

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

**Seventy-Sixth Session
May 30, 2011**

The Committee on Health and Human Services was called to order by Chair April Mastroluca at 12:43 p.m. on Monday, May 30, 2011, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/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 April Mastroluca, Chair
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblyman Steven Brooks
Assemblyman Richard Carrillo
Assemblywoman Lucy Flores
Assemblyman Jason Frierson
Assemblyman Pete Goicoechea
Assemblyman John Hambrick
Assemblyman Scott Hammond
Assemblyman Pete Livermore
Assemblyman Mark Sherwood

COMMITTEE MEMBERS ABSENT:

Assemblywoman Debbie Smith (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Mitzi Nelson, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Lynn O'Mara, M.B.A., State Health Information Technology Coordinator, Office of Health Information Technology, Department of Health and Human Services

Chair Mastroluca:

Today we have two bills on our work session and we will also hear Senate Bill 54 (1st Reprint). This bill updates some language that needs to be included in statute in order to complete the budget bill. Mr. Duarte, could you present S.B. 54 (R1) at this time?

Senate Bill 54 (1st Reprint): Revises provisions governing the Fund to Increase the Quality of Nursing Care. (BDR 38-444)

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:

Senate Bill 54 (R1) seeks to amend *Nevada Revised Statutes* (NRS) 422.3785, a section that deals with the Fund to Increase the Quality of Nursing Care, which is funded by a long term care provider tax. The language in section 1, subsection 4, paragraph (a) of the bill, which states that the provider tax cannot be used to replace existing expenditures paid to nursing facilities, is being deleted. The language in this section, which is ambiguous and open to interpretation, prohibits the state from lowering rates to providers.

The language in section 1, subsection 5, paragraphs (a) and (b) are also being deleted. These sections require the state to restore rates to their 2003 levels should something happen to the provider tax that makes it unallowable. Restoring rates to the 2003 level would require federal approval. Federal law conflicts with these provisions of the bill. In addition, section 2 has been amended to include a sunset provision that would take effect at the end of fiscal year 2013.

I would also like to note that the joint meeting of the Senate Committee on Finance and the Assembly Committee on Ways and Means reopened and reclosed my budget on May 24, 2011. It included \$2.5 million in General Fund savings associated with a reduction in nursing facility reimbursements by \$5 per bed-day and also for nursing facility-based hospice care. I would be happy to answer any questions.

Chair Mastroluca:

Are there any questions from the Committee?

Assemblywoman Pierce:

Which part of the bill conflicts with federal law?

Charles Duarte:

Section 1, subsection 5, paragraphs (a) and (b) are the ones that conflict.

Assemblyman Livermore:

Can you give me an idea of what the rates were in 2003?

Charles Duarte:

The rates varied. We used to have a system where we paid six levels of rates based on intermediate care facility levels and skilled nursing levels. We would have to revert back to those old reimbursement levels should something happen with the provider tax.

Assemblyman Livermore:

Do we have any idea what the fiscal impact of that would be?

Charles Duarte:

If we were to look at an average reimbursement, I think we could probably use our base rates as an example. Currently, the base rate is \$122 per bed-day. Enhanced rates under the provider tax program vary by facility, but on average they are \$180 per bed-day. A \$60 per day difference is fairly significant.

Chair Mastroluca:

Is the sunset provision included because the legislation is only intended for the next biennium?

Charles Duarte:

I believe that is why the sunset provision has been put in place by the Senate.

Chair Mastroluca:

Are there any other questions? [There were none.] I have no one else signed in to testify on S.B. 54 (R1). With that, I will close the hearing on S.B. 54 (R1) and we will move into our work session.

Senate Bill 43 (1st Reprint): Makes various changes relating to electronic health records. (BDR 40-443)

Kirsten Coulombe, Committee Policy Analyst:

Senate Bill 43 (R1) is sponsored by the Senate Committee on Health and Human Services on behalf of the Department of Health and Human Services (DHHS). The bill requires the Director of the DHHS to establish a statewide health information exchange system and specifies the Director's powers and duties. [Ms. Coulombe continued to read from the work session document ([Exhibit C](#)).] During the hearing, Janine Hansen of the Nevada Eagle Forum discussed a conceptual amendment regarding patients who choose not to participate in the exchange.

Chair Mastroluca:

I would like to stress to the Committee that it is very clear in the bill that the overall use of the system is encouraged, but not required. This legislation would put in place all the pieces that are needed to make a statewide health information exchange system available. I know that Ms. Hansen was concerned about including a provision that would allow people to choose to not participate in the exchange. I believe she did meet with Ms. O'Mara and, because I did not hear back from her, I am hoping that she was able to accept that there were provisions already in the bill that allowed a person to opt out. I did not hear back from her that she continued to have an issue. Therefore, we are moving forward with the bill. Are there any comments from the Committee?

Assemblyman Goicoechea:

While I realize we are not a money committee, can you refresh me on the fiscal impact of this bill?

Chair Mastroluca:

There is not a state impact; it is federally funded.

Assemblyman Goicoechea:

Very good, thank you.

Assemblyman Livermore:

Having reviewed the bill, my concern is with making sure someone does not misuse the information. I notice it is a misdemeanor to commit certain acts. Can you describe what those acts might be?

**Lynn O'Mara, M.B.A., State Health Information Technology Coordinator,
Office of Health Information Technology, Department of Health and
Human Services:**

Some of the basic violations might be medical identity theft, identity theft, deliberately hacking into the system, taking information illegally, or anything that would violate the Health Insurance Portability and Accountability Act (HIPAA) of 1996. During the interim, we would also be working with the Office of the Attorney General (AG) to identify any other acts that might be specific to Nevada.

Assemblyman Livermore:

This bill also references federal law. Are these acts also misdemeanors under federal law?

Lynn O'Mara:

Per my understanding, they are currently misdemeanors.

Assemblyman Livermore:

Does it ever escalate to a felony?

Lynn O'Mara:

I am not aware of it escalating to a felony other than when it is a deliberate attempt to make a major monetary gain. Even then, I would have to look at what is contained in the HIPAA law and what the Secretary of the U.S. Department of Health and Human Services (HHS) is allowed to do. She is the one who makes those determinations.

Assemblyman Livermore:

I would suggest that you take a look at that with the AG and HHS. If it is a misdemeanor, a person would pay a small monetary fine and the person might pledge not to do it again. Sooner or later, people who have multiple violations should be exposed.

Lynn O'Mara:

During the interim, we will be exploring those kinds of issue with the AG. Under the Health Information Technology for Economic and Clinical Health Act (commonly known as the HITECH Act) state attorneys general were given more

power to enforce HIPAA violations. That is something we will be working on, either to define in regulation or to return next session to address in statute.

Assemblyman Livermore:

If you remember when we heard the bill, my concern was the security of the information that would be gathered. I believe the benefit that you are trying to create could be destroyed or damaged by individuals who want to take information and misuse it. I will reserve the right to change my vote on the floor.

Chair Mastroluca:

Are there any other questions? With that, I will accept a motion.

ASSEMBLYWOMAN PIERCE MOVED TO DO PASS
SENATE BILL 43 (R1).

ASSEMBLYMAN FRIERSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HAMBRICK VOTED NO.
ASSEMBLYWOMAN SMITH WAS ABSENT FOR THE VOTE.)

Chair Mastroluca:

We will now move on to Senate Bill 113 (1st Reprint).

Senate Bill 113 (1st Reprint): Revises provisions relating to the care of certain children during disasters. (BDR 38-198)

Kirsten Coulombe, Committee Policy Analyst:

Senate Bill 113 (R1) was sponsored by the Senate Committee on Health and Human Services on behalf of the Legislative Committee on Child Welfare and Juvenile Justice. This bill requires that the Division of Child and Family Services of the Department of Health and Human Services, in consultation with other agencies that provide child welfare services, to adopt regulations to establish the minimum requirements and procedures for plans regarding the care of children in their custody during a disaster. [Ms. Coulombe continued to read from the work session document ([Exhibit D](#)).] During the hearing, we heard how the interim committee had heard testimony regarding Hurricane Katrina; how agencies during that incident could not locate judges. This legislation helps to reduce the chaos that is experienced during disasters and also assists in better planning. The Senator suggested that perhaps a toll-free number printed on a card could be given to foster families so that they could check on the status of a child. There are no proposed conceptual amendments at this time.

Chair Mastroluca:

Is there any discussion on S.B. 113 (R1)? If not, I will accept a motion.

ASSEMBLYMAN FRIERSON MOVED TO DO PASS
SENATE BILL 113 (R1).

ASSEMBLYMAN HAMBRICK SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN SMITH WAS ABSENT
FOR THE VOTE.)

Chair Mastroluca:

Committee, if you have any issues on the bill we heard today, please see me. Otherwise, I will plan to have a work session on it behind the bar tomorrow or Wednesday. Is there anything else to come before the Committee? [There was no response.] Is there any public comment? [There was no response.] With that, this meeting is adjourned [at 1:02 p.m.].

RESPECTFULLY SUBMITTED:

Mitzi Nelson
Committee Secretary

APPROVED BY:

Assemblywoman April Mastroluca, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: May 30, 2011

Time of Meeting: 12:43 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 43 (R1)	C	Kirsten Coulombe	Work Session Document
S.B. 113 (R1)	D	Kirsten Coulombe	Work Session Document