

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

**Seventy-Fifth Session
March 18, 2009**

The Committee on Health and Human Services was called to order by Chair Debbie Smith at 1:48 p.m. on Wednesday, March 18, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/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 Debbie Smith, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Ty Cobb
Assemblyman Mo Denis
Assemblyman John Hambrick
Assemblyman Joseph (Joe) P. Hardy
Assemblywoman Sheila Leslie
Assemblywoman April Mastroluca
Assemblywoman Bonnie Parnell
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Darlene Rubin, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Lawrence K. Sands, D.O., M.P.H., Chief Health Officer, Southern Nevada Health District, Las Vegas, Nevada
Thomas J. Ray, General Counsel, University of Nevada School of Medicine, Las Vegas, Nevada
Keith Zupnick, M.D., Project Coordinator, Childhood Lead Poisoning Prevention Program, Southern Nevada Health District, Las Vegas, Nevada
Mary E. Wherry, R.N., M.S., Deputy Administrator, Health Division, Department of Health and Human Services
Thomas D. Morton, Director, Department of Family Services, Clark County, Nevada
Diane Comeaux, Administrator, Division of Child and Family Services, Department of Health and Human Services
Kevin Schiller, Director, Department of Social Services, Washoe County, Nevada
Jennifer Bevacqua, M.A., Regional Program Director, Olive Crest, Las Vegas, Nevada; President, Nevada Youth Care Providers, Las Vegas, Nevada

Chairwoman Smith:

[Roll called.] I would like to thank all of you for your patience. We are sorry for starting a little late today; we were having a celebration, a sort of "old home week" in Room 3100. I actually had two of my elementary school teachers in that group with the Marvel family; it was very interesting.

We have three bills to hear on today's agenda, and we may also hold a work session if we have time. I will open the hearing on Assembly Bill 137.

Assembly Bill 137: Revises provisions governing branch laboratories of the State Hygienic Laboratory. (BDR 40-201)

This bill is sponsored by Assemblyman Hardy. Welcome to the table, Dr. Hardy.

Assemblyman Joseph (Joe) P. Hardy, Clark County Assembly District No. 20:
Assembly Bill 137, because of its simplicity, is obviously complicated. Anytime we start using words such as "designator," it becomes problematic, and that is why we took some time looking at this issue. The concept is that if a state laboratory exists, then other laboratories could be branches and thereby gain credibility and eligibility for accreditation, as well as access to other information or consultations. Dr. Lawrence Sands, Director of the Southern Nevada Health District, is in Las Vegas and he will be testifying on this bill. Now that you have read the bill, there is a very simple amendment ([Exhibit C](#)) that is unlabeled so as not to be confused with any other amendment, that basically would hold harmless the State Public Health Laboratory should they enter into a designation branch of another laboratory. Sitting with me is Mr. Tom Ray, counsel for the University of Nevada School of Medicine, who would probably like to say something after Dr. Lawrence Sands.

Chairwoman Smith:

Are there any questions for Dr. Hardy? [None.] We will go to Las Vegas then and hear from Dr. Sands.

Lawrence K. Sands, D.O., M.P.H., Chief Health Officer, Southern Nevada Health District, Las Vegas, Nevada:

I just want to confirm our support for this bill as well as the amendment that is being offered. The bill, as it is written, reflects the arrangements that currently exist between the Southern Nevada Health District and the School of Medicine in operating the Southern Nevada Public Health Laboratory.

Assemblyman Hambrick:

Does the state operate a hot lab, and if so, would this be included in the branch aspect?

Lawrence Sands:

If you mean by "hot lab," a surge or backup lab, that is part of our agreement. By having the two laboratories, one can serve to backup the other if one could not handle the surge or became inoperable.

Assemblyman Hambrick:

Kansas City Centers for Disease Control (CDC) prefers things handled back at their own lab, but occasionally they will come into a state because they do not want to transport viral-type materials during certain outbreaks. Does the state have that capability? When I said "hot lab," I meant a series of labs within a lab to avoid possible catastrophic contamination effects.

Lawrence K. Sands:

I would not want to speak for the Nevada State Health Laboratory in Reno, but I can say that transporting specimens between state laboratories and the CDC is quite a common practice. In order to be able to handle select agents, laboratories have to have certain capacities before they can be certified or credentialed to be able to handle those specimens.

Assemblyman Hardy:

I suspect Dr. Sands will correct me if I am wrong, but I do not think we have a lab that handles ebola virus, if that is what you mean by "hot zone."

Chairwoman Smith:

How would you like to offer the amendment?

Assemblyman Hardy:

This amendment ([Exhibit C](#)) was agreed upon by the Council of the Southern Nevada Health District and Tom Ray, counsel for the University of Nevada School of Medicine. You will notice that it is not in bill draft form. The context is there, but the language may not be as it will be in the actual bill. In the area that reads "may designate," I would say "may, in the event the State Public Health Laboratory designates..." and then just continue on. For clarification, the second shorter sentence of that amendment would change the name of the laboratory to the "State Public Health Laboratory" because that is how it is actually known, instead of the State Hygienic Laboratory.

Chairwoman Smith:

Are there any questions? [None.] Do we have anyone else to testify?

**Thomas J. Ray, General Counsel, University of Nevada School of Medicine,
Las Vegas, Nevada:**

The statute, as presently written, allows the State Health Laboratory to open a branch laboratory. We have always narrowly interpreted that to mean a branch of the state lab, i.e., a lab that employs state employees and is controlled and financed by the State of Nevada. This amendment will make it clear that we can enter into an agreement with other labs, such as the Southern Nevada Public Health Laboratory, so they could be designated as a branch lab of the state and allow the lab to access more information. There is also a cost-saving benefit because there would be no need for the state lab, located on the University of Nevada, Reno (UNR) Campus, to open a second lab in Clark County. The proposed language would make it clear that the Southern Nevada Public Health Laboratory is funded by, operated by, and its employees are employees of, the Southern Nevada Health District that is responsible for its

obligations. By the same token, the state would be responsible for its own obligations.

Chairwoman Smith:

I always wonder with bills like this, how we got by without having this up until now. What really brought this about?

Thomas Ray:

The motivation was two-fold; it is certainly beneficial to Clark County and to the Southern Nevada Public Health Laboratory. It allows them more access and quicker response, and it is a cost-saving measure for the state and the State Health Laboratory. I think it is a beneficial partnership for all parties. As to why it did not happen earlier, I am not sure. The statute was enacted many years ago, and I do not believe the Southern Nevada Health District was in existence at that time.

Assemblyman Hardy:

I think we have been working very cooperatively, however, there are some things now that we would like to firm up.

Chairwoman Smith:

Is there anyone in Las Vegas or Carson City who would like to testify for A.B. 137? Anyone opposed? Anyone neutral? [None.] I will close the hearing on A.B. 137.

I will now open the hearing on Assembly Bill 219.

**Assembly Bill 219: Enacts provisions governing certain blood tests for children.
(BDR 40-682)**

This measure relates to blood tests for the presence of lead in children and is also sponsored by Assemblyman Hardy.

Assemblyman Joseph (Joe) P. Hardy, Clark County Assembly District No. 20:

The Southern Nevada Health District (SNHD) has partnered with many organizations and many people who have been appropriately concerned about lead exposure to children, or anyone; but children are more susceptible to the adverse effects of lead exposure. The organization has many people who have spent many hours putting this bill together, and they have done a wonderful job. I took advantage of my continuing medical education this last week and looked at lead level exposures, and the treatment of lead level exposures, and there is a body of literature in the medical journals that addresses lead. The SNHD has a Childhood Lead Poisoning Prevention Program (CLPPP) that has been dealing

with determining who has been exposed to lead and where those particular areas are. This bill will encourage us to do what we have already been asked to do, and that is to check children for lead exposure. By way of disclosure, I am a physician and serve on the SNHD Board outside of my legislative service.

My colleague from Las Vegas would best describe the history that has led us to this point and the plan that we would like to see implemented.

Keith Zupnick, M.D., Project Coordinator, Childhood Lead Poisoning Prevention Program, Southern Nevada Health District, Las Vegas, Nevada:

Thank you for allowing me to provide input on A.B. 219. [Dr. Zupnick spoke from prepared testimony ([Exhibit D](#)).]

Assemblyman Denis:

One of the big concerns that we have had in the Hispanic community has been the candy coming in from Mexico and other places that has a high lead content. In your coalition, have you looked at those issues, and do you know what is being done to reduce that?

Keith Zupnick:

We have done extensive work and also with our community partner at the University of Nevada, Las Vegas (UNLV) in collecting, identifying, and testing these candies. In 2005, we removed them from the shelves but we had a lot of pressure from the candy lobbyists. Two of the largest candy manufacturers that make Mexican-type candy are Hershey's and Mars. California has taken a leading role in this with Proposition 65 which calls for periodic testing. We now do our own testing, and actually, some of the American candy companies have joined forces to build a laboratory in Mexico so the situation is improving, but there is more to do. We have made strides in trying to resolve this issue, and we continue to sample and test candies. If we ever find a candy that exceeds an acceptable amount of lead, despite having said there is no acceptable amount, if it exceeds the Food and Drug Administration (FDA) standards of 6 micrograms—if ingested—per day, we will take the appropriate action.

Assemblywoman Mastroluca:

Can you describe what you are doing with the information you are collecting? How are parents notified, and what will the health district do with the information?

Keith Zupnick:

Under A.B. 219, we are only encouraging that the blood lead test be drawn and that it be reported to the appropriate health authority. What is done from that point on depends on each locale, what their funding will allow, and what they

are motivated to do. In southern Nevada, we are tabulating this information because we want to determine the nature and extent of lead exposure and lead poisoning. If we have a child who has a blood lead level above the Centers for Disease Control (CDC) level of 10, we open a case, we have a nurse case manager, and we do an environmental investigation of that child's environment, which means his home and any other environment he may frequent. Moreover, we write a detailed report with specific recommendations on how to either remove the lead from the specific environment or remove the child from the leaded environment.

Assemblywoman Spiegel:

How do the provisions of this bill differ from current practice?

Keith Zupnick:

We have a problem in Nevada, although we are not the only ones. The most recent literature tells us that any level of lead is a concern, and even though Medicaid recipients—many of whom are the target children because of their socio-economic status, race, and ethnicity—are the group most affected by lead, doctors still are not complying with the federal mandate that says these children must be tested at 12 and 24 months, or at least once before the age of 6. Because that is not occurring, we are trying to use any and all means to encourage physicians to test. We have Dr. William Berliner, from the organization HealthInsight, in Las Vegas, Nevada, who talks with doctors one-on-one and puts on continuing medical education (CME) courses where doctors can earn CME credits. Additionally, we hold community events and outreach events, either faith-based or health fairs, and the university and all our community partners go out as teams to educate the community.

Assemblywoman Pierce:

Is there a way to detoxify a child's blood once there is lead present?

Keith Zupnick:

That is a very good question. If a child has an extremely high level of lead—I mentioned the level of concern was 10—if it is approaching 100 (we have not had more than a couple of children in southern Nevada at that level), a medication procedure called chelation therapy is administered intravenously and/or orally that helps reduce the level of lead in the child. It will still be an unhealthful level, but one which will prevent imminent death. Once lead enters the body it is stored in the bones and the teeth, we believe, for at least 30 years, and there is nothing we can do.

The answer to this problem is prevention. The key to prevention is primary prevention and that is education. However, if we do not screen the children to

find out if they have been exposed to lead, then we really have nowhere to go. We need to get these blood tests so we can identify who the target population is here in Nevada, and we can then take whatever appropriate action we are prepared to take.

Assemblywoman Pierce:

What were the levels that we experienced back in the days of leaded gasoline?

Keith Zupnick:

The CDC level of concern in the 1970s was 60 micrograms per deciliter. If we had a child in southern Nevada at 60 micrograms per deciliter, we would send out the S.W.A.T. team. That would be a huge event. If a child is exposed to that on a constant basis, an unbelievable amount of irreversible medical damage occurs.

Chairwoman Smith:

Do we know if insurance companies generally pay for a lab test like this?

Keith Zupnick:

Yes, they do.

Chairwoman Smith:

I noticed in the fiscal note that there is an amount for mailing, but I think it has to do with the regulations. Do I need to have Mary Wherry come forward to answer this? I am curious about how we do the notification. I have been thinking a lot, since we had the licensing and board discussion at the hearing in Las Vegas, about whether we use this opportunity with the licensees through various boards to put this kind of information out. If we do, is that cost in this fiscal note? It seems that the encouragement means notification, and how do we do that?

Assemblyman Hardy:

I do not have the direct answer for your question.

Mary E. Wherry, R.N., M.S., Deputy Administrator, Health Division, Department of Health and Human Services:

I was curious to see if southern Nevada was going to answer that question. One of the challenges we have had with the interpretation of this bill is that the very last paragraph, section 13, depending on who reads it, could be interpreted in two ways. Our understanding from SNHD is that if the lab gets a positive test result, they send it to the health authority. The health authority would be the one responsible for doing the follow-up. So our assumption and understanding is that the health authority would bear that cost. Initially we had

a large fiscal note because our staff interpreted this to mean that we actually needed to create a surveillance system, and we want to go on record today, for posterity, that the intent is not to create a surveillance system, which is much more costly, because of aggregating data, collecting data, and analyzing it over time. It would depend on whether the health authorities in southern Nevada, Washoe County, Carson City Health District, and the rural programs would perceive that they would bear any additional costs. I can speak for the rural area that our nurses already monitor there. They do follow-up sometimes for kids who may have metabolic screening results. This would be a general standard of practice to follow up with a family, so that is why we did not do a fiscal note.

Chairwoman Smith:

My question was more about the main part of the bill, encouraging health providers to do the test. It is that encouragement piece that I am trying to figure out how we would do it and what would be the cost associated with that?

Mary Wherry:

Southern Nevada Health District currently has a grant, and they may want to speak to how they are starting to expand their relationship with other health districts. They have been involved in the piloting of this project. We would probably look to using Maternal and Child Health Block Grant funds as a means, if that fell within what the advisory board would like to see those dollars used for. We do prevention and outreach throughout all the counties all the time, so I think this would just be one more document. Printing of materials uses reams of photocopy paper so it would not be that expensive.

Chairwoman Smith:

So the cost that is in the bill about mailing is associated with developing the regulations?

Mary Wherry:

The \$8,000 is for the regulations. We have a set fee for how much it costs to develop regulations.

Chairwoman Smith:

So when it says mailing, it is associated with the mailing, to do the regulations, to have the hearings.

Assemblywoman Spiegel:

Back to my earlier question, I am wondering if "encouraging" is enough, given the scope of the problem, and the level of danger that is associated with lead in children's blood. Could we do more?

Assemblyman Hardy:

The answer is both no and yes. No, we are not doing enough, and yes, we need to do more. If we look at the exam for the Medicaid child, the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) has a little box that is checked by the doctor that he or she has done a lead level test, and there are other boxes on the form indicating the age that the tests should be done.

One of the problems with lead is that it is not limited to the paint chip theory. So even though we have some areas where homes were built before 1978 when lead-based paint was no longer permitted, children can still be exposed to lead, commonly by playing with toys or keys that contain lead. There are things that contain lead that do not rise to our conscious level of screening, and very often, a physician, for example, tends to think "it does not happen in my neighborhood." If we have that attitude, we will never find out whose neighborhood it does happen in. The goal, therefore, is two-fold; find out if there is a place that has a higher lead level exposure, as well as a person, and that person may be multiplied several times, so the key is to prevent. The options of treating are very dismal. The chelation therapy is not a pleasant experience, and there are significant long-term never-go-away side effects from that process too. The key questions are: Where is it happening? How can we prevent it? How can we save children from this problem?

Assemblywoman Parnell:

This is for the gentlemen speaking from Las Vegas. Just a clarification, you have made a couple of references to the possibility of finding a child with a high level of lead in his system where we either try to correct the situation in the home, or take other appropriate action. Could you give me an example of what that might mean?

Keith Zupnick:

Level 10 is not considered a real high level; it is the CDC's minimum level of concern. We are very fortunate in southern Nevada that we do not have those high levels like they do on the east coast, midwest, and the south where children might be approaching not 10 but perhaps 100.

Our procedure begins with a nurse who is in case management, who visits the family and makes contacts with the medical home, the physician, for that child. The nurse investigates the child's nutritional background, making sure he is not

deficient in certain minerals such as calcium, iron and zinc, which allow lead to enter the blood and incorporate into the blood cells more effectively. The home is gone over with a machine called an X-ray Fluorescence Machine (XRF) and every paint component in the house is examined, as well as the toys. We examine all the materials of which we have knowledge or suspect could contain lead that is transferrable to the environment and that might be ingested or inhaled by the child. We advise the parents to remove those items, and we have controls that are guided by the Environmental Protection Agency (EPA) or the Housing and Urban Development (HUD) that we put into effect. If funding needs to be obtained, then we try to work with the local community agencies that have funding for families in need. Funding could be available for such things as replacing the home's stucco, for example, and we do whatever we can to educate and to remove the lead source from the child's environment.

Assemblywoman Parnell:

If that is not corrected, does that then become a cause for removing the child from the home, or is it usually cleared up by educating the family or having the family move out of the lead-contaminated home? We are probably talking about impoverished families who are unaware that lead is even a problem. I was just a little uncomfortable about the way you commented earlier about removing the child as a possibility.

Keith Zupnick:

Actually, we have not had to remove a child from his home environment. In the east or midwest where there is a greater prevalence of lead-based paint, removal of a child from the home environment does occur from time to time and they have measures in effect where they can relocate a child and his family, either on a temporary basis or sometimes permanently. But, although we do not have that much lead-based paint in southern Nevada, we do not know about the rest of the state, so we need to investigate.

Lead exposure is still a problem and mostly attributed to the exposure to non-traditional sources: jewelry, toys, certain cosmetics, and so on. We can often go in and identify fruits from another country and other items. We either test them on site or send them to a laboratory, and we also take dust and water samples. There is a specific protocol we follow. I am an EPA-Certified Lead Risk Assessor. We make recommendations and assist the family with the means that we have in place in southern Nevada.

Mary Wherry:

To Assemblywoman Spiegel's concern about whether "encourage" was strong enough, we subscribe to the theory that knowledge does not change behavior. First, I do not know if I would have wanted to believe that when I was younger,

but it is true. Second, we have many requirements for reporting by physicians in statute, and just because it is there does not mean that it actually gets follow through. Unless you add really strong teeth to some mandatory requirement, it is just chasing your tail sometimes to make a difference, so I think that is why we are comfortable with that descriptor.

Chairwoman Smith:

And perhaps this is a step in the right direction.

Mary Wherry:

Just getting this grant from the CDC was a step in the right direction, especially for southern Nevada.

Chairwoman Smith:

I do not see anyone signed in at Carson City or Las Vegas to testify. I will close the hearing on A.B. 219.

We will now open the hearing on Assembly Bill 227.

Assembly Bill 227: Revises provisions relating to the provision of foster care.
(BDR 38-187)

This bill was sponsored by this Committee and was done so on behalf of the Clark County Department of Family Services. Thomas Morton is here to present.

Thomas D. Morton, Director, Department of Family Services, Clark County, Nevada:

Joining me at the table are Diane Comeaux and Kevin Schiller. I wish to thank you for introducing Assembly Bill 227. [Mr. Morton read from his prepared testimony ([Exhibit E](#)).]

Chairwoman Smith:

Your amendment is the one that is in the mock-up version [included with written testimony ([Exhibit E](#))], is that correct?

Thomas Morton:

Yes, that amendment was prepared jointly by the agencies that provide child welfare services and was submitted by Diane Comeaux.

Chairwoman Smith:

Can you or someone just walk us through the amended version of the bill? I think that would be helpful.

Thomas Morton:

The phrase "agency which places children for foster care" was changed to "foster care agency," and the definition was altered to include not only a nonprofit but a for-profit corporation or sole proprietorship. We expanded the range of services that could be provided by such an agency to include specialized foster care or group care, case management services, referral services, support of foster parents, and the range of additional services shown in this paragraph.

A specialized foster home rather than treatment foster home would be defined to mean "a family home in which 1 to 6 children are placed by the agency which provides child welfare services," and this is part of the original language, slightly amended, "which requires special care for physical, mental, or emotional issues." We changed the age from 18 to 21, because Nevada now extends foster care services for some children up to the age of 21 for purposes of transition to independent living, and we added a fifth component to this to be clear that we are talking about children who are in the custody of an agency which provides child welfare services. The remaining amendments in section 4 are designed to clear up the language, to change it to "specialized foster home and foster care agencies."

Moving to section 6 on page 3, we propose to change the period of licensure to two years, partially because this is consistent with the recommendation and also because the period of licensure for regular foster homes is later changed to two years. There is a work load issue we are confronting in this economy. We have been very successful in licensing quite a number of additional foster homes with no additional staff. Obviously, this could raise a concern about the quality and maintenance of quality, but we propose that an annual inspection of the home and review of certain other factors would be sufficient to determine that the home is still in compliance with the basic licensing regulations. This was designed to bring the agency license and the foster home license into the same time frame.

In section 7, we added an additional step which would provide for a corrective action plan rather than going to immediate suspension of the license or revocation of the license. Most of the remaining language substitutes the term "specialized" for "treatment," and I believe that is also true on page 7 in section 10, where it says "each foster care agency." Again, this is just clarifying the language so it is clear we are talking about specialized foster care, foster care, and group care.

I believe that constitutes all of the changes, except for the period of compliance on page 11, section 18. We are proposing moving the period of compliance, in

terms of full regulations in place, to July 1, 2010. I think Ms. Comeaux could better speak to the demands on the Division to manage this task. We are in our Child and Family Services Review (CFSR) year, and staff, particularly in the Division, is extremely tied up through the end of September meeting the heavy burden of requirements of this periodic federal review. Since these not only have to be written by the Division, but obviously need to go to the Legislative Counsel Bureau (LCB) for approval of public hearings and a number of other processes, we felt that a nine-month period following the end of the CFSR would provide an adequate time frame, hence the change in proposed time frame in section 19. That was a rather quick run-through, but that is basically the language we were suggesting as a friendly amendment.

Chairwoman Smith:

The effective date would be one year in order to adopt the regulations, then an additional six months to notify everyone and put everything in place.

**Diane Comeaux, Administrator, Division of Child and Family Services,
Department of Health and Human Services:**

That is correct.

Chairwoman Smith:

Do you want to go ahead with your testimony, Diane, or were you just here to answer questions?

Diane Comeaux:

I was just here to answer questions.

**Kevin Schiller, Director, Department of Social Services, Washoe County,
Nevada:**

I do not have a lot to add beyond Mr. Morton's comments. I would, however, like to emphasize that specialized foster care was formerly called treatment care, and it is serving children in our foster care system that tend to be the hardest to serve. They are the kids who we struggle with relative to disruptions, maintaining permanency and stability, and they often present with significant mental health and emotional needs. I believe the amendments as proposed in this bill will help us improve the range of those services related to consistency for those kids. In Washoe County we have a much smaller number of providers related to treatment level or specialized care. It is a continual need within our agency and we often struggle trying to meet the needs of those kids. There is often a transition between regular foster care and the specialized foster care, and a balance that exists there, so I believe this will help us get to a higher standard to meet those needs. We want to provide an adequate level of service

and also address the needs and the behaviors of kids in specialized foster care, and then hopefully bring them into a lower level.

Assemblywoman Leslie:

Thank you all for working on this; I like where it is going. Diane, on page 2, section 4, subsection 3, lines 36-38, "Prescribe a reasonable fee..." What is a reasonable fee?

Diane Comeaux:

The reference to a reasonable fee was already in the bill; that is not an amendment that we are proposing. We have done a fiscal note, and again, the Division does not currently have staff that license foster care statewide or foster care agencies, so it would be an additional two staff for our division. The cost in the first year of the biennium is estimated at \$133,000 and the second year \$150,000. We did some checking and we are able to bring in some Title IV-E funds to offset some of those costs, and we are looking at about \$46,000 in the first year in Title IV-E and \$52,000 in the second year. That still leaves quite a bit that would need to be incorporated into those fees. When you take the number of facilities statewide and divide into the cost that is left, it comes out to about \$2,000 per facility or agency. Also the Division is a bit concerned about that because if you look at the facilities that we currently have in the state, 33 of the 45 have fewer than 9 homes under their oversight, and about 15 of those have only 1 home. So when we look at setting the fee and regulation we would look at a tiered fee. However, we do not know how many of these single homes would choose not to continue this on their own but would go under another company. So, again, the fee would increase based on that, if we were to have to recover our costs.

Assemblywoman Leslie:

But would you not have to go out and inspect every facility, even if they were under someone else's umbrella?

Diane Comeaux:

No, the facilities themselves are currently licensed foster homes. This proposal is to look at the over-arching agency that manages them.

Assemblywoman Leslie:

Have you looked at how the Bureau of Health Care Quality and Compliance determines fees?

Diane Comeaux:

We have looked at how they do fees, and they have a little more flexibility; one, because they license a larger group of people than we do, and two, they have

shared resources. They have investigators who investigate all of their licensing so they have a much better infrastructure than the Division does to handle this. We have no infrastructure in place to handle statewide licensing for foster care.

Assemblywoman Leslie:

I do not want to get bogged down with the money, because this is not the place, but I am curious how it is going to work. I guess we will have the agencies testify as to whether they can afford it.

Assemblywoman Mastroluca:

I am looking at section 6, where the amendment changes the license from being effective from one year to two years after the date of issuance and may be renewed. You removed "annually," since you went to two years, and it reads "upon expiration." I just want to make sure that you have enough time to get the licenses renewed. If you wait until expiration, I am concerned that you could have an agency that inadvertently goes a period of time without a license, versus being renewed within 60 days of expiration.

Diane Comeaux:

If that is how you interpret that, it is certainly not our intent to allow the licenses to expire before they are renewed. We were just not sure what other language to use to go from "annual" to "upon expiration," which would be two years, but they would be renewed without a lapse in licensure.

Chairwoman Smith:

So perhaps work on some language where renewal would take place within 60 days of expiration.

Diane Comeaux:

We are certainly amenable to that.

Assemblyman Hardy:

This is going to increase the number of foster homes or our ability to recruit more foster homes, and I am wondering if this would actually be a net decrease in cost to the state or the county?

Thomas Morton:

This bill does not specifically authorize foster care agencies to license their own homes. Should the members of the Legislature choose to take that step currently, or at some future date, there might be an offset of cost to the public agency because our licensing responsibilities would be reduced, but that is not a part of the current bill. To speak to another part of your question, private agencies have connections in the community that the government does not, and

we in Clark County have begun to make expanded use of private agency foster homes for placement of kids who need a low level of care. We see them in a public-private partnership context as desirable partners to help us expand the array of resources available to children who would need foster care placement.

Assemblyman Hambrick:

I realize that the money aspect is getting a little old, but I do have a question. Particularly in Clark County, agencies such as Child Haven paid an initial fee for many years, but now there is a renewal fee. Does either Clark County or the state envision the sum of \$2,100 being an initial fee and, if so, what would the annual renewal be? If it is going to change statewide, is there a danger of losing places like Child Haven?

Thomas Morton:

Child Haven is licensed under a separate provision; I think it is *Nevada Revised Statutes* (NRS) Chapter 432A, as a child care facility. Actually the initial license application was \$300 and the annual renewal \$150; considerably lower than what the average cost, as calculated by Ms. Comeaux, would be. However, as Ms. Comeaux pointed out, there is the potential of a burden of cost on smaller treatment foster care agencies as they currently exist. There are a number of these—15, I believe—that are single home agencies, which is why we talked about the possibility of a sliding scale. We have researched other states, other jurisdictions, and of the agencies we contacted, no other jurisdiction charges child placing agencies for their licenses. This is not a reason why we could not, or should not do it, because we do charge other kinds of facilities for their licenses. I think "reasonable" is an interesting term, and reasonable, certainly in the context you propose, should not be a burden to having resources. By the same token, I suppose you want to recover some of the costs associated with this activity, from corporations for the most part, so therefore some fee might be reasonable.

Jennifer Bevacqua, M.A., Regional Program Director, Olive Crest, Las Vegas, Nevada; President, Nevada Youth Care Providers, Las Vegas, Nevada:

Nevada Youth Care Providers is an organization comprised of private agencies statewide, approximately 26, and we currently serve over 700 children in foster care. [Ms. Bevacqua spoke from prepared testimony ([Exhibit F](#)).]

I also have prepared some recommended changes to the proposed amendments to A.B. 227, ([Exhibit G](#)): In section 4, which says "in consultation with each agency which provides child welfare services..." We just added the language of "in foster care agencies." We would like to be at the table if and when these regulations are established for the licensing of foster care agencies and feel we

have important and valuable information to contribute to the work group process. Some of our provider agencies do have co-accreditation, which is the highest standards of accreditation for agencies that provide foster care services in our country, and again, those standards could be used as guidelines for this process, and we could bring that to the table.

We are, as a provider association, in support of the licensure of foster care agencies. We are committed to higher standards. I know Director Morton did mention that there are some concerns with the quality, and we have concerns as well, but we do want you to know that there are agencies out there doing really good work with children and families. We want everyone to be committed to, and held to, higher standards.

Section 4, subsection 3, removes the language regarding the "reasonable fee for the issuance and renewal of a license." As was just mentioned, of the states that we researched, there were no fees for this type of licensure. It is also our understanding that adoption agencies are not required to pay a fee for licensure in Nevada; therefore, in the interest of consistency, we would prefer to remove that fee provision from the bill and hope that there is another option for funding the positions that would be required for the licensing process.

In section 6, subsection 1, we just added the recommendation that the Division may also issue a provisional license of shorter duration subject to particular requirements. I thought that was important to add, given that this was a new process for some agencies, and it is consistent with other states where there are provisional licenses.

In section 18, we asked that the dates for the adoption of the regulations, if they are passed, be moved up to January 1, 2010. We realize that is a shorter time frame, as already expressed by Director Morton, however time is of the essence. If we have a deadline, then it could happen. We believe that a lot of the work for these regulations has already been done and also that there is language out there from other states that we can use.

We really feel as a provider agency association that licensure of foster care agencies is a good thing. It would bring the oversight of agencies under one entity, which we feel is a more efficient and effective way to build and manage a stronger provider network. Our system currently is disjointed in relation to oversight of existing agencies. No one entity in our state has the sole responsibility for even keeping track of how many agencies there are, but we answer to many different entities, and that is a concern. We also support licensure of foster care agencies. That is the first step in a process where the role of our agencies can eventually be expanded, to decrease duplication of

services that are occurring now, and possibly free up resources that can either be a cost savings to the state and counties, or be used to support other programs that have been under-funded.

Chairwoman Smith:

I would ask Diane Comeaux and Tom Morton to come back to the table. I have a couple of questions about the suggested amendments.

Assemblywoman Spiegel:

In the main mock-up amendment, the definition of foster care agency does not just mean nonprofit corporation, but also for-profit corporations and sole proprietorships which, to me, would seem to indicate a for-profit status. Ms. Bevacqua, what do you think about fees for for-profit organizations?

Jennifer Bevacqua:

I think that across the board, it would have to be the same for all agencies. I do not know the ratio of for-profit to nonprofit in our state; however, I think we have to be consistent with either a fee or no fee, and a sliding fee scale is also something to consider.

Assemblywoman Mastroluca:

Would a sliding fee be appropriate, based on the number of homes that the facility was overseeing?

Jennifer Bevacqua:

Our association is opposed to a fee. We really feel that the cost of providing the licensure should come from within the state's and county's budget. We want this, of course, but the fee should not be the sole fiscal support for this process to happen. If the Committee chooses to pass this bill with the fees amendment, we would support the recommendation, but I definitely want to confer with my counterparts. The sliding scale fee would be an appropriate alternative.

Assemblywoman Mastroluca:

Ms. Comeaux, have you done any kind of research as to what other states are charging for this and, if so, can you provide that to us?

Diane Comeaux:

No, we have not done that research, but the states we have discussed this with are not charging a fee. This was how the bill was written, so the fiscal note that we prepared assumed there would be a fee. If there is not a fee, then that \$86,000 would be drawn from State General Funds.

Chairwoman Smith:

Somebody has to pay; that is the bottom line. This does not happen without some staff and mechanism to bring it about.

Diane Comeaux:

That is correct. It is over and above what the agency is currently doing and, therefore, money would be needed to support this.

Chairwoman Smith:

Diane, would you talk a little about the comments made regarding the regulation that sets a timeline and the fact that we have some regulations that still are not adopted?

Diane Comeaux:

First, the timeline. As Mr. Morton had indicated, we are about to be visited by the Administration for Children and Families of the U. S. Department of Health and Human Services who will be doing our Child and Family Services Review (CFSR) the end of August. My staff, who would be responsible for developing these types of regulations, are all a part of that review, and up until the end of September to the first part of October, we will be spending all of our time focusing on just that and the follow-up that needs to be done. Accordingly, we would not have staff available to start the regulation process until the end of October.

We have done a lot of work on the regulation process for treatment providers, but as you look at this bill, it goes beyond that. It goes into providing case management services and the full array of child welfare services, and those are the types of regulations we would need to adopt. We have looked at a number of other states, and there are some very good regulations out there but the process is fairly lengthy. We first have to draft the regulations, hold workshops, and go through a process of having the Legislative Counsel Bureau (LCB) staff review them. I do not believe my agency could meet the timeline of completing them by January 1, 2010.

Chairwoman Smith:

What about the ones that have not been done? Are you anticipating getting those adopted soon?

Diane Comeaux:

My understanding from my staff is that in the early part of 2008 we submitted them to the LCB for review, and we have not gotten those back yet. The staff is behind due to the Special Legislative Session, and now with the session in full swing, we are still awaiting those regulations.

Chairwoman Smith:

Thank you, we will follow-up with our staff and check on that. Is this information correct, that it is has been two years?

Diane Comeaux:

I was not part of that process, but that sounds like what I have heard.

Assemblywoman Leslie:

Diane, the providers were saying they wanted to be part of the process, and it sounds like they wanted it written in the bill, but the public and interested parties are always included in the regulation process.

Diane Comeaux:

You are correct. That is a requirement of the overall process, and we always invite the providers to participate in the regulations.

Assemblywoman Leslie:

I do not know if the providers were thinking of a more proactive role; I am not sure what they mean, so maybe my question is really to them. Perhaps you can describe the regulation process.

Diane Comeaux:

We actually hold workshops. Part of the requirement of the regulation process is that everyone affected is brought together in work groups to help draft the regulations. Next, they go to the LCB for review, and then we hold public hearings where there is an opportunity to talk about the issues. The majority of the work with the providers would be done in the work groups before they go to the LCB.

Chairwoman Smith:

I am assuming what they are asking for is to be involved prior to that point. Ms. Bevacqua, could you address what involvement you are requesting? It is a little bit harder to be involved after an initial draft has been made, but if you will clarify that for us?

Jennifer Bevacqua:

We have been a part of the licensing regulations process for the past two years, and we would like to be a part of the process from the beginning. We are definitely invested and believe we have a lot of information to bring to the table, plus the experience we have had and the information that was gathered in the previous licensing work groups. The Division has been a great partner and I just want to reiterate that we want to be at the table.

Chairwoman Smith:

Diane, I want to go back to the fee issue and the statement made here that they should not pay fees because adoption agencies do not pay fees. Could you please clarify for the Committee what the difference is?

Diane Comeaux:

In NRS Chapter 127, the Division is required to license adoption agencies, called "child placing agencies," which are the private adoption agencies. There is no permissive language in that statute allowing the Division to charge a fee. I have one staff member who spends the majority of her time doing this, and there are seven adoption agencies statewide that she licenses. They do the initial license to ensure they are in compliance with all the regulations, and then the annual license is simply the review of the adoption cases that they have done.

Chairwoman Smith:

Remind the Committee again how many we are talking about licensing with this bill.

Diane Comeaux:

About 45.

Chairwoman Smith:

Is there anyone who wishes to testify in support of A.B. 227? [None.] Is there anyone who wants to testify against this bill, or neutral? [None.] Okay, I will close the hearing on A.B. 227, and we will take the amendments into consideration. You folks may want to talk to each other and see if there is any room for movement between the two of you, so we can figure out where we go next.

I think we have time to do the work session we were not able to finish on Monday. I will ask Ms. Joiner to go over that with us. You have a work session binder at your desks; please remember at the end of the meeting to take those documents inside if you want them.

Amber Joiner, Committee Policy Analyst:

Assembly Bill 76: Revises provisions governing the placement of children who are in the custody of an agency which provides child welfare services. (BDR 38-332)

Assembly Bill 76 was sponsored by the Assembly Committee on Health and Human Services on behalf of the Division of Child and Family Services. It was heard on February 16, and on February 18, 2009, it was referred to a

Subcommittee. The Subcommittee was held on March 5. You received the Subcommittee report on Monday, March 16. The Subcommittee's recommendation was to amend and do pass. Assembly Bill 76 requires the licensing authority for foster homes to conduct a preliminary name-based check of federal records of criminal history and of records of abuse and neglect in other states for certain applicants and employees seeking a license to conduct a foster home. The measure also provides certain licensing exemptions for certain caregivers related to a child within the third degree of consanguinity. The amendments are the same that were proposed at the original hearing on February 16, with the exception of amendment D, the word "voluntary" which was added to this amendment, which was considered by the Subcommittee and that was at the recommendation of Clark County.

The mock-up is also the most updated version [work session document ([Exhibit H](#))]. On page 2 of the mock-up there is some language in purple that is removed, and that would be to conduct a preliminary Federal Bureau of Investigation (FBI) name check, and that has been removed at the recommendation of Division of Child and Family Services (DCFS). Also, another change would be to remove "each licensing authority" and replace it with "the Division," and the reason for that is that it is the Division's responsibility to screen for abuse and neglect.

The next change on line 16, on page 2, is that the Division may charge other states and counties for the actual cost of conducting child abuse and neglect screenings that other states or counties request. This language is slightly different than the language on the main bill page for the work session because the main bill page says they would be able to administer a fee, but the Subcommittee had some concerns about new fees. This language would allow them to simply be reimbursed for the actual cost and to charge for the cost rather than have an administrative fee.

Line 40 is the next change which removes the word "voluntary." I believe it was explained during testimony that the reason for that is that "voluntary" usually refers to cases where children are given over voluntarily by their parents and these cases are not voluntary; so that change would clarify and not confuse the two different types of voluntary provisions.

Line 43 would change from the third to the fifth degree of consanguinity to allow more family members in the group. Line 45 changes from "someone who has not applied for a license" to "someone who has not been licensed;" that just changes the stage. And, finally, all of the changes were removed from section 3. My understanding is that was requested because there are no requirements for emergency placements in the Adam Walsh Protection Act.

Chairwoman Smith:

Thank you, Amber, well done. It is my understanding that there was agreement amongst the parties who worked on the legislation, and the Subcommittee recommended amend and do pass on this bill. Is there a discussion? I would entertain a motion.

ASSEMBLYWOMAN MASTROLUCA MOVED TO AMEND AND DO PASS ASSEMBLY BILL 76.

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

I will ask Assemblywoman Pierce to handle this on the floor since she was the Subcommittee Chairman.

Is there any other public comment to come before the Committee? [None.] Committee, I think we will go back to the two bills we heard today that seemed straightforward. If we can move a few of these out it will be good.

Assembly Bill 219 is Assemblyman Hardy's bill that we heard earlier regarding blood lead tests for children.

[Assembly Bill 219](#): Enacts provisions governing certain blood tests for children.
(BDR 40-682)

ASSEMBLYMAN DENIS MOVED TO DO PASS ASSEMBLY BILL 219.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

Assemblywoman Spiegel:

I am concerned that just having it read "encouraged" is not strong enough, and I am wondering if we can make it a little stronger.

Assemblywoman Mastroluca:

I believe if we change it to anything stronger it is going to affect the fiscal note.

Chairwoman Smith:

That is my feeling. This is probably all we can manage without sending it into the "black hole" of Ways and Means.

Assemblywoman Leslie:

We took this issue up in the interim in the Legislative Committee on Health Care and it was very frustrating because what they asked us to do and what we would like to have done would have cost so much money it would never have happened. I am sure Dr. Hardy remembers the work session where we went round and round and, finally, he said "Well, I'll just do a bill." And he did. "Encourage" does not mean much, but it takes money, and a lot of it, to get things moving. I share your frustration because it really will not do what needs to be done.

Chairwoman Smith:

I do think it is a step in the right direction. The one thing it does beyond encourage is demonstrate what the health departments need to do with the information, and that is helpful as well. Your concerns are duly noted. It has been moved and seconded, further discussion? [None.]

THE MOTION CARRIED UNANIMOUSLY.

Assemblyman Hardy will take care of that floor statement.

Let us go to Assembly Bill 137, which is the first bill we heard today, regarding the branch laboratories.

Assembly Bill 137: Revises provisions governing branch laboratories of the State Hygienic Laboratory. (BDR 40-201)

Assemblyman Hardy presented an amendment and we are comfortable with that amendment. I will entertain a motion.

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 137.

ASSEMBLYWOMAN MASTROLUCA SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Assemblyman Hardy will also take care of that bill on the floor.

That is all we have for bills, and if there are no other comments, this meeting is adjourned [at 3:18 P.M.].

RESPECTFULLY SUBMITTED:

Darlene Rubin
Committee Secretary

APPROVED BY:

Assemblywoman Debbie Smith, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: March 18, 2009

Time of Meeting: 1:48 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
AB 137	C	Assemblyman Hardy	Amendment
AB 219	D	Keith Zupnick	Testimony
AB 227	E	Thomas Morton	Testimony
AB 227	F	Jennifer Bevacqua	Testimony
AB 227	G	Jennifer Bevacqua	Amendment
AB 76	H	Amber Joiner	Work Session Document