

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

**Seventy-Fifth Session
March 23, 2009**

The Committee on Health and Human Services was called to order by Chair Debbie Smith at 1:32 p.m. on Monday, March 23, 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, Chairwoman
Assemblywoman Peggy Pierce, Vice Chair
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:

Assemblyman Ty Cobb (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst

Chris Kanowitz, Committee Secretary

Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Dawn Gibbons, First Lady of Nevada

Catherine Cortez Masto, Attorney General of Nevada

Mark Jackson, District Attorney, Douglas County, Nevada

Michael Haley, Sheriff, Washoe County, Nevada

Kevin Quint, President, Nevada Alliance for Addictive Disorders,
Advocacy, Prevention and Treatment Services, Las Vegas, Nevada;
Executive Director, Join Together Northern Nevada, Reno, Nevada

Kevin Schiller, Director, Department of Social Services, Washoe County,
Reno, Nevada

Ronald P. Dreher, Government Affairs Director, Peace Officers Research
Association of Nevada, Reno, Nevada

Elisa Maser, President and Chief Executive Officer, Nevada Advocates for
Planned Parenthood Affiliates, Reno, Nevada

Julianna L. Ormsby, Carson City, Nevada, representing Nevada Women's
Lobby, Reno, Nevada

Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public
Defender's Office, Reno Nevada

Lee Rowland, Northern Coordinator, American Civil Liberties Union of
Nevada, Reno, Nevada

Marena Works, Director, Carson City Health and Human Services,
Carson City, Nevada

Stacey Giomi, Fire Chief and Emergency Management Director,
Carson City Fire Department, Carson City, Nevada

Cari Rovig, Statewide Executive Director, Nevada Immunization
Coalition, Reno, Nevada

Beatrice Razor, Carson City, Nevada, representing Nevada Nurses
Association, Reno, Nevada

Fergus J. Laughridge, Program Manager, Emergency Medical Systems,
Health Division, Department of Health and Human Services

Glenn D. Savage, R.E.H.S., Environmental Health Director, Southern
Nevada Health District, Las Vegas, Nevada

Vivek K. Raman, R.E.H.S., Environmental Health Supervisor, Southern
Nevada Health District, Las Vegas, Nevada

Robert Sack, Division Director, Environmental Health Services Division,
Washoe County District Health Department, Reno, Nevada

Bill M. Welch, President/CEO, Nevada Hospital Association, Reno, Nevada
Harold Cook, PhD, Administrator, Division of Mental Health and
Developmental Services, Department of Health and Human
Services

Chairwoman Smith:

[Roll called. Quorum present.] We have a busy agenda today, and we need to move through three bills and a work session before we have to go to a second floor session. I will open the hearing on Assembly Bill 337 and ask Assemblywoman Leslie to come to the table to present the bill.

Assembly Bill 337: Creates the Office of Statewide Coordinator for Children Who Are Endangered by Drug Exposure in the Office of the Attorney General and makes various other changes concerning children who are endangered by drug exposure. (BDR 38-593)

Assemblywoman Sheila Leslie, Washoe County Assembly District No. 27:

The First Lady, Dawn Gibbons, is here with me, as well as my intern, Michael Cabrera, who prepared the PowerPoint presentation that we are going to present to you today. As some of you might remember, Mrs. Gibbons was a member of this Committee for seven years. With your permission, I would like to turn over the opening remarks to Mrs. Gibbons.

Dawn Gibbons, First Lady of Nevada:

The State of Nevada is facing serious methamphetamine challenges, particularly with children who are endangered by being exposed to the drug in their own homes. As a member of the Governor's Working Group on Methamphetamine Use, I have seen the effects drug exposure has on children while on home visits with law enforcement officials and through testimony gathered during our committee hearings. In December 2007, our working group made recommendations regarding those drug endangered children to the Governor and Legislature. We agreed that a Nevada Drug Endangered Children (DEC) Alliance was needed; a state-level system in place for the purpose of protecting and serving drug endangered children. Part of that proposal included recommending the creation of a statewide coordinator and support staff, with some operating expenses. The responsibilities of the Nevada DEC Alliance would be to create county contracts, develop comprehensive training and training resources for county DEC teams, collect available data, develop a DEC tracking system, create an advisory board, engage in strategic planning, and create a DEC program evaluation system. Nevada needs the statewide DEC program because our children must be protected from the danger of being exposed to illegal drugs, methamphetamine labs, and other problems associated with substance abuse. Please help us protect our kids.

Chairwoman Smith:

Thank you, Mrs. Gibbons, for your testimony and for all the good work that you have done in this area. I know the Committee members join me in being appreciative of your work.

Assemblyman Stewart:

Can you tell us other states that have similar programs?

Assemblywoman Leslie:

That is included in our PowerPoint, so we will get that information in a minute. I want to note for the record that we have several elected officials in the audience. We have the Attorney General of our State and the Washoe County Sheriff, and I appreciate them being here today.

We will than move on to the PowerPoint, which I think will give you a good background in this issue. There are some issues with the bill language that you will hear about, but I will let those who are to testify address that.

[Presented PowerPoint ([Exhibit C](#)).]

I pledge my efforts to work with people after the hearing, if an amendment is needed, so that we can have a bill that everyone can support.

Chairwoman Smith:

I do not see in the bill the actual creation of the DEC Alliance. I only see the creation of the statewide coordinator and verbiage regarding programs. Am I missing that?

Assemblywoman Leslie:

That is a very good question. I was considering putting in a mandatory clause that mandated that every county have a DEC Alliance and produce a DEC plan, but I thought that was going too far, so instead I went with the idea of the statewide coordinator, who would work with the individual counties. Typically each county has a law enforcement agency, so every county would be different. I would hope that, once we had someone in charge of the program from the state network, they would be able to work with different alliances at the local level.

Chairwoman Smith:

This is very important. In fact, in my own neighborhood, a few houses away, a three-year old child died a couple of weeks ago from an overdose on her mother's legal drugs. It is such an important issue, and it happens right under our noses.

Assemblywoman Leslie:

I think public awareness is a benefit that we would get from the DEC Alliance to really raise the public's level of awareness that you cannot leave medication out where a child can get it.

Catherine Cortez Masto, Attorney General of Nevada:

On behalf of the Governor's Working Group on Methamphetamine Use, we support this bill. If you recall, last year we provided a final report to the Legislature and to the Governor. In our report is the discussion regarding drug endangered children, and the recommendations that we made to the Governor and to the Legislature. This is one of the recommendations, that we create this statewide DEC Alliance. To address the last question, I want to be clear that the intent of this bill is to create a statewide protocol that is uniform throughout the state, but allows those local communities who may have unique needs, to develop those as well, in addition to the statewide protocol. That is what this statewide coordinator will be doing: working with our Methamphetamine Working Group and working with our 12 community methamphetamine coalitions that work within our 17 counties, who are really the hands-on groups in our communities that are addressing methamphetamine and other drugs of abuse.

This is enabling legislation, and the provisions are just what Assemblywoman Leslie described. I realize that we have no General Fund dollars to support this coordinator position, but the intent is to give us the ability to go after federal dollars, grant funding, or gifts that may come in to allow us to support this position. Hopefully, with this legislation, we will be able to do that. With respect to the specific provisions, I would ask that Mark Jackson, who is also part of our Methamphetamine Working Group, address your questions. I will note that many of us who are testifying to you today sit on the Methamphetamine Working Group and a number of our community coalition members are here in support of this bill.

Mark Jackson, District Attorney, Douglas County, Nevada:

I want to address some of the issues regarding what the definition of a drug- endangered child is and to answer some questions that anyone may have regarding whether or not those certain provisions are constitutional.

We all know that there has been an increasing concern about the negative impact of methamphetamine on children. Separate and apart from the implementation of a statewide coordinator, we really need to define what is important to Nevadans when we are talking about our most vulnerable and voiceless victims, our children. We know that we have children in drug homes throughout the State of Nevada. Many states have responded to that issue

over the course of the last decade by expanding the definition of child abuse or neglect. Approximately half of the states, I have actually counted 24 with Nevada being one of them, already have legislation regarding the issue of exposing children to illegal drugs as part of a criminal statute. This Legislature, back in 2005, added *Nevada Revised Statutes* (NRS) 453.3325, making it unlawful for a person to allow a child to be present during the commission of certain violations of the Uniform Controlled Substances Act.

Most of the states are now enacting legislation where certain acts and circumstances are considered child abuse or neglect. For example, prenatal exposure of a child to harm due to a mother's use of an illegal drug or other substance is considered abuse or neglect already in Arkansas, Colorado, the District of Columbia, Illinois, Iowa, Louisiana, Massachusetts, Minnesota, North Dakota, South Dakota, and Wisconsin. Section 2, subsection 1 of the bill, is that type of language. This almost mirrors the language out of the State of Iowa and some of the other states. Those similar types of statutes have existed in Iowa, for example, for four years. I think the same questions regarding the constitutionality of this language, whether or not it was too broad, were raised as part of that legislative process and prior to the enactment of that particular bill. I am not aware of a Supreme Court opinion in the State of Iowa, although I have looked, but I cannot imagine that there were not some attacks in the trial courts over the course of the last four years. That particular provision has been able to fend off all constitutional attacks for at least four years.

Another example would be the manufacturing of a controlled substance in the presence of a child, or allowing a child to be present where chemicals or equipment for the manufacturing of a controlled substance are used or stored. There are about 12 states that have that type of legislation.

Section 2, subsection 2 of A. B. 337 addresses a child who illegally has a controlled substance in his body as a direct and foreseeable result of the act of a person who exercises control or supervision over that child, and is almost exact language out of the State of Iowa. They have had that legislation in effect for four years. This is different from prenatal drug abuse. What this deals with, unfortunately, are those children who ingest an illegal substance or come in contact with a hypodermic device, such as a needle, which penetrates the skin, and now the child has methamphetamine or heroin in his system. Those are all foreseeable events, which could be avoided if the drugs were not present in the home, or put in a place where the child is present.

Section 2, subsection 3 is the language from NRS 453.3325. Those are the exact types of acts which are now illegal in the State of Nevada, and have been for four years. That was important enough to the Legislature four years ago when the state said that we do not want people using drugs, possessing drugs, selling drugs, or manufacturing drugs where kids are present, whether that is in the vehicle that they are driving or in the home. It is so important to us that we are making that a specific criminal penalty.

What are we doing on the civil side of this issue? Under NRS Chapter 432B, the state can file a petition alleging that the child is now in need of protection. I know some might think that since we already have existing statutes, there should already be a way to protect these children. My response would be that it depends. It depends on which District Attorney's office you call, which prosecutor you talk to, which deputy handles the call, which social worker from the Division of Child and Family Services is contacted, et cetera. This bill, A.B. 337, makes it abundantly clear that we protect our vulnerable and voiceless victims: our children.

Chairwoman Smith:

Currently, there is not a description of a child who is endangered by drug exposure anywhere else? This would give us that brand new description?

Mark Jackson:

That is correct. The bill provides three specific definitions for a child who is endangered by drug exposure.

Assemblyman Hardy:

I am looking at section 2, subsection 2 of the bill. I suspect that when the bill says "a child" it is referring to someone who is under the age of 18?

Mark Jackson:

That is correct.

Assemblyman Hardy:

So a child who is under 18 has a prescription for some Tylenol with codeine and his parents give that prescription to their other child. Are we going to charge the parents with child abuse, since they illegally gave one child someone else's prescription?

Mark Jackson:

The actual definition would not be child abuse, it would be considered negligent treatment. Administering a prescription medication to someone other than the person it is prescribed to carries a criminal penalty.

Assemblyman Hardy:

So what is that criminal penalty?

Mark Jackson:

That would be a "Category E" felony under our Uniform Controlled Substances Act, Chapter 453.

Assemblyman Hardy:

I appreciate what you are saying, but I think there are some inherent challenges with the interpretation.

Mark Jackson:

I agree, and I will tell you that I am not aware of a case like that being prosecuted. It brings up the issue of a parent administering a prescription to their child's friend, and that child overdoses. The parents of the child who overdosed are going to want some type of justice, so it comes down to the prosecutor exercising discretion and trying to follow the intent of the law. The intent is not to deal with, for example, a 17 year old being provided codeine tablets that were prescribed for his 18 year old brother. That type of situation is not addressed in the intent of this bill.

Assemblyman Hardy:

So how about the two year old who has a cough, and the mother administers Robitussin with codeine, and then the other child gets a cough two days later, and the mother has the Robitussin and shares it with her other child? Is that addressed in the intent of this bill?

Mark Jackson:

Again, I think that any prosecutor would have to exercise his own discretion. For me, as the elected District Attorney, in that type of case, the discretion that I would exercise would be to not criminally prosecute the case or to file a petition alleging that the child is need of protection.

Assemblyman Hardy:

Thank you. I wanted to get to the legislative intent.

Chairwoman Smith:

I would like to clarify something. For the purposes of this bill, we are talking about this definition as it relates to forming this coordinator position and his duties. We are not talking about prosecution. That is handled in a different place. So tell me how these issues relate to each other, or does this mean that the Assembly Committee on Judiciary would have new definitions to take up in their committee with regard to this issue?

Mark Jackson:

There are really two parts to A.B. 337. Sections 3 and 4 would create the office of the statewide coordinator for the statewide DEC alliance, and that statewide coordinator could assist the counties in creating a DEC alliance within that particular county. In other words, the counties are going to know what types of resources they have available to them and how to coordinate efforts between law enforcement, prosecutors, the mental health field, and the medical field in that particular county.

Separate and apart from that is amending NRS Chapter 432B, and this is the particular chapter of the NRS where if there is a form of abuse or neglect, the state would file a petition in district court. It is a civil petition, non-criminal, alleging that the particular child who has been abused or neglected is in need of protection. Typically, it can result in a removal of the child, although it does not have to. There can be other things that can be done. Contracts can be worked out with the state, where the parents agree to abide by certain conditions, such as going into an inpatient treatment program. It would define that we recognize there are vulnerable children, and these specific acts would be considered negligent treatment of that child.

Chairwoman Smith:

But that does not relate to prosecution?

Mark Jackson:

Correct. It does not relate to prosecution.

Chairwoman Smith:

I just want to be very clear where we are headed with this, so that there is no question about what the intent is and what the consequence is.

Mark Jackson:

In section 2, subsection 3, that particular statute, NRS 453.3325, is a criminal statute that says that it is unlawful for any person to allow a child to be present where drugs are being possessed, sold, used, et cetera.

Chairwoman Smith:

But that is already in statute?

Mark Jackson:

Yes, that is already in statute. You are taking that and saying if you find a child in this type of situation, this child is to be considered a drug endangered child.

Chairwoman Smith:

In subsection 2 of section 2, the issue that Assemblyman Hardy has raised would relate to the possible removal from the home, or that type of action, not criminal prosecution?

Mark Jackson:

There are some statutes that are already in existence where that person who is responsible for the care of the child, whether it be the parent, the guardian, or caregiver, could be criminally prosecuted. However, NRS Chapter 432B, as amended, does not provide a mechanism for criminal prosecution.

Chairwoman Smith:

I think that is what I was trying to get to. Dr. Hardy, do you require any additional clarification?

Assemblyman Hardy:

The way I read this, and maybe I am just missing the point, it seems to me that we are putting in place a new ability to enforce. That is good in this case, but nonetheless what we are doing is new, and therefore has new implications for somebody to be liable for the full prosecution of the law. In this statute, it does not seem to want to address that issue on this committee. Am I missing that?

Mark Jackson:

I am sorry, I am not really sure what you are asking.

Assemblyman Hardy:

Neither am I, so I will defer to someone else.

Michael Haley, Sheriff, Washoe County, Nevada:

In January 2007, an Executive Order was issued to create the Working Group on Methamphetamine. The purpose of the Group was to study the impact of methamphetamine use on the public services agencies across the state. In preparation for submitting the final report to the Governor, the Working Group spent many months listening to coalitions, recovering drug users, members of the treatment and prevention community, educators, government officials from various states, and many others. Attorney General Mastro was Chair of this

committee, and she, along with our First Lady, Dawn Gibbons, and other constitutional officers, legislators, tribal leaders, state and county health services agencies, juvenile justice agencies, and law enforcement agencies, gained a great deal of knowledge about methamphetamine and other drugs, and how best to address the horrific problem that we are presented with in this state. The DEC program kept inching up to the top as a platform by which we could address this in a collaborative way. As a member of this Working Group, and as the current Vice Chairman of the Drug Enforcement Agency (DEA) Statewide High Intensity Drug Trafficking Board, and the Sheriff of Washoe County, I am asking you to create a vehicle by which we can collaborate in this state to protect our children from exposure to methamphetamine and other drugs.

Recently, law enforcement agencies across the state were awarded some discretionary grants to better enforce drug laws, most specifically, the enforcement of drug laws involving the use of methamphetamine. My first hope was to use those grant funds to create a DEC program in Washoe County. I had immediate support from community groups who testified to the Governor's Working Group about the effectiveness of such a program. My hopes were almost dashed, however, because I had a very short period of time in which to move valuable funding from my office, which were discretionary funds, to a program that would collaboratively help kids in drug environments. I did not have a coordinated mechanism by which to move that funding, nor a template in this state by which to create a DEC program in an effective way. Because of this, I had to choose another organization—a group of juvenile justice practitioners who already had some programs in place that keep kids active in the summer and focused on other things in the hopes of keeping them away from methamphetamine and other drugs.

We all know that innocent children are found in these homes and other drug environments, such as hotels, cars, and apartments. The DEC program has been developed to coordinate the efforts of law enforcement, medical services, and child welfare workers to ensure that children found in these environments receive appropriate and immediate attention and care. Children who live at or visit drug production sites, or are present during drug production, face a variety of health concerns and safety risks that include some of the following: inhalation, absorption, and ingestion of the drugs. Their food can become contaminated and result in nausea, chest pains, eye irritation, tissue irritation, chemical burns, and death. Fires and explosions are the results of some of these drugs being produced. Abuse and neglect follow. Hazardous lifestyles in these homes include the presence of booby-traps, firearms, code violations, and poor ventilation. A statewide coordinator could address some of the following: staff training; roles and responsibilities of the agencies that interact with the

Attorney General's Office; appropriate reporting and cross reporting; information sharing; safety procedures for children, families and responding personnel; interviewing procedures; evidence collection and preservation procedures; and medical care procedures.

One final comment I would like to make is in regard to the threat of drug trafficking in this country, and why we need to move quickly and decisively in this area. There were 200 home invasions last year in Tucson, Arizona, alone. Children were present. In some of those home invasions, the guns of the invaders were actually put in the mouths of these children to convince the parents to do whatever the drug cartels wanted them to do. We believe that traffickers distributing marijuana, cocaine, heroin, methamphetamine, and other drugs were responsible for a rash of shootings in Vancouver, British Columbia; kidnappings in Phoenix, Arizona; and brutal attacks in Birmingham, Alabama. There are 230 cities, including Boston, Billings, Montana, Atlanta, and Anchorage that have Mexican cartels influencing their regions as they distribute their drugs. We have the same challenge here in the State of Nevada. Mexican cartels are competing; they are competing for the rights to distribute drugs in this country. We need to curtail our use of drugs in this country so that the suppliers have no market for their products, and we need to protect our children in the process. Last year alone, the Washoe County Sheriff's Office handled 2,298 arrests for drug use with children present during the drug use.

Kevin Quint, President Nevada Alliance for Addictive Disorders, Advocacy, Prevention and Treatment Services, Las Vegas, Nevada; Executive Director, Join Together Northern Nevada, Reno, Nevada:

We are here in favor of this bill. I want to give you a couple of points to think about. People who are addicted to any drug, including alcohol, are not always present and accounted for, so to speak, when it comes to taking care of the everyday business of living life. A particular concern is the fact that despite all the pictures we can show, and all the things that we can say that are terrible that have happened, probably one of the biggest long-term concerns that we have is for the children who are not properly nurtured. These children suffer from attachment disorders, and often suffer from emotional problems as adults.

It is commonly thought that these parents do not care about their children. I am a treatment professional, and I am here to tell you that these parents, for the most part, do love their children, but because they are addicted, they are unable to connect what they are doing with the horrific things happening to their children. What this legislation will do is help us to not only help the children, but also help the parents find an avenue to get help themselves, so there will be less parents harming their children in the future.

Lastly, in Washoe County, our coalition is working on a DEC protocol, although I have to tell you that it is a long, arduous haul. It is hard work, but we are doing it. We are thrilled about this legislation because it will help us get our job done in Washoe County to develop this protocol that will help enable first responders, Child Protective Services (CPS), and law enforcement to do their job with these children. Passage of A.B. 337 will be a big first step in helping our drug endangered children get the help they need, and to help these children's parents as well.

[At the request of the Chair, Kevin Quint's written testimony ([Exhibit D](#)) was entered into the record.]

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

On behalf of Washoe County, I would like to voice our support for this bill. There are two provisions in this bill that have been testified to. One is the establishment of this program and a statewide coordinator in the Attorney General's Office, and the other is related to how NRS Chapter 432B is amended in relation to how we react to these situations. I would want to point out that there are a couple of areas, and I do not think it is anything insurmountable, that I think we can overcome. One would be specific to the issue of how you define a substance being confirmed in a child's body.

Regarding neglect, I believe the overall intent of this bill is to use NRS Chapter 432B as our foundation and then define neglect. I think that overlaps into the issue of the presence of a substance in the home of a child. Pursuant to what we currently do, we would be evaluating that based on the substantiation of the neglect and an investigation.

There are two levels pursuant to our agency substantiating. You can have an investigation that results in a substantiation that does not have court involvement, which is a substantiation just through the agency. Or you could have circumstances where removal of the child becomes necessary or court involvement becomes necessary, where we would petition pursuant to NRS Chapter 432B.

Overall, we are in support of this bill and we are willing to participate in any amendment language that needs to be put in to alleviate some of the concerns regarding the definition of the substance and the definition of neglect.

Assemblyman Hardy:

I think that is where I was going. We have already had these discussions about foster placement, and I think there is some commonality that we can work with.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada, Reno, Nevada:

We support A.B. 337 and ask that you pass it. Thank you.

Elisa Maser, President and Chief Executive Officer, Nevada Advocates for Planned Parenthood Affiliates, Reno, Nevada:

We have five health clinics, we see 60,000 clients per year, and we support education and services to help women make healthy decisions and to have healthy children. In several states, we have seen when prenatal drug abuse, either legal or illegal, is criminalized, what women tend to do is avoid prenatal of any kind. It is not clear whether the main focus of this bill is criminalizing women's drug use, or creation of this DEC program, which we certainly support.

I know from personal experience as the stepmother of a stepdaughter who spent every other weekend in a drug endangered situation. We ended up calling CPS. Her mother, who was a methamphetamine user, wound up going to Washington State to get substance abuse treatment because we do not have the services and substance programs in Nevada that we really need for women. Whether we like it or not, sometimes the best way to create healthy families is to focus on women and their interest in providing care for their children.

We do support any law that would create healthy babies and healthy families.

[At the request of the Chair, Elisa Maser's written testimony ([Exhibit E](#)) was entered into the record.]

Julianna L. Ormsby, Carson City, Nevada, representing Nevada Women's Lobby, Reno, Nevada:

We support the intent of this legislation, we appreciate the concerns that have been raised, and we look forward to further discussion on this bill.

Chairwoman Smith:

If there is anyone who would like to testify in opposition to A.B. 337, please come forward at this time.

Orrin J. H. Johnson, Deputy Public Defender, Washoe County Public Defender's Office, Reno, Nevada:

Our concern with this bill is primarily the over-breadth of section 2, subsection 2 and subsection 3 of the bill, and I will address that in a moment.

It is important to understand that nobody is arguing that children who are found in a methamphetamine lab should not be rescued. Our concern is that the

current law already provides for the protection of those children, and that the bill, as it is currently proposed, would not only protect those children, but it would potentially draw in all kinds of families that were not meant to be impacted by full-blown dependency proceedings. Therefore, the broad language concerns us. The right to parent is a fundamental one, recognized by the Supreme Court of the United States, and as such, due process requires that we take care before the state intrudes upon that relationship. Here, looking at subsection 3, it says that "a child who is allowed...to be present in any conveyance or upon any premises wherein a controlled substance is unlawfully possessed..." has incredibly broad implications. Could I be subject to a dependency proceeding if I brought my child to a friend's house where I did not know at the time that they had a bag of marijuana in the kitchen cabinet? Whenever we start looking at taking a child away from a family and bouncing them around in foster homes, it is clear that there are other problems, and a balance that must be found in terms of how we actually address this problem. Certainly children in a methamphetamine lab need to be taken away, but do we need to burden the system, the Public Defender's Office, the social services system, and law enforcement with somebody who has a minor drug offense or even a prescription drug offense?

This is really an issue of resources and justice when it comes to making sure that we are getting the right people covered by this. The law currently allows children who are born prenatally addicted to drugs to be taken away. There are already children who are in need of services. The law already allows for a child found in a methamphetamine house containing a methamphetamine lab to be taken away, protected by CPS, and placed into foster care. The law already allows a child who is found having ingested methamphetamine in the home of somebody who is trafficking to be taken away from those parents and protected. There is always a danger when you change the law, although I know you are trying not to take away too much discretion from the courts.

That is our concern. We believe that this bill is unnecessary, and we would ask that we focus on what we already have now and enforce current law, rather than worry about legislative language.

Assemblyman Hambrick:

I appreciate your concerns about over-broad statements, but looking at what we are trying to establish today, and what is already in existence, I am not going to worry about it, because it is already there. It is already a matter of law. What we are trying to establish today is a policy statement. We want to establish someone in policy that can assist the communities to address issues. The bill that we are looking at today, in reading what is in front of me, I do not see a single penalty. No jail time and no fine. It is all a matter of an individual being

established within the Attorney General's Office to go into the communities and assist in establishing their policies. I want you to explain as best you can what your exact objection is to the language that we have in front of us today.

Orrin J. H. Johnson:

If this is passed, the entire statutory scheme must be read as a whole. Once a child is designated, under this definition, as being endangered, that will certainly implicate, allow for, and become the basis for which the children will potentially be taken away from their homes. I understand and appreciate the policy statement that is trying to be made, but the language as it would be written and as it would be incorporated into law would allow CPS to come and take a child away from a parent.

Assemblywoman Leslie:

I have a variation on Assemblyman Hambrick's question, because I think you were a little misleading in your testimony on subsection 3 of section 2 of the bill because that is existing law. The example that you gave is already existing law. Just to clarify, are you objecting to CPS having another venue to petition?

Orrin J. H. Johnson:

Yes, that is correct. I apologize, I certainly did not intend to be misleading in anyway.

Assemblywoman Leslie:

That is what it sounded like to me, and I do not know if Assemblyman Hambrick heard it that way too, because we are not talking about changing NRS 453.3325. I think your objection is more about giving CPS an avenue to petition, and what you are saying is that they already have that avenue to petition, they already have the discretion to remove a child through existing statute. So you find this to be unnecessary. I am just trying to understand your argument.

Orrin J. H. Johnson:

Yes.

Assemblywoman Leslie:

Then the other side of the argument, that we heard from the District Attorney, was that we need this definition of drug endangered children in here to establish the statewide policy, so that every District Attorney does not interpret it differently. What is your response to that argument?

Orrin J. H. Johnson:

If the purpose is to broaden how CPS would actually respond in a situation, then we have some concerns. Right now, CPS uses its own judgment whether or not to remove children from their homes because there may be circumstances when removal is not warranted. For example, there may be a small amount of marijuana in the house, but the child is in no immediate danger, so removing the child from the home would not be necessary. If this bill is passed, CPS and similar agencies will be in a position of having no other alternative but to remove the child and begin a dependency proceeding because the Legislature has given them no other choice, even if they feel it is not warranted or just. That is what concerns us.

Assemblywoman Leslie:

I think that is a valid concern. I do not quite see it that way. I do not see it as an expansion, but as a clarification.

Lee Rowland, Northern Coordinator, American Civil Liberties Union of Nevada, Reno, Nevada:

We had indicated that we are opposed to the bill, but I would like to clarify that we have no opposition to the creation of the Office of the Statewide Coordinator, so the fundamental aim of the bill is not something we oppose. Our concerns at this point stem from both sections of the bill, in the sense that they are both creating new duties to report, as well as changing the definition of child abuse and neglect by adding in a child who is endangered by drug exposure. Our concerns really do focus on the addition of that one word, which is "prenatal." There was a lengthy discussion earlier where you stated that this was not intended to create a criminal prosecution for prenatal drug use.

Our concerns stem from the fact that in the very chapter of NRS that this bill is amending, NRS 432B.380, is the specific statute that does suggest that child agencies should be reporting these crimes to law enforcement, and explicitly gives them the ability to do so any time there are concerns. In this bill, you have what I think is potentially a tragic situation, where a child has been subjected to some illegal drug use. There is no question that the state has an interest in helping those children. We believe the problem is that criminalizing that behavior or having negative penalties for that behavior has worse consequences.

First, pretty much every social service agency, including the American Medical Association and the College of Obstetricians and Gynecologists, oppose any kind of criminalization of prenatal drug use for the reason that peer reviewed studies tend to show that criminalization does have the effect of making drug-using mothers avoid the health care system. I think that is the worst case

scenario for everyone involved. What we absolutely do not want is to discourage people from seeking help about drug use. Because this bill will increase the reporting requirements to a vast array of individuals, combined with the new definition of prenatal illegal substance abuse, we think it creates extraordinarily difficult situations. Someone may be aware of a person's drug use, and feel that they now have a mandatory duty to report it, even though that drug use may have occurred before the woman even knew she was pregnant. Since this is not defined in any way to say "knowingly used" or "knowingly placed a child in danger," we are in the situation of criminalizing prenatal drug use, because this section has a direct criminal provision in NRS Chapter 432B. There are several states that have adopted criminal or penal provisions for prenatal drug use. Every single one has been involved in a lengthy court battle. The State Supreme Courts of Maryland and New Mexico have declared that any such inclusion of prenatal activity to child endangerment laws is unconstitutional. We share those concerns. We also share Mr. Johnson's concerns with respect to the breadth of section 2.

We would also share the concerns that were stated by Assemblyman Hardy, that this covers every single title of controlled substance, and in addition to that, covers all homeopathic medicine, as well as medical marijuana. There are some gray areas when we are talking about those issues. Methamphetamine is black and white. When we are talking about not properly following the regulatory procedure for a homeopathic medicine, I think there is a whole lot of grey area there where that is not a situation where we want to automatically turn that into child abuse and neglect.

For us, our opposition to the bill stems from the over breadth in all these definitions, because as they are imported into the current law, under sections 5 and 6, by increasing those reporting requirements, and also by redefining prenatal illegal substance abuse as negligent or maltreatment, we think we are really creating issues, not only for due process, but also for a woman's right to choose. We are ultimately criminalizing prenatal activity, and we believe we are discouraging women from seeking help in the system. We oppose the bill as it stands, but want to be clear that the ultimate goal of creating the coordinator is not anything that the ACLU has any issue with.

Assemblyman Hambrick:

I want you to clearly define the end of prenatal care.

Lee Rowland:

I think the courts would be best to answer that question because I think any answer I give will be arbitrary. I am not a medical professional. I think I would defer to the decisions the courts have made. While I personally would define

prenatal care as anything until the moment of birth, I think the question that you are asking deals more with when the state, legally, has an interest in making sure a fetus is safe, and the courts have said that it is in the third trimester.

One of the concerns I have about this bill is that this bill would criminalize a situation where, for example, a woman has used marijuana several times in the past week, and then she discovers she is pregnant. Because there is no requirement of intentionality or knowledge, that woman is in an incredibly awkward position of "damned if you do, damned if you don't." If that woman decides to have that child, she could be on the hook for a violation if that child is born with any kind of deformities for having chosen to have that child after having used drugs. Even if she did not know she was pregnant. However, the alternate option is having an abortion. I do not think the state ever wants to incentivize that behavior. My concern here is the fact that this definition includes everything prenatal, again with no knowledge or intent requirement, so we could literally be talking about a woman who realizes she is pregnant after using a drug and is put in the position of having to decide between possible criminal charges and abortion.

Assemblyman Hambrick:

I believe you answered the question. As far as you are concerned, it is the moment of birth. That is the answer I wanted. Thank you.

Assemblyman Stewart:

I have a question for the Attorney General. Your responsibility would be to appoint someone. You mentioned that you thought you could acquire federal funds. Is that pretty certain, that you would acquire federal funds to fund this position?

Catherine Cortez Masto:

I wish it was. It is never certain whether or not you will get federal funds, but yes, we are going to do everything we can to apply for those funds, once they become available.

Assemblyman Stewart:

Have other states utilized federal funds to fund this kind of position?

Catherine Cortez Masto:

Yes.

Chairwoman Smith:

I think we have a few unanswered questions regarding this bill, and I would say that it will obviously need to be rereferred to the Ways and Means Committee

because it does have a significant fiscal note and requires a new position. In addition, I would encourage the sponsor to work with the Chairman of the Judiciary Committee to look at the judiciary piece of this legislation, to see if we can resolve some of these unanswered questions.

With that I will close the hearing on A.B. 337. We have a bill draft request introduction for our Committee.

BDR 40-1224—Revises provisions governing public health and welfare. (Later introduced as [Assembly Bill 525](#).)

ASSEMBLYWOMAN MASTROLUCA MOVED FOR THE
COMMITTEE INTRODUCTION OF BDR 40-1224.

ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN COBB WAS ABSENT
FOR THE VOTE.)

Chairwoman Smith:

I will open the hearing on Assembly Bill 349 and Assemblywoman Parnell will introduce the bill.

Assembly Bill 349: Revises provisions governing certain emergency medical technicians. (BDR 40-1022)

Assemblywoman Bonnie Parnell, Assembly District No. 40:

Assembly Bill 349 requires that the State Board of Health in a county with less than 400,000 people prescribe regulations for the endorsement of intermediate emergency medical technicians to administer immunizations and dispense medication, while under the direct supervision of a local health officer, and provide certain services for the community in a public health emergency or to otherwise satisfy public health needs. During actual public health emergencies and exercises to prepare for public health emergencies, there is a need to expand the number of practitioners who are qualified to administer vaccines, such as flu vaccines during a pandemic, or dispense medication, such as antibiotics for Anthrax. Assembly Bill 349 addresses this need for expansion. It is my pleasure to introduce Ms. Marena Works, the Director of the Carson City Department of Health and Human Services, who will expand on the need for this legislation.

Before she begins, I would like to brag for a moment about Carson City, and what many have been able to achieve. I have known Ms. Works for some time

since she was a school nurse. Last fall, when they performed flu clinics across the state, per population, Carson City vaccinated more than any other place in the state. It was almost like a carnival. It was so crowded, that many people could not wait. It was very successful, so I congratulate the city on that. I also want to thank the State Board of Health. They have cooperated in this effort, and have tried to do what they can to get this program up and running before the next flu season.

Marena Works, Director, Carson City Health and Human Services, Carson City, Nevada:

I am here to present information on A.B. 349, which would expand the scope of practice for intermediate level emergency medical technicians (EMTs) so they would be able to administer immunizations, dispense medications, and provide certain services in a public health emergency.

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

In addition, I would like to propose an amendment ([Exhibit G](#)) to expand the application of this bill to also include emergency medical technicians.

Assemblywoman Mastroluca:

My first question is, can you tell me where the fee of \$5 comes from?

Marena Works:

It was arbitrary.

Assemblywoman Mastroluca:

Is there a reason for the fee?

Marena Works:

Mostly to process paperwork.

Assemblywoman Mastroluca:

It says that the endorsement must be renewed, but I cannot see how long it is good for. Is it an annual renewal? A five-year renewal?

Marena Works:

The intent is for the State Board of Health to develop the actual policy. The intent is for the *Nevada Revised Statutes* (NRS) to be a little broader, and for the *Nevada Administrative Code* (NAC) policy to tighten up the length of time and the particulars.

**Stacey Giomi, Fire Chief and Emergency Management Director, Carson City
Fire Department, Carson City, Nevada:**

In a lot of the rural communities, nurses are often few and far between. In the event of a public health emergency, or some other sort of disaster requiring broad immunization, in these small communities often the only people there to treat them are the volunteers in the local fire departments, or the local paramedics. From that perspective, this legislation is very important. As Ms. Works indicated, smaller counties are troubled by collecting enough people to immunize the population. When Carson City does their immunization clinic, the number of volunteers in that clinic is close to 100, if not more. If you look at some of those other counties, they just do not have that ability. I really believe this is necessary in those smaller communities. I am also very supportive of it because it does not require all intermediate EMTs or paramedics to get the certification. It only requires it in those communities where it is necessary. So it is not adding an undue burden to those volunteer departments. At the same time, it is giving those local communities the option to add that skill level, if they feel that skill set is necessary within their community.

We also wholeheartedly endorse the paramedic component of the suggested amendment ([Exhibit G](#)) as well, and we support putting the renewal component in the same cycle as the already existing biennial renewal for EMT and advanced EMT certification.

Chairwoman Smith:

I have a question about the amendment on advanced EMTs. Is an advanced EMT different from an EMT? If so, why do you have to add that language?

Marena Works:

My understanding of EMT law is that the advanced EMT is the higher level, and you have to specify each level.

Stacey Giomi:

That is correct. There is a basic EMT, an intermediate EMT, and an advanced EMT. If you add a skill set to an intermediate EMT, it does not automatically add that skill set to an advanced EMT. You have to specify it within each skill level.

**Cari Rovig, Statewide Executive Director, Nevada Immunization Coalition,
Reno, Nevada:**

We are a nonprofit community partnership of public and private organizations throughout Nevada dedicated to decreasing vaccine-preventable diseases.

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

Chairwoman Smith:

Is there anyone else to testify on A.B. 349?

Beatrice Razor, Carson City, Nevada, representing Nevada Nurses Association, Reno, Nevada:

I submitted an amendment ([Exhibit I](#)) and I believe you have a copy of it. I am actually going to rescind my amendment. This is mainly because, after having a discussion with the Health Department, we have found that instead of my lengthy amendment, we would like to recommend that section 1, subsection 1, paragraph (c), should read "Respond to an actual epidemic, or other public health emergency in the community, as defined in NRS 414..."

Chairwoman Smith:

So you are talking about section 1, subsection 1, paragraph (c), instead of paragraph (b), which was in your original amendment ([Exhibit I](#))?

Beatrice Razor:

Correct. And we wholeheartedly support this bill. We think it is an ideal method of expanding the availability of people who have quality expertise.

Chairwoman Smith:

Have you spoken to Assemblywoman Parnell about this amendment?

Beatrice Razor:

Yes, I have.

Chairwoman Smith:

And she is in agreement?

Beatrice Razor:

Yes.

Chairwoman Smith:

Anyone else to testify in support of this bill? [There was no response.] Seeing none, anyone to give neutral testimony?

Fergus J. Laughridge, Program Manager, Emergency Medical Systems, Health Division, Department of Health and Human Services:

I am here to provide some brief testimony and answer questions regarding A.B. 349.

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

One amendment that was not raised by Ms. Works that we had discussed would be in section 5. We do not feel that the Health Division could be ready by July 1, 2009, as indicated in the bill. In answer to some of the questions that were raised, the renewal period would coincide with their certification, which would be on a biennial basis. The \$5 fee, although we were not aware it was being inserted, is reflective of typical endorsement fees that would be charged by the agency.

Chairwoman Smith:

Ms. Parnell, do we know where the Governor's Office is regarding the fee issue?

Assemblywoman Parnell:

It is for the cost of the regulations to be created. I believe the total was \$10,000. I do not know for sure. I will say that I am personally comfortable with adding the NRS definition for public health to tighten that up, which was in Ms. Razor's amendment, and also very comfortable with the addition of the advanced EMT language.

Chairwoman Smith:

I just want to clarify, is the fee to offset the regulations?

Fergus J. Laughridge:

Our fee of \$8,160 is the fee for the promulgation of regulations.

Chairwoman Smith:

I am talking about the \$5 endorsement fee. Where does that go?

Fergus J. Laughridge:

That would go for offsetting the cost for printing the new certifications.

Chairwoman Smith:

But we still have the \$10,000 fiscal note separately, correct?

Fergus J. Laughridge:

Correct.

Chairwoman Smith:

Ok, just wanted to clarify that. If you will check with the Governor's Office on the fee, that would be helpful. I will close the hearing on A.B. 349 and open the hearing on Assembly Bill 249.

Assembly Bill 249: Revises provisions governing the abatement of certain nuisances. (BDR 40-1043)

Assemblyman Joseph (Joe) P. Hardy, Clark County Assembly District No. 20:
Assembly Bill 249 came out of the Southern Nevada Health District, looking at the concept of how to remediate and abate unhealthy homes. That is why the name of the bill is "Healthy Homes." I have with me people who have some expertise in this area. The bill in its entirety, as it was drafted, did not have everything that we needed in it, so we added an amendment ([Exhibit K](#)) to section 6, not so much changing what is in the bill, as much as adding to the bill. There are swimming pools, for example, that have become places for mosquito breeding. Instead of trying to punish or put a fee on people who are doing what they are supposed to be doing, this bill tries to recoup the costs of inspection, remediation, and abatement on those people who are the real owners of the property, so that it allows a lien system to be used to recoup those costs.

Chairwoman Smith:

I have a quick question before we move on; why just Clark County or populations over 400,000?

Assemblyman Hardy:

I would be amenable to an amendment, if there is a need.

Chairwoman Smith:

I appreciate that, because this type of issue is a big problem for me. My constituents ask for help but the local enforcement agency does not believe they have all the tools they need. I would really like to talk about amending this bill to include more counties.

Assemblyman Hardy:

I suggest that when we do make that amendment, that we add your name to those who are sponsoring the bill.

Glenn D. Savage, R.E.H.S., Environmental Health Director, Southern Nevada Health District, Las Vegas, Nevada:

Mr. Raman will read his testimony first, and then I will discuss the amendment that Assemblyman Hardy talked about.

Vivek K. Raman, R.E.H.S., Environmental Health Supervisor, Southern Nevada Health District, Las Vegas, Nevada:

West Nile virus is a potentially fatal mosquito borne disease found in Nevada every year since 2003.

[Read prepared testimony ([Exhibit L](#)).]

Chairwoman Smith:

Do you ever have problems with ponds, aside from pools?

Vivek K. Raman:

We do mosquito treatment in irrigated fields and farmlands as well, so we really treat both urban and rural settings. In fact, A.B. 249 addresses both scenarios and is not specific to simply swimming pools, and it will allow us to actually abate these swimming pools appropriately.

Chairwoman Smith:

But generally speaking, most ponds that are on someone's property are not stagnant, correct?

Vivek K. Raman:

That is correct. Before we invoice any owner, we work with the homeowner to look at what the mosquito breeding issue is first, and work with them to come up with a sustainable solution to prevent or reduce any mosquito breeding issues. In terms of this scenario, we do not invoice rural land owners. In a pond scenario, we would use environmental breeding management before any type of control measure.

Glenn D. Savage:

Concerning allowing a health authority the ability to promulgate regulations, enforce actions, and create an administrative hearing process to hear cases against landlords who fail to ensure a basic standard of life for tenants in these properties, what we have seen in our investigations; and just last year alone we did 1,300 public nuisance complaint investigations in Clark County and found that basic life needs such as air conditioning, heating, water, and waste disposal were not being taken care of. What we did see was that there was improper handling of sewage and waste, and contamination concerning vermin in some of these dwellings. We are very encouraged by Assemblyman Hardy putting together this legislation for us. We have already begun discussions with some of the apartment management companies here in southern Nevada. They understand that we are not looking at a permitting process, but that we are looking at a process that will go after the bad landlords.

Chairwoman Smith:

I appreciate that. Certainly, in this time with all of the foreclosures, I know this problem has been exacerbated, so I think it is a good inclusion. Are there any

questions from Committee members? Hearing none, is there anyone else to testify in support, in opposition, or as neutral on this bill?

Robert Sack, Division Director, Environmental Health Services Division, Washoe County District Health Department, Reno, Nevada:

If you were to include something that dealt with Washoe County, we would be happy to assist in drafting any amendments.

Chairwoman Smith:

I appreciate that because I do have an interest in giving you any tools that you need to take care of any situations that arise in Washoe County.

Robert Sack:

From our prospective, a lot of our issues are coming with swimming pools not being maintained on foreclosed properties. When they are properly maintained and running, there are no problems with mosquitoes, but as soon as the people are gone and the pools and ponds are not maintained, the mosquitoes will start breeding quickly in those environments.

Chairwoman Smith:

We have really focused on mosquitoes today, but I have had complaints from constituents about rats as well. Please work with Assemblyman Hardy to address any suggestions that you have. Seeing no one else coming forward, I will close the hearing on A.B. 249 and we will now hear the subcommittee report for Assembly Bill 6.

Assembly Bill 6: Revises provisions governing certain emergency admissions to mental health facilities and hospitals. (BDR 39-211)

Chairwoman Smith:

Assemblyman Hardy chaired the subcommittee to consider A.B. 6 and so I would ask him to present the report ([Exhibit M](#)).

Assemblyman Hardy:

When we held the hearing, we had all the stakeholders in the room, and we went through section by section as to how to make the bill work. First we considered what the sticking points were, then what were the things that everyone agreed on, and then we debated the sticking points. We gave everyone a little sticker, and they could mark what would work [see last page of ([Exhibit M](#))]. This gives you an idea of decisions made on the sticking points. In section 1, you notice nobody picked "shall." "May" was uniformly accepted, recognizing that in order to get out of the hospital, you have to be a medical doctor (M.D.), so people recognized that they wanted the licensed M.D.

language to remain. In section 5, where we had the debate between "transport" and "admit," it was overwhelmingly "admit." There were some medical clearance concerns that we heard, but the bottom line is that the major sticking points of "admit," "licensed," and "may" were the ones that we resolved in that process. One of the challenges was that even though everybody wanted to get to the "admit" language so that it would allow an easier flow for emergency rooms and the people who need to get into the emergency room, there was still an issue regarding if we impose our will on somebody who is not ready to have it imposed upon them, it creates its own problems in and of itself. So we talked about giving the facility that will triage these people the opportunity to say, "now we are ready," but "we are not ready yet," or whatever.

Chairwoman Smith:

If there are no questions from members for Assemblyman Hardy, we will begin our work session. I would ask our Policy Analyst, Amber Joiner, to take us through the work session document, beginning with A.B. 6.

Amber Joiner, Committee Policy Analyst:

Assembly Bill 6 was sponsored by the Assembly Committee on Health and Human Services on behalf of the Interim Legislative Committee on Health Care. It was heard on February 25, 2009, and referred to a Subcommittee. The Subcommittee met on March 3, 2009, and recommended amend and do pass. The main amendments that the Subcommittee recommended are included in Amendment A in the work session document ([Exhibit N](#)). However, there is a mock-up attached to your work session document that contains all three of the proposed amendments, so in addition to the Subcommittee's amendments, which are Amendment A, there was also Amendment B, which is proposed for Assemblyman Hardy, proposing that the relationship between the doctor and the person they are treating be changed and clarified to indicate that the doctor cannot be related by blood or marriage within the first degree of consanguinity to the alleged mentally ill person.

Amendment C is proposed by the Nevada Hospital Association, which Assemblyman Hardy alluded to, that would basically say that a facility would not be obligated to provide these services until they were staffed to provide such examinations. It further clarifies that a facility operated by the Division of Mental Health and Developmental Services would not be included in these provisions until such time as they have established such capabilities. Those are all provided in the mock-up.

All of the main changes in the mock-up are the Subcommittee's amendments, and then you will see on page 4 the changes proposed by Amendment C, and on page 5 the changes proposed by Amendment B.

Chairwoman Smith:

I believe the amendments proposed after the Subcommittee met take care of the fiscal note that was floating around, correct?

Amber Joiner:

That is correct.

Assemblywoman Leslie:

How does Amendment C change where the exams are conducted? They will still be conducted in the Emergency Rooms, correct? So it does not really get to the meat of the issue.

Chairwoman Smith:

Mr. Welch, would you come up and answer that question.

Bill M. Welch, President/CEO, Nevada Hospital Association, Reno, Nevada:

What this allows is for us to begin to develop the process, because the prior language would not allow us to work out a plan. I did pledge to Assemblyman Hardy that I would work with the Division of Mental Health and Developmental Services in trying to provide some protection for them, so that they would not automatically and arbitrarily have patients brought to their facility. This amendment was the compromise, and this does allow us to start moving forward.

Assemblywoman Leslie:

I agree, but I guess that I am just disappointed. It is a subtle shift, and I am fine with that, but it is not going to solve our problem.

I do have another question about the Alzheimer's component. We removed Alzheimer's disease, so is it now considered a mental illness? We added dementia and delirium to the list of conditions not considered to be mental illnesses, even though I disagree with that. I understand that is the Division's position, but why did we remove Alzheimer's disease from that list?

Assemblyman Hardy:

Alzheimer's disease, technically speaking, is a brain biopsy diagnosis. From a medical standpoint, you diagnose Alzheimer's either by biopsy or by post-mortem examination. This does not exclude Alzheimer's, it just includes all of the different forms of dementia.

Assemblywoman Leslie:

That is where I am confused then, because are we treating Alzheimer's disease separately from how we are treating dementia?

Assemblyman Hardy:

No.

Assemblywoman Leslie:

Well, then maybe I do not understand it.

Chairwoman Smith:

It looks to me that we are broadening it so that we could include delirium and dementia, and not only have Alzheimer's. Would you like to hear from Dr. Cook?

Assemblywoman Leslie:

Yes I would, because we have fought for years over whether or not dementia is a mental illness, and I keep reading this revised list of conditions not considered to be mental illnesses, and Alzheimer's disease is removed.

Harold Cook, PhD, Administrator, Division of Mental Health and Developmental Services, Department of Health and Human Services:

This is a diagnostic issue. If we were to appropriately diagnose Alzheimer's, the person would have to be dead. Alzheimer's disease is just a type of dementia, and so this would include Alzheimer's within the definition of dementia. It makes no practical change in terms of our definition of mental illness in the law.

Assemblywoman Leslie:

That satisfies me, thank you.

Chairwoman Smith:

Are you comfortable with this language? It is a pretty small step, but it gets us moving in the right direction.

Assemblywoman Leslie:

Yes, I am fine with it and I think the Subcommittee moved it along, perhaps only a baby step, but that is better than not moving at all. We will keep working on it.

Chairwoman Smith:

Any other discussion before I take a motion? Hearing none, I will entertain a motion on A.B. 6.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 6.

ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN COBB WAS ABSENT
FOR THE VOTE.)

Chairwoman Smith:

We will now move on to Assembly Bill 16.

Assembly Bill 16: Provides for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease. (BDR 40-600)

Amber Joiner, Committee Policy Analyst:

Assembly Bill 16 was sponsored by the Assembly Committee on Commerce and Labor and was heard on February 11, 2009. It provides for the disclosure of certain information to an emergency response employee concerning his or her possible exposure to an infectious disease.

The only amendment (Exhibit O) proposed in writing was from Clark County, and it would simply add that the officer's designee may also receive notifications and responses and make requests on behalf of the emergency response employees. There was a question as to whether or not this complies with the Health Insurance Portability and Accountability Act (HIPAA), and there is a letter (Exhibit O) from our Legal Counsel attached in the work session document indicating that it does comply with HIPAA.

Chairwoman Smith:

I have spoken with the sponsor of the bill and he is in support of the amendment and the letter from Legal Counsel on the HIPAA information. Questions or discussion from Committee members? Seeing none, I would entertain a motion on A.B. 16.

ASSEMBLYMAN HARDY MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 16.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN COBB WAS ABSENT
FOR THE VOTE.)

Chairwoman Smith:

Is there any public comment to come before the Committee? Seeing none, any comments from Committee members? If there are none, I will adjourn this meeting [at 3:34 p.m.].

RESPECTFULLY SUBMITTED:

Chris Kanowitz
Committee Secretary

APPROVED BY:

Assemblywoman Debbie Smith, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: March 23, 2009

Time of Meeting: 1:32 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
A.B. 337	C	Assemblywoman Leslie	PowerPoint
A.B. 337	D	Kevin Quint	Testimony
A.B. 337	E	Elisa Maser	Testimony
A.B. 349	F	Marena Works	Testimony
A.B. 349	G	Marena Works	Proposed amendment
A.B. 349	H	Cari A. Rovig	Testimony
A.B. 349	I	Beatrice Razor	Memo-proposed amendment
A.B. 349	J	Fergus Laughridge	Testimony
A.B. 249	K	Assemblyman Hardy	Amendment
A.B. 249	L	Vivek Raman	Testimony
A.B. 6	M	Assemblyman Hardy	Subcommittee report
A.B. 6	N	Amber Joiner	Work Session document
A.B. 16	O	Amber Joiner	Work Session document