regularly for a period of nine months. It took us that long to get to the point. The Board is set up in a way that projects would be delegated to committees. The Board was made up of highly qualified individuals. We feel we will be able to continue the high quality and high caliber of individuals that have originally been appointed to the Board with this amendment.

CHAIR TOWNSEND:
I will close the hearing on S.B. 414 and open the hearing on S.B. 360 and S.B. 395.

SENATE BILL 360: Enacts provisions relating to complementary integrative medicine. (BDR 54-959)

SENATOR SCHNEIDER:
I met a woman in Las Vegas last fall. She mentioned the freedom of health bill. I told her I would pick it up as she did not know what happened to it. I knew that Assemblywoman Angle was not going back to the Assembly. The bill was given to Senator Washington. I will refer to Senator Washington. Senate Bill 360 is a health care bill. We can hold it.

SENATE BILL 395: Enacts provisions relating to complementary integrative medicine. (BDR 54-18)

FORMER ASSEMBLYWOMAN SHARRON ANGLE:
This is a bill draft request I made before I knew my future was going to be different. You have before you a proposed amendment (Exhibit H) which Senator Washington introduced for me. This amendment completely deletes the language in S.B. 395 and substitutes for that language this language which is

disclosure. People who provide health care and nutrient therapies should disclose that they are not health practitioners. It is full disclosure for consumers' protection, as well as protection for those who provide this service.

JIM JENKS:
I am overwhelmed with what you have been talking about regarding natural health. I am a herb shop owner and I deal with herbs. I am here to show my support for S.B. 395 as amended. I thank Senator Schneider for his concern about natural health and medicine. I speak on behalf of those who are unlicensed. We have a lot of home-business people who are sharing herbs and nutrition information. We do not prescribe or diagnose, but there is room for the help we can give regarding herbs. We do not want to create a monopoly for ourselves. The manufactured herbs are approved by the Food and Drug Administration. My job with amendment S.B. 395 is to keep every citizen's right to talk and share their favorite recipe for herbal remedies.

CHAIR TOWNSEND:
If we are to process this bill as amended, we do not want to create something that becomes more problematic than it was intended. The disclosure is a great idea. I think it is important to inform the consumer of your qualifications.

MR. JENKS:
I would be concerned about that myself if I was not a student of preventive nutrition. Our job is to help people get well and stay well. We do not treat disease and that is why we bring this to you. It is another separation for us to allow my peers not to get involved in an ego trip thinking we can play doctor.

SENATOR HECK:
I understand the bill has been amended as a whole, but the original bill raises serious questions that I would like to pose. It was going to allow unlicensed personnel to administer any intravenous infusion, intramuscular injection or subcutaneous injection. Are there unlicensed personnel currently doing that? I think that would be considered the practice of medicine or nursing. Why was that in the original bill? Is there some entity out there now that is performing invasive procedures without a license?

MS. ANGLE:
That is the reason we took out all of the language. Somehow the bills got confused. We brought what our original intent was with this bill, which is full

disclosure. We did not want to get into anything that even looked like practice of medicine. This is just full disclosure of what these people do and that is not practicing medicine.

HANS FRISCHEISEN:
I am an unlicensed herbalist and I have a health food store. The most impressive credential I can share is I have not been sick since l972. I just returned from the first segment of my third bike ride around the world. I am almost 70 years old. I have bicycled through areas that are infested by disease. I have run into other cyclists that became ill and some even died. I have maintained health through all of this. What works for me could work for anyone. Wherever I go on this planet, I wish to have the freedom to share what works for me. My expenses since l972 as it relate to health and disease is nothing. I did not spend a penny to an insurance carrier, government, employer, to my family or myself. I want to maintain freedom to share my story with anyone. This is not only health freedom but improving health and having a major impact on the discussion today.

CHAIR TOWNSEND:
What about your family? Have they had equal health following your regimen?

MR. FRISCHEISEN:
My family has not always followed my course. My oldest son was dying with a rare case of allergies. He had been to 30 different medical doctors in Germany as well as this country. He was going downhill. We stumbled upon a homeopathic physician. At that time he was not licensed. The physician turned my son's life around. He is well, healthy and full of vitality.

CHAIR TOWNSEND:
We will close the hearing on S.B. 395.

SENATOR SCHNEIDER:
We have not specifically discussed S.B. 361. It is a short bill about stem cells. Our intent is not to put money into research. The lady who was going to talk to us today said there has been plenty of stem-cell research. Now the tools of putting it to use is our priority. She will be back with a complete presentation.

SENATE BILL 361: Authorizes the Nevada Institutional Review Board to engage in various activities related to nonembryonic stem cells. (BDR 54-710)

Senate Bill 361 establishes the use of non-embryonic stem cells for clinical applications. It allows the NIRB to supervise the use of non-embryonic stem cells for research and clinical application in human subjects.

The bill permits obtaining stem cells from sources non-harmful to the embryo or fetus, including the placenta, umbilical cord blood, fat, amniotic fluid and autologous adult sources.

The bill allows formation of a contract with an organization to evaluate safety and efficacy of non-embryonic stem cells with or without manipulation prior to the use in human subjects with either an established medical laboratory or a medical laboratory to be created for this purpose. It also allows the formation and establishment of a laboratory for an umbilical cord blood bank and amniotic fluid bank in compliance with basic blood bank laboratory standards.

Nevada citizens will have greater access to non-embryonic stem cells. Patients can participate in controlled research studies monitored by the NIRB. This legislation creates a hospitable environment to attract facilities and laboratories to Nevada. This can stimulate economic and employment opportunities for our citizens. I need to emphasize this is non-embryonic stem cell research.

CHAIR TOWNSEND:
Senate Bill 500 does not belong in this Committee. It belongs in the Senate Committee on Government Affairs.

SENATE BILL 500: Authorizes contracts between legal services organizations and local government agencies for the provision of insurance. (BDR 23-1367)

SENATOR HECK MOVED TO REFER S.B. 500 TO THE SENATE COMMITTEE ON GOVERNMENT AFFAIRS.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR TOWNSEND:
The meeting of the Senate Committee on Commerce and Labor is officially adjourned at l0:32 a.m.

RESPECTFULLY SUBMITTED:

Gloria Gaillard-Powell,
Committee Secretary

APPROVED BY:

Senator Randolph J. Townsend, Chair

DATE: