MINUTES OF THE
SENATE COMMITTEE ON HUMAN RESOURCES AND EDUCATION

Seventy-fourth Session
June 4, 2007

The Senate Committee on Human Resources and Education was called to order by Chair Maurice E. Washington at 9:30 a.m. on Monday, June 4, 2007, in Room 2135 of the Legislative Building, Carson City, 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 Maurice E. Washington, Chair
Senator Barbara K. Cegavske, Vice Chair
Senator Dennis Nolan
Senator Joseph J. Heck
Senator Valerie Wiener
Senator Steven A. Horsford
Senator Joyce Woodhouse

GUEST LEGISLATORS PRESENT:

Assemblywoman Sheila Leslie, Assembly District No. 27

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Committee Policy Analyst
Joe McCoy, Committee Policy Analyst
Sara Partida, Committee Counsel
Shauna Kirk, Committee Secretary

OTHERS PRESENT:

Bill Welch, Nevada Hospital Association
Joshua Griffin, MGM Mirage
Bobbette Bond, Health Services Coalition
Luana J. Ritch, Ph.D., Chief, Bureau of Health Planning and Statistics, Health Division, Department of Health and Human Services
John P. Sande III, Harrah's Entertainment Incorporated; International Game Technology

Be-Be Adams, Barrick Gold of North America
Russell Rowe, Boyd Gaming Corporation
Barry Gold, AARP Nevada
David Kallas, Las Vegas Police Protective Association Civilian Employees, Incorporated; Southern Nevada Conference of Police and Sheriffs
Rusty McAllister, Professional Firefighters of Nevada
Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services

CHAIR WASHINGTON:
We will now open the hearing on Assembly Bill (A.B.) 146.

ASSEMBLY BILL 146 (2nd Reprint): Requires the Department of Health and Human Services to establish programs to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State. (BDR 40-687)

ASSEMBLYWOMAN SHEILA LESLIE (Assembly District No. 27):
Consumers need to know the costs and quality of their health care. This bill is trying to update Nevada law with a consumer-friendly method where they can compare cost and quality. Many states have done this already. There will be a Website for everybody who purchases health care to compare hospital and ambulatory surgical-center costs and quality factors so they can make better decisions about their health care.

BILL WELCH (Nevada Hospital Association):
The Nevada Hospital Association has signed off on the current language as represented. We do support transparency and moving forward with efforts to provide that transparency.

JOSHUA GRIFFIN (MGM Mirage):
The MGM Mirage employs over 63,000 Nevadans and provides health insurance for over 175,000 people in our State. Nearly one out of eight Nevadans who have health insurance through their employer receive that health insurance from the MGM Mirage. The MGM Mirage spends nearly $400 million a year in health insurance. As inflation increases and the company continues to grow, by 2009, that will exceed $500 million a year. This bill allows for purchasers of health care like the MGM Mirage to have the most accurate information available on quality and costs to make the smartest decisions for their own business, their

employees and their families. This mirrors a national movement that is active in the White House.

BOBBETTE BOND (Health Services Coalition):
I want to echo what others have said. The Health Services Coalition wanted to address this bill as soon as we heard there was going to be a transparency bill. We have been looking for vehicles that can efficiently and effectively reduce the costs and increase the quality of health care. This State has a good hospital system, and we want to make sure we understand what we are paying for and want to make sure we can improve it.

SENATOR HECK:
I support the concept of increased transparency. In section 6, there is a reference to the department updating the information contained on the Internet Website quarterly, yet we are requiring the hospitals to submit the information monthly. Why are we doing monthly submissions if we are only updating the data quarterly?

MS. BOND:
I believe that was a joint conversation with Mr. Welch, the Coalition and the State. There is already monthly inpatient reporting that comes to the State. It comes in on a UB82 form and a UB92 form which is changing to a UB04 form. It will contain all of the information hospitals are required to provide. They are doing it for inpatients now and flipping the switch to add outpatients. They did not want to change the process, and it was agreed that would be the most convenient. Updating the Website monthly did not seem to be the best use of resources.

MR. WELCH:
I would only add that it was a request of the Department of Health and Human Services. It helps them facilitate the processing of data on a monthly basis rather than processing quarterly.

SENATOR HECK:
In section 3, subsection 2, paragraph (c), some of the data that is posted by the Department is, "How consistently each hospital follows recognized practices to prevent the infection of patients, to speed the recovery of patients and to avoid medical complications of patients." How is that defined? How are they going to

base what consistently means? What data points are they using to look at whether someone is consistently following best practices?

MS. BOND:
Our interpretation is these are guidelines for the Department of Health and Human Services to develop specific standards around. The standard groups and the quality indicator groups that would be used from the national indicators are included later in the bill.

SENATOR HECK:
The quality improvement data points are very important. My concern is the data gets reported in such a manner that it misleads the public in that it is not an analysis but raw data. If you have a hospital that might have an overall infection rate of 5 percent and a hospital that might have an overall infection rate of 10 percent, somebody would automatically conclude that the hospital with the 5-percent rate is better. When you take into consideration the types of procedures being done and the underlying medical conditions, the 5 percent and 10 percent may actually be equal. How is the data going to be presented so it is truly unbiased and beneficial to the average consumer who will be looking at that data on a Website?

MS. BOND:
Our goal is the quality indicator sets that are going to be used from the Agency for Healthcare Research and Quality which is the quality arm of the Centers for Medicare and Medicaid Services, the National Quality Forum, and the Joint Commission on Accreditation of Healthcare Organizations. Those are all acuity adjusted data which is why we use those three data sets instead of something random or new. The priority is using things that have been well-grounded and tested. It is critical that we do an acuity adjustment and everybody has agreed to it. The purpose of the fiscal note is to create a slot for a biostatistician that is at a level that can do some analysis of this data and make sure those indicators included the acuity. There is also a step built in to make sure the data is not released until it is accurate.

CHAIR WASHINGTON:
Senate Bill 552 is our version of the transparency bill. We had placed some indicators that were based on the patient safety guidelines developed by the National Quality Forum or its successor organization. In section 3, subsection 2, paragraph (c) of A.B. 146, it was not mentioned. Would it be a problem if we

submit those guidelines by the National Quality Forum or its successor? That can be found in section 7 of S.B. 552, subsection 2, paragraph (c).

SENATE BILL 552 (1st Reprint): Requires the disclosure of certain information relating to health care and revises provisions governing health maintenance organizations. (BDR 38-1365)

MS. BOND:
We included in the bill the National Quality Forum. We want the database parameters to be wide enough that we can increase reporting as time goes on and get better data. We wanted a defined set of fields we knew were nationally tested and endorsed. Inside that, we wanted to set a reasonable number of fields that would not cause a financial burden to the hospital and were nationally recognized.

MR. WELCH:
If you look at section 3, subsection 2, paragraph (c), of A.B. 146, that is evaluating hospitals as far as their practice and not necessarily the outcome. Section 4 measures the outcome. What is intended in this section is the National Quality Report (NQR) has a check-off list that the hospitals would have. The State would work with the hospitals in validating whether or not the hospitals had all of these appropriate policies and procedures in place and whether or not the hospitals were performing those functions. Section 3 does not include the measuring of infection rates. That comes later in the bill.

LUANA J. RITCH, Ph.D. (Chief, Bureau of Health Planning and Statistics, Health Division, Department of Health and Human Services):
The Department has an interest in using nationally recognized indicators whenever possible throughout the development and the implementation of this bill. As we develop the Website, we would use nationally recognized and tested indicators. Section 3, subsection 2, paragraph (c) is on the practices, and the NQR checklist is a starting point. Later in the bill, it does refer to the outcome indicators. At all times, we would seek to identify, along with what is reported from the hospitals and Center for Health Information Analysis (CHIA), those indicators that can be reliably reported and calculated and comparable across geographic regions and state to state.

SENATOR HECK:
Section 7 concerns me with how the data is going to be analyzed, released, posted or whatever is going to become of it once it enters the Department. I understand that the Department is going to get this data utilizing these national practice models, acuity indicators and outcome measurements. Summary reports will be available to anybody who wants them. They will update the Website quarterly with the data. What is section 7 referring to as far as analysis and release of this information? The data is already posted to a Website. What else needs to be released from whoever is doing the analysis?

DR. RITCH:
Section 7 references the Department contracting with the Nevada System of Higher Education (NSHE). The Department, through the Division of Health Care Finance and Policy, has a current contract with the University of Nevada, Las Vegas, Center for Health Information and Analysis. That Center currently receives and analyzes all of the inpatient data currently reported. The outpatient data in this bill turns on that reporting. It would come into that same Center for analysis. The Center has a long history of experience in handling this type of data. They also are the entity that produces several other reports, including the hospital-discharge data set and the personal health-choices dataset. The contract that is referenced would allow for contracting with that Center as well as academic centers within the NSHE to handle the data and analyze these extremely large and complex data sets and put them into a form that then can be posted on a Website.

SENATOR HECK:
That is my concern. If they are going to do the analysis of the data to be posted to the Website, great, but this says they can release or publish any information otherwise provided. What else might they release or publish that is not posted to the Website?

DR. RITCH:
When you post data to a Website, you have certain limitations as to the complexity and how the data can be accessed through a Website. Further analysis can be run on the data similar to what is currently produced for the personal health choices which is a further analysis in the representation of the data in more detail, but it is not consumer friendly. That same data posted on a Website in a consumer friendly and easily understandable format is what the bill addresses. The additional analysis would be for such activities as looking at cost

of care. There are a variety of ways in which this information can be analyzed for program purposes and quality-assurance purposes within the programs of the Department.

SENATOR HECK:
If that information is being released to the Department for cost containment or quality-assurance purposes, will this data become public? Can any entity go to the CHIA and ask them to run a specific type of report on data they have. I also see no reference to the Centers for Medicare and Medicaid Services (CMS) that is the entity recognized by the federal government for being the premier source of doing this in the State. I do not see them in the bill. I would like to see them specifically referenced.

ASSEMBLY BILL 146 (2nd Reprint): Requires the Department of Health and Human Services to establish programs to increase public awareness of health care information concerning the hospitals and surgical centers for ambulatory patients in this State. (BDR 40-687)

DR. RITCH:
The specifics regarding Medicaid are questions that should be addressed by Medicaid and the additional use of data.

JOHN P. SANDE III (Harrah's Entertainment Incorporated; International Game Technology):
Harrah's Entertainment Incorporated and International Game Technology are in support of the legislation.

BE-BE ADAMS (Barrick Gold of North America):
Barrick Gold of North America is the largest purchaser of health care in rural Nevada. We provide health care for over 3,000 employees and all of their families. Barrick Gold of North America is in support of this bill.

RUSSELL M. ROWE (Boyd Gaming Corporation):
The Boyd Gaming Corporation will have employees approaching 20,000 in Nevada and costs approaching $100 million a year in health insurance coverage. There is no more important issue during this Legislative Session to Boyd Gaming Corporation than addressing the health-care costs in Nevada and believe this is one way to do it without overregulating the market.

BARRY GOLD (AARP Nevada):
The AARP of Nevada is in support of this bill as well.

DAVID F. KALLAS (Las Vegas Police Protective Association Civilian Employees, Incorporated; Southern Nevada Conference of Police and Sheriffs):
The Las Vegas Police Protective Association and the Southern Nevada Conference of Police and Sheriffs are groups that maintain their own health and welfare trust that provides health-care coverage to 3,500 employees and another 2,000 family members. The Las Vegas Police Protective Association and the Southern Nevada Conference of Police and Sheriffs are in support of A.B. 146.

RUSTY MCALLISTER (Professional Firefighters of Nevada):
The Professional Firefighters of Nevada are in support of this bill.

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):
I understand there are concerns around section 7 relating to the use of outpatient data. Currently, the CHIA at the University of Nevada, Las Vegas already sells inpatient data. They have a process whereby they share it with research organizations and the research organizations need to establish limited data use agreements with the Division. Through those limited data-use agreements, they assure the Health Insurance Portability and Accountability Act of 1997 (HIPAA) compliance, and they use the information appropriately for research purposes. Additionally, if there is information requested from the public, then it is cleansed in terms of making sure there is no identifiable health information associated with the data release. The CHIA goes through a wide array of programming efforts to assure that if it is released for research, it is an appropriate and responsible research organization, and if it is just going to be used by members of the public, then all that data is cleansed.

SENATOR HECK:
Would it still be de-aggregated data as far as specific hospitals, and would the hospitals be identified in those reports?

MR. DUARTE:
Yes. They would be identified.

SENATOR HECK:
That type of reporting would be available to any public entity that came in and made a request of the CHIA.

MR. DUARTE:
That is correct. Just as our inpatient data is available today on a hospital-to-hospital basis.

CHAIR WASHINGTON:
Will you explain to the Committee the current "UB" or the previous "UB" forms that were being collected and the relationship with the Department and the CHIA. How do you extract that information, who has access to it, and how do your contractual agreements work?

MR. DUARTE:
In the 1990s as part of the hospital-costs containment efforts that were in statute, the Division contracted with the CHIA to collect information for hospital inpatient services. There are two sets of deliverables. One set is identified in the *Nevada Revised Statute* (NRS) 439A. A second set of data elements that were more related to cost factors is defined in the NRS 439B. The Health Division is involved more with the quality data collection and reporting. We are more involved in hospital costs and expenditure reports. From that time frame, we have been collecting universal billing records which are the hospital inpatient claims. It is the form utilized by hospitals to report claims information as well as patient information. Anything that is on a claim is available to the CHIA. They go through a rigorous routine of programs to make sure that when the data is put into a database it is accurate and errors are removed from the data. They have a routine of reports that are generated which provide information that you have seen before, such as personal health choices which reports on hospital utilization by diagnostic related grouping. That is one set of reports that is generated. We produce a set of reports which involve cost containment for things like hospital expenditures and profits and profit margins. We have been collecting that data all along. In addition, we provide the database to a number of national organizations that do research. We have data-use agreements with these national research organizations, and they get all the data. When people request the cost information, we provide that. If it is not someone who needs identifiable health records, it is all cleansed and we provide them with the cleansed data.

SENATOR HECK:
Does the Department contract with the CHIA to take in the data and do the analysis on behalf of the department?

MR. DUARTE:
Yes.

SENATOR HECK:
Then the CHIA has the ability to sell the data that they receive because of the contract with the Department to outside entities.

MR. DUARTE:
Yes. Most of the data they give away to research organizations.

SENATOR HECK:
Do they keep the revenue generated by whatever sales they are able to perform? Are we paying them to get the data and analyze it, and they get paid to release it to other entities?

MR. DUARTE:
Our contract does not cover all of their costs, and in order to continue their efforts and perform the scope that we contract, they do need to have other kinds of subsidies and grants in order to make sure they stay whole as an organization. Our contract is a deliverable-based contract. It does not fully support their organization.

SENATOR HECK:
There is a lot of talk about doing the analysis with the CHIA or with another entity or appropriate individual. I am wondering why the CMS quality-improvement organization program is not specifically included in the bill to do the analysis since they are the ones federally recognized to do it for CMS.

MR. DUARTE:
HealthInsight, UNLV, UNR and the Health Division are all collaborating on submitting a $4 million Information Technology grant to the federal government.

MS. BOND:
I talked to HealthInsight when we were constructing this bill to make sure they thought the quality indicators were going in the direction we wanted and would

be things we needed for what is going on nationally. Mark Bennett has been involved in conversations about it.

SENATOR HECK:
I would be a lot more comfortable if they were specifically recognized within the bill to ensure their involvement.

CHAIR WASHINGTON:
Section 7 indicates "... or any appropriate, independent and qualified person or entity to analyze the information ... ." Who else outside of CHIA would the Department or CHIA contract with for this information?

MR. DUARTE:
Currently, our intent is just to work with them. They are the entity most familiar with the data collection and analysis associated with hospital claims.

CHAIR WASHINGTON:
Is there a statute that gives them the authority to do this?

MR. DUARTE:
I do not believe there is anything in statute that authorizes or prohibits them from selling the data.

SENATOR HECK:
They will be sitting on a gold mine with all this additional data and all the available uses in the private and public sector for it.

MR. DUARTE:
We see it as a revenue opportunity to make them more self-sustaining in the future and not have the State pay the cost of operations associated with this bill.

SENATOR HECK:
If this data is received by the Department and then turned over to the CHIA which is another State-funded entity, does that automatically make this data public record?

MR. DUARTE:
It is public domain with the exception of any personal-health or identifiable-health information. If the CHIA has a report already available electronically, they do not charge for the release of that data. It is normally posted on their Website. If there are certain data extracts or programming that is necessary, they will add a charge.

SENATOR HECK:
Once the huge volume of data they will be receiving is scrubbed, is it available to public domain? Can someone come in and ask for that dataset?

MR. DUARTE:
Yes.

SENATOR WIENER:
I have heard that this is part of an important national transparency movement. My concern is about the personal identifying information and the cleansing of it. Does this meet or exceed the standards for protection that are established at a federal level so the information can be used for the transparency while protecting those identifiers?

MR. DUARTE:
I do not see this as extending protections for personal health information beyond HIPAA. There are other pieces of legislation out there that do. I can assure this bill does not interfere with the protection of personal health information.

SENATOR HECK:
Under section 7, there is a provision that the Department determines the information is accurate. If the CHIA is releasing information, it is only after the Department has determined that the information is "accurate." If someone can come and request the entire data set, there is no accuracy. How will the Department figure out whether or not the data set is accurate prior to the release?

MR. DUARTE:
I can assure you that would not be the case. Before the data is put into their data warehouse, it is scrubbed and cleansed and duplicate information is removed. There are a host of edits that go into analyzing the data before it is

put into the data warehouse. As claim data comes in electronically, there are edits in place.

SENATOR HECK:
My concern revolves around the fact that someone else can come in and grab the accurate data set and do their own analysis and generate their own report without the Department having the opportunity of making sure the data is still accurate. There is the ability to skew the conclusion to meet the hypothesis.

MR. DUARTE:
I do not think we can police everybody out there in terms of their intended use of the data.

SENATOR CEGAVSKE:
There is a Website, <www.nvpricepoint.net>, and all that information is up and running.

MR. DUARTE:
My understanding is they did have a contract with the vendor.

SENATOR CEGAVSKE:
Is this helpful?

MR. DUARTE:
It is very helpful. The PricePoint tool, while limited in terms of what it can present from a general consumer's point of view, is useful.

MR. WELCH:
The Nevada Hospital Association has been committed to transparency and has developed a plan to move forward with that. We have established the financial aspect of our transparency. That went live about a week ago. It has been our goal to work towards the outpatient, but we want to do it in steps to make sure we are producing quality information.

SENATOR CEGAVSKE:
Is it the Hospital Association's position that the information being provided is the same as is being requested in this bill? Is it your goal to have more information of what is being requested on there? In that case, is legislation

needed if you are actually going towards that goal of putting the information on the Websites?

MR. WELCH:
The financial transparency information that we have posted on our Website meets the intent with respect to inpatient data only. In the future, we plan to move towards outpatient data, but I cannot give an exact time frame on that.

MR. DUARTE:
What the CHIA does is collect all of the data and assures all of its integrity before it is uploaded to PricePoint. If we are talking about moving toward outpatient data, there will still be a significant role and a significant cost associated with assuring the integrity of the data so it can be uploaded to this Website and presented to the general consumer.

SENATOR CEGAVSKE:
Can you do that without this bill?

MR. DUARTE:
We cannot without appropriation.

SENATOR CEGAVSKE:
You just need the money to do it, and you do not need the regulations?

MR. DUARTE:
We do need the regulations because the statute will ensure that they are required to do it on a continuing basis.

SENATOR WIENER:
This bill is crafted in a way that carefully defines the intent, the expectations and the components that would drive the information that we want to provide to the public. As personalities change, intentions can change too. I strongly support the legislative side of this and establishing intent, parameters and expectations.

CHAIR WASHINGTON:
On the outpatient indicators, I believe there is an approximate time that, if achieved, the outpatient and the quality indicators will be posted on the Website or transmitted to the CHIA. Are you in agreement to that date?

MR. WELCH:
That was a date that was previously stated and has been negotiated. There is a section that provides the ability of the State to come before the Legislative Committee on Health Care in the event that obstacles and challenges come up that are unforeseen that would prohibit that date from being met.

CHAIR WASHINGTON:
The dates are in sections 15 and 16. The outpatient quality indicators are to be submitted by the Department by January 1, 2008, and a report to the Legislative Committee on Health on December 1, 2008.

DR. DUARTE:
The Department is the primary implementer involved with this bill and our intention is to make sure that any data that is being requested of us or the NSHE is not going to impose a burden on the hospitals, CHIA or the Department. I cannot speak to the private, voluntary Website as the appropriate way to go versus building a state version of that.

MS. BOND:
There were concerns that a voluntary Website would not be stable, would not be enduring and not be all-inclusive.

SENATOR HECK:
In the fiscal note there is about $250,000 a year going to the CHIA. Is that in addition to their current contract to handle this increased data?

MR. DUARTE:
Yes. They looked at using some of their existing resources and program units and tried to make sure that whatever was being proposed in addition to their current contract would be the best use of existing programmers and program applications. They made every effort to reduce their overall costs.

MR. WELCH:
The Nevada Hospital Association is committed to transparency. We will support and collaborate to A.B. 146.

CHAIR WASHINGTON:
We have a couple of proposed amendments that I have had an opportunity to speak with Assemblywoman Leslie about. I will have staff walk through it and

have it available for you. We will not close the hearing but recess it and will meet back at the bar to go over the amendments.

MARSHEILAH D. LYONS (Committee Policy Analyst):
As a legislative staff member, I am not able to testify in favor of or in opposition to any bill. I am here at the request of the Chair to review the proposed amendments to A.B. 146 (Exhibit C, original is on file in the Research Library).

CHAIR WASHINGTON:
In section 3, subsection 2, paragraph (e), the intent is to make sure we are comparing apples to apples with hospital surgical centers versus ambulatory services. We are not opposed to the health-care research quality and the national quality form. What we want to do is make sure that we take those entities that are certified by the U.S. Department of Health and use their indicators in collecting the information.

SENATOR HECK:
My concern is to make sure that the Center for Medicare and Medicaid Services quality-improvement organization program is involved. That could go into section 7 where it deals with analysis.

CHAIR WASHINGTON:
We will recess this meeting of the Senate Committee on Human Resources and Education at 10:59 a.m. and give you an opportunity to go over these amendments.

RESPECTFULLY SUBMITTED:

Shauna Kirk,
Committee Secretary

APPROVED BY:

Senator Maurice E. Washington, Chair

DATE: