

**MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-sixth Session
May 12, 2011**

The Senate Committee on Health and Human Services was called to order by Chair Allison Copening at 3:36 p.m. on Thursday, May 12, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 5100, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Allison Copening, Chair
Senator Valerie Wiener, Vice Chair
Senator Sheila Leslie
Senator Ruben J. Kihuen
Senator Joseph (Joe) P. Hardy
Senator Ben Kieckhefer
Senator Greg Brower

GUEST LEGISLATORS PRESENT:

Assemblywoman Olivia Diaz, Assembly District No. 11
Assemblyman Jason M. Frierson, Assembly District No. 8
Assemblywoman Peggy Pierce, Assembly District No. 3

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Policy Analyst
Risa Lang, Counsel
Stephanie Robbins
Annette Ramirez, Committee Secretary

OTHERS PRESENT:

Michelle Gorelow, Director of Program Services, March of Dimes Foundation
Brian McAnallen, March of Dimes Foundation
Ann Lynch, March of Dimes Foundation

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Amy Beaulieu, MHA, Director, Tobacco Control Policy, American Lung Association
Christopher Roller, American Heart Association
Amber Joiner, Director of Governmental Relations, Nevada State Medical Association
Danielle Bowen, Director, Nevada Afterschool Network
Paula Berkley, Food Bank of Northern Nevada
Darren McKay, Youth Enrichment Specialist, Community Chest Inc.
Jim Richards, Vice President of Operations, Boys & Girls Clubs of Las Vegas
Charles Searle, YMCA of Southern Nevada
Dan Musgrove, City of North Las Vegas
Amber Howell, Deputy Administrator, Family Programs, Division of Child and Family Services, Department of Health and Human Services
Morgan Baumgartner, University Medical Center
Marcia Turner, Ph.D., Nevada System of Higher Education; University of Nevada School of Medicine; School of Dental Medicine

CHAIR COPENING:

We will open the hearing with Assembly Bill (A.B.) 170.

[ASSEMBLY BILL 170 \(1st Reprint\)](#): Establishes provisions relating to warnings about the health hazards of smoking during pregnancy. (BDR 40-884)

ASSEMBLYWOMAN PEGGY PIERCE (Assembly District No. 3):

Assembly Bill 170 is about placing health warnings in retail establishments to caution pregnant women about smoking cigarettes during pregnancy which can cause birth defects, premature birth and low birth rate. This bill has wording for the warning and it specifies the font size of the warning sign. I have a proposed amendment ([Exhibit C](#)) listing a few things that needed to be worked out. The amendment changes the warning sign to 8 by 5 1/2 inches in size and changes language on page 2, lines 15 through 20, to " ... The Health Division (HD), Department of Health and Human Services (DHHS), and the local boards of health" The March of Dimes has agreed to donate 2,000 signs.

MICHELLE GORELOW (Director of Program Services, March of Dimes Foundation):

I have submitted written testimony ([Exhibit D](#)) that I will read. We have also submitted "March of Dimes 2010 Premature Birth Report Card" ([Exhibit E](#)) for your review.

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BRIAN MCANALLEN (March of Dimes Foundation):

I want to thank you for hearing this bill and making sure it was on today's agenda. I want to thank Assemblywoman Pierce for her involvement in this bill. I would be remiss if I did not thank Senator Valerie Wiener for her support of this legislation.

ANN LYNCH (March of Dimes Foundation):

I would like to extend my heartfelt appreciation to Assemblywoman Pierce and Senator Wiener. I would like to call your attention to letters of support from the American Lung Association and the American Heart Association ([Exhibit F](#)) and the American Stroke Association ([Exhibit G](#)). An extra sign is one more reminder, and if we can get one young woman who is pregnant, not to buy a pack of cigarettes, it will be well worth our time and effort.

ASSEMBLYWOMAN PIERCE:

We worked very hard with the Retail Association of Nevada; we have worked out a compromise and, they are neutral on A.B. 170. The March of Dimes Foundation has agreed to print 2,000 warning signs to be distributed so there will not be a cost for those. One of my colleagues, who voted against the bill when the Assembly Committee on Health and Human Services heard it, had a concern with the fine. I said I would look at that and I did. It turns out, if I monkey with the fine, I am monkeying with the fine in other parts of the *Nevada Revised Statutes* (NRS), and that is a can of worms I did not want to open.

SENATOR WIENER:

When Mr. McAnallen asked me to have this bill heard last Session, there were hurdles then as well. You will find something we included last Session which is a consolidation effort. It is in section 1, subsection 1, lines 6 and 7, where it says " ... The contents of the warning may be included on any other sign" That reference, at least initially, was to piggyback the sign for drinking while pregnant. It took me two sessions to get that bill through to require signage where alcohol is sold. I continue to get positive feedback from people about the reminder not to drink while pregnant. In regard to fetal alcohol syndrome (FAS), we took a two-week snapshot at a children's clinic in Las Vegas. There was one mother at the clinic who had seven children with FAS. When I first testified in the Senate on that bill, the prediction was there would be \$1.5 million spent for additional health care and incarceration costs for each child who would have FAS. By the time the bill was heard in the Assembly, the cost had been revised

and it was up to \$4 million. We have parallel concerns with the issues of smoking during pregnancy. The impact of that health condition on the child and the family is a permanent thing. There is an impact on communities and health-care dollars that do not need to be spent. I know it works for alcohol, and I am equally convinced and supportive of this signage and education.

AMY BEAULIEU, MHA (Director, Tobacco Control Policy, American Lung Association):

I have written testimony, [Exhibit F](#), I will read.

CHRISTOPHER ROLLER (American Heart Association)

As Ms. Lynch mentioned at the beginning of the hearing, I submitted written testimony, [Exhibit G](#), in support of and on behalf of the American Heart Association. I did want to mention that the tobacco industry spends \$113 million annually in Nevada marketing their products.

AMBER JOINER (Director of Governmental Relations, Nevada State Medical Association):

We are in full support of this measure. Medical science is clear about the dangers of smoking while pregnant, and this bill is a positive step towards educating the public about those dangers.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 170.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

CHAIR COPENING:

We will open the hearing for A.B. 362.

[ASSEMBLY BILL 362 \(1st Reprint\)](#): Revises provisions governing education.
(BDR 38-782)

ASSEMBLYWOMAN OLIVIA DIAZ (Assembly District No. 11):

The primary goal of A.B. 362 is to ensure children of Nevada will continue to have an opportunity to participate in out-of-school-time (OST) programs. Under current Nevada law, OST programs are not clearly defined and are lumped all together under child care facilities. Assembly Bill 362 has two main objectives. First it seeks to exempt the OST program from being licensed for the time being. The State should be licensing OST programs; however, we lack the resources to do so. There are many provisions in statute to which OST programs need to adhere, but they cannot, because the provisions are not appropriate. The second objective is to establish a voluntary task force to prescribe standards to reinforce and enhance the quality of OST programs.

I am going to walk you through the bill. Page 2, section 2, A.B. 362, clarifies that OST programs include only programs that operate on a continuing basis. In addition, it also clarifies that programs do not include programs for children that focus on one activity or subject matter, including without limitation, religious education, instruction in music, participation in a sport, tutoring or participation in a club. I would like to refer to some handouts "Out-of-School Time Definition" ([Exhibit H](#)). This out-of-school-time definition is very important to be in statute. It says that OST programs operate ten hours or more per week on an ongoing basis serving school-age, kindergarten through 12 Grade (K-12), children. That would give further clarity to an OST program.

Section 5, subsection 2, paragraph (d) clarifies that the OST program is not part of the definition of a child care facility. Section 7 redefines child care facility. Pages 6 through 8, section 9, establish a task force that will make recommendations regarding licensing requirements and quality standards for different OST programs. It also allows for the Bureau of Services for Child Care (BSCC), Division of Child and Family Services, DHHS, to accept assistance from a nonprofit organization for the provision of administrative support to the task force. This is to relieve the BSCC of manpower, hours and monies we would have to allocate for a person to do this if we engaged in a partnership with a nonprofit. Page 9, section 10, sunsets the bill on June 30, 2013. It is our intention to create a task force where everyone who has an OST program is welcome and will have a voice so we do not go with a one-size-fits-all approach for what we will bring to the Legislative Session of 2013. We will submit recommendations and will determine whether to reinstate the licensing requirements or to adopt different requirements. We will also have quality standards ready to be placed into statute.

SENATOR WIENER:

I heard you mention in your remarks about school-age children, K-12, which is in the flyer, but not here in the definition. Was K-12 part of the consideration of the definition?

ASSEMBLYWOMAN DIAZ:

It is supposed to be part of the definition, so we will have to put it in the amendment.

SENATOR WIENER:

Would pre-kindergarten not be included?

ASSEMBLYWOMAN DIAZ:

No.

SENATOR WIENER:

Some schools do have a pre-kindergarten program. Is that relevant to this?

DANIELLE BOWEN (Director, Nevada Afterschool Network):

School age means K-12. It was an oversight, and we will make the recommendation to have that added to the definition.

SENATOR KIECKHEFER:

Usually we study something to decide if it is a good idea, and then we do it. This seems to be in reverse order. We are doing something and then going back to study it to see if it is a good idea. I am curious about the time frame. Who is the licensing authority for an OST program? Who has regulatory oversight if there is a complaint? Do they still need to comply with background-check requirements required of child care facilities?

ASSEMBLYWOMAN DIAZ:

I am going to defer most of those questions to my expert, Danielle Bowen, because I want to ensure they are answered accurately. To the first question, I do not think we are doing things backwards. I think we are trying to remedy and fix something. Sometimes when you create legislation, you lose sight of all the players it might affect. This is a situation where OST programs are being seen as day care facilities, and they cannot adhere to a lot of the inspections, and a lot of things do not apply to them like a full-day child care facility. We are trying to remedy something that was an inherent oversight on our part. We

want to do something into which we have put a lot of thought, that is intentional and brings everybody to the table. A lot of these programs are not one-size-fits-all. We know our children are sacred, and we want to keep them protected. This is why we are creating this task force.

MS. BOWEN:

We are trying to create an exemption for child care licensing and give an opportunity to create a proactive approach of looking at national standards. We are one of 39 states that have statewide networks and have adopted standards for their own states. We are not looking to create standards; we are going to adopt standards that already exist. The idea would be to have a voluntary program to look at these standards and test them within this time frame to see if these standards are working. Many programs already have standards in place, and we do not want to duplicate any standards some of these programs may have. Within their own programs, they could have higher standards for their programs. In answer to your question about licensure, there have not been regulations for OST programs. I have concerns about background checks and complaints, and that is what this task force wants to consider. If there was something beyond a problem you would report to the program administrator, where else would that go? At this point there is nothing necessarily covering OST programs because of manpower and funding to do so. When we return in 2013, we need to make sure we are clear as to where OST programs fit. Many programs do offer background checks; it is based on how they do it in their own programs.

SENATOR WIENER:

Of these statewide programs, how many members are in your network?

MS. BOWEN:

How many programs?

SENATOR WIENER:

Yes.

MS. BOWEN:

We have about 200 members, and we partner with national for profit organizations. Some have child care licensing centers that are mixed, which is a unique blend we need to look at because we need to see how they will fit within child care licensing and out-of-school-time licensing. We also work with

many statewide agencies, such as the Department of Education (DOE) and the Early Care and Education Office, Division of Welfare and Supportive Services, DHHS.

SENATOR WIENER:

One of the concerns you want to address is taking them out of the child care designation because that fit is not there. Is the child care licensing entity the only place where people can go issue a complaint right now?

MS. BOWEN:

I am not sure. We might have to refer that complaint to the BSCC to see whether they can actually do anything if there are issues relating to OST programs. It also depends on the programs themselves. We have many programs operated by 21st Century Community Learning Centers, and those complaints would go to the DOE. I am not sure where individuals would go beyond their programs to make a complaint about something that happened.

SENATOR WIENER:

This is the reason for the bill. If you are struggling with where individuals go beyond their programs to make a complaint, then where would parents go?

MS. BOWEN:

Correct.

SENATOR HARDY:

On page 6 of A.B. 362, the language says " ... the third degree of consanguinity" Why the third degree of consanguinity? The cousins I grew up with were the fifth degree of consanguinity. A direct cousin is the fourth degree of consanguinity

ASSEMBLYWOMAN DIAZ:

This is law; we did not modify it at all. The intent behind it was that a relative who takes care of a child in the home would not be considered a child day care facility. The purpose is to exempt individuals who help out family members and for them not to be held to those same standards as a full-day child care facility.

SENATOR HARDY:

You are making my case very well. The people I grew up with were fourth degree consanguinity, and we were the ones who "took care" of each other's

children. You do not need to go too far before you get beyond the third degree of consanguinity and still be "family." This is why I bring that up.

ASSEMBLYWOMAN DIAZ:

I appreciate your concern, and we can talk about this more. We would like to keep our bill with the focus we have crafted.

CHAIR COPENING:

Ms. Bowen, did you want to continue with your testimony? We have your written testimony ([Exhibit I](#)) so we do not need you to go through the whole thing, but if you have something more to add, you are welcome to do so.

MS. BOWEN:

Since you have my full testimony, [Exhibit I](#), I will just hit the highlights. I have been in the OST field for most of my life. I have attended OST programs, run OST programs and am now an advocate for all OST programs throughout the State. The programs we have throughout the State are magnificent and offer our children great opportunities, whether it is in arts, education, recreation, physical activities to decrease obesity or academic gains to support our students. Assembly Bill 362 is not just a "quick fix," it will help programs to come together. Programs across the State are willing to work together to improve quality and to improve the opportunity to seek additional funding. We support A.B. 362 and the task force, knowing this will bring agencies together to have a voice and to talk about their concerns in their programs.

CHAIR COPENING:

Assemblywoman Diaz, did you run into any opposition along the way?

ASSEMBLYWOMAN DIAZ:

No.

CHAIR COPENING:

I want to put on the record we have written testimony in support of A.B. 362 from Jim Richards, Boys & Girls Clubs of Las Vegas ([Exhibit J](#)); the Nevada Afterschool Network's statement ([Exhibit K](#)); written testimony from Charles Searle, YMCA of Southern Nevada ([Exhibit L](#)); and written testimony from Julie Woodbury, Nevada Afterschool Network ([Exhibit M](#)).

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SENATOR WIENER:

What has been changed from the original version of A.B. 362?

ASSEMBLYWOMAN DIAZ:

It was drafting changes. We made sure we brought in the definition of OST programs. Our first print was less clear. We also added a couple more members to our task force.

SENATOR WIENER:

Is it okay with you if we add in the K-12 language?

ASSEMBLYWOMAN DIAZ:

That is an oversight on my part; it should have had the full definition to include K-12.

PAULA BERKLEY (Food Bank of Northern Nevada):

In the nation, one out of five children is food insecure. These after school programs are of interest to us. We participate in a number of them and look forward to this task force as a means of identifying other programs in which we can participate. We will just add the food to them. An example is a recreation program for children, and if we could add food, we could reach more of those hungry children. It is a matter of everyone bringing their resources and having a much better program. We view this task force as a great way to identify those opportunities and to provide food as needed.

DARREN MCKAY (Youth Enrichment Specialist, Community Chest, Inc.):

I am here to provide a perspective from a rural point of view. I have submitted my written testimony ([Exhibit N](#)).

JIM RICHARDS (Vice President of Operations, Boys & Girls Clubs of Las Vegas):

This is my 46th year in OST programs. I am here in support of A.B. 362 and have written testimony, [Exhibit J](#), that I will read.

CHARLES SEARLE (YMCA of Southern Nevada):

I have written testimony, [Exhibit L](#), that I will read.

DAN MUSGROVE (City of North Las Vegas):

We are in support of the concept of A.B. 362. We appreciate the work Assemblywoman Diaz has done. The program local governments provide inside

the schools now is known as Safekey; it is a unique program. This issue about licensing came to light early last year. The licensing issue has put all of the programs presently in schools in jeopardy, and it is a great concern to us. The idea of a task force makes a lot of sense, and there will be a lot of people engaged in coming up with some standards. We want to make sure the uniqueness of the school programs is acknowledged, and I think everyone realizes that. Whatever this Legislature decides to do going forward, we want to make sure all parents utilizing safety programs will still continue to be able to do so. There are not many alternatives people can afford or even be able to deal with. It is easier for them to go to the school and know their child is there either before or after school and is safe.

SENATOR HARDY:

I need to clarify that we all have the same intention. The OST programs are basically being exempted from all of the licensing requirements. The language on page 2, lines 13 through 16, does not mean these people are thus inversely included in the need to be licensed.

MS. BOWEN:

Correct. The idea was that those programs would not be part of OST programs or child care licensing.

SENATOR HARDY:

Nor would they need to be licensed.

MS. BOWEN:

Correct. Nor will they need to be licensed.

SENATOR HARDY:

Any comments from the sponsor?

ASSEMBLYWOMAN DIAZ:

I agree.

CHAIR COPENING:

I close the hearing on A.B. 362.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 362.

SENATOR HARDY SECONDED THE MOTION.

SENATOR KIECKHEFER:

I am going to reserve my right to change my vote on the Senate Floor, but I am going to vote "no" right now. I am not sure if it is right or wrong to create a two-year gap where there is absolutely no regulatory oversight of the places where we are putting children on a regular basis. When we looked at exemptions in the City of Henderson's bill, we talked about facilities where we already put children, and we were exempting them from the physical requirements needed for licensure. They still went through all of the other licensing requirements through the BSCC.

ASSEMBLYWOMAN DIAZ:

We have a person from BSCC who can speak to Senator Kieckhefer's concerns. She can speak as to what is in place right now.

AMBER HOWELL (Deputy Administrator, Family Programs, Division of Child and Family Services, Department of Health and Human Services):

In answer to Senator Kieckhefer's question and to resolve some of your concern, right now the OST programs are included in the definition of a child care facility. They are already required to be licensed; however, there are no specific regulations to license them. If we had to follow NRS 432A, they would not be able to comply with any of the requirements and would not be able to keep their businesses open. The OST programs are already supposed to be licensed, but we have not historically licensed them based on staff and resources. This gives them an opportunity to develop regulations and for the BSCC to figure out how we are going to deal with the manpower to license them.

SENATOR KIHUEN:

Earlier in this Session, we heard Senate Bill (S.B.) 53, which tries to address the same thing as this bill. Is there a need for another bill to try to differentiate the local government OST programs from the rest of them?

[SENATE BILL 53 \(1st Reprint\)](#): Excludes certain programs that supervise children from certain licensing requirements. (BDR 38-242)

MS. HOWELL:

All of the facilities that are OST programs are covered within A.B. 362. Senate Bill 53 speaks specifically just to governmental entities.

SENATOR HARDY:

By way of disclosure, my mother was a professor of child development. This is the kind of thing with which I grew up, learning how to "take care" of children, and she would be proud of you.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:

We will now go into work session. We received written testimony on A.B. 50 ([Exhibit O](#)), A.B. 533 ([Exhibit P](#)), and A.B. 535 ([Exhibit Q](#)) from Larry Fry, Coalition of Assisted Residential Environments (CARE). As we come to those bills, please make note of it.

ASSEMBLY BILL 50: Revises provisions relating to the licensure of medical and related health facilities. (BDR 40-445)

ASSEMBLY BILL 533: Provides certain financial protections for residents of group homes and similar facilities. (BDR 40-673)

ASSEMBLY BILL 535: Revises provisions governing the referral of persons to residential facilities for groups. (BDR 40-674)

MARSHEILAH LYONS (Policy Analyst):

At the request of the Chair, I will be walking the Committee through the work session document. The first measure is A.B. 29 ([Exhibit R](#)). There is a proposed amendment ([Exhibit S](#)), submitted by Morgan Baumgartner, University Medical Center (UMC) and a letter of support from Dale Carrison, DO, Chief of Staff, UMC ([Exhibit T](#)).

ASSEMBLY BILL 29 (1st Reprint): Revises provisions governing county hospitals and requires certain hospitals to report information concerning the transfers of patients between hospitals to the Legislative Committee on Health Care. (BDR 40-343)

The language you need to review starts with page 2, [Exhibit S](#), which changes the hospital advisory board's compensation from \$1,000 to \$500 per month. On page 3, there is a strikethrough on line 26, of the word "solely" for physicians. Page 4, allows the change for the staff of physicians to be done incrementally and gives percentages for allowing that, with up to 95 percent of the medical staff to be affiliated by the year 2018.

SENATOR WIENER:

To have not more than 95 percent seems like a high threshold for me. I would offer up 85 to 90 percent, and we could shift that number in the future if there is a reason.

SENATOR HARDY:

From a perspective of how a hospital works, for instance on page 3, lines 6 and 7, at the bottom of the page where it says " ... staff of physicians from being affiliated with another institution of higher education." I think they may mean another hospital, not another institution of higher education. I may be mistaken on that, but if they leave this as another institution of higher education, then Touro University Nevada graduates 100-plus doctors a year who are not eligible to practice there. Is there another University of Nevada, Reno (UNR) faculty to which they are alluding? I am not sure what the language is trying to say. Traditionally, board members give of their time, and you cannot pay them enough to be on the staff of a hospital. I appreciate that they are trying to pay people who know what they are doing on a hospital board. One of the challenges we have with this particular hospital is that it is trying to be run as a political body, and it would be impossible for any elected body to be the board of directors of a hospital. They have an advisory board, and they receive compensation. If you flip the advisory board to the board, and the county commissioners being the advisory board, it would make more sense to me. The governance of a hospital would be very difficult to do as a county commission. I think we have shown that with \$100-million-a-year loss and with the UMC being a safety net. I do not know if everybody can understand the difficult position the county commission has in trying to run a hospital, as well as a county, and everything else. In regard to criteria for UNR appointments to UMC, how do they apply? You have basically one and a half years after this has passed to jettison a certain number of physicians from the staff of UMC. Do we have enough physicians in Nevada to afford kicking off doctors in the community instead of medical school doctors, and the University of Nevada School of Medicine (UNSM) becomes the deciding factor of who is on the

UMC professional staff? What criteria are they using and by what invitation? You throw in the concept of a medical district where you put the Cleveland Clinic Lou Ruvo Center for Brain Health, UMC and the School of Dental Medicine (SDM) all together and try to get a governance package that works for Clark County. I see this as clouding the issue, and I will be voting against it.

CHAIR COPENING:

Let me get some clarification. At the bottom of page 3, [Exhibit S](#), you were talking about the affiliation with another institution of higher education, and it does not prohibit physicians from being on the staff if they are affiliated. Was that problematic to you?

SENATOR HARDY:

Yes. If I reference the rest of the bill, basically you are trying to get all of the staff on the medical-clinical faculty of one medical school that graduates 62 doctors a year versus a medical school in Henderson that graduates almost three times as many doctors in a year. Eventually, you are going to preclude them from being on the medical staff of this hospital. Why are we doing that? If you are on the faculty of one medical school, are you precluded from being on the faculty of another medical school?

CHAIR COPENING:

Risa Lang, counsel, is going to give us clarification.

RISA LANG (COUNSEL):

I think this provision was intended to say it would not prohibit you from being on the faculty of another institution of higher education. Just because they are affiliated with UMC, they are not prohibited from also working with another university.

SENATOR HARDY:

That clarifies my observation. Is this going to allow every single physician to be able to be on the clinical faculty at UMC? Are we going to limit people to just the UNSM or SDM from being on the staff at UMC? That is how I read it. You would have to get a clinical appointment, or some other appointment to the medical school, to do that. Are we limiting our pool of physicians at a time when every physician needs to buy into the mission of UMC and be able to say

"yes" I am on board with providing care to the people who need it? I do not see this bill as going there.

MORGAN BAUMGARTNER (University Medical Center):

The first thing I would like to clarify is the language at the bottom of page 3, [Exhibit S](#), dealing with the ability to affiliate with another institution of higher education. That was a proposed amendment by the Nevada State Medical Association, which UMC was happy to accept. It would be our understanding that the intent of the amendment is if you are affiliated with the UNSM or the SDM, you are not precluded from affiliating with Touro University Nevada, UCLA, Stanford, Community College of Southern Nevada, etc. It is additionally not the intent to preclude community doctors; it is our intent to encourage community doctors to participate in the mission of UMC in becoming an academic medical center. While we are looking to strengthen the bond and the tie between the medical school and the hospital, it is not intentionally designed to limit the teaching. Right now, Touro University Nevada residents, osteopathic residents and out-of-state medical school residents are trained at UMC.

SENATOR HARDY:

Are we allowing the physician who practices at UMC to practice somewhere else?

MS. BAUMGARTNER:
Absolutely.

SENATOR HARDY:

Are we allowing the person who practices somewhere else to practice at UMC?

MS. BAUMGARTNER:

Under the proposed amendment there is room for that because only a certain percentage of the doctors can be required to have affiliation. Additionally, the language is discretionary. It is a "may." This requirement for affiliation "may" be rolled out.

SENATOR HARDY:

Is 95 percent still in the language?

MS. BAUMGARTNER:

We proposed 95 percent in our amendment, and Senator Wiener proposed an alternative number.

SENATOR KIECKHEFER:

Why did you choose 95 percent? To Senator Wiener, is there a number that makes more sense, and why?

MS. BAUMGARTNER:

We chose 95 percent as an aspirational goal. It gives us plenty of flexibility to achieve these numbers. We determined that would be a good goal to set and we could ask for more in the future.

SENATOR HARDY:

I think it is great to talk about percentages, but we do not know the base. What is the base staff number of physicians at UMC, and what percentage of those are affiliated on the clinical faculty at UNR?

MS. BAUMGARTNER:

Around 220 physicians are affiliated with the UNSM. I think that is approximately 20 percent of UMC's physician staff, and the raw number is around 1,100 physicians at UMC.

SENATOR HARDY:

To get up to 95 percent, all I have to do is find another 800 doctors to practice at UMC or something similar to that. Where are we going to get these doctors? If you exempt out the specialty services listed on page 5 of A.B. 29, those have to be about 50 percent or more of the staff.

MS. BAUMGARTNER:

Senator Hardy, I think you are referring to a different section of the bill dealing with the transfer study. Those are the articulated services that are required to report transfers.

SENATOR HARDY:

Would not it be wonderful if we actually had those doctors at UMC?

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MS. BAUMGARTNER:

Absolutely. That is the goal of this union and the strengthening of this relationship between the UNSM and UMC.

SENATOR HARDY:

I think we have the same goal. I do not know how we are going to get all of those doctors and specialties to come to UMC.

MS. BAUMGARTNER:

I believe this would be rolled out on a departmental basis, looking at the core competencies possessed by the UNSM now. This is a gradual process that we are going to work collaboratively with the UNSM to develop both staffs. We want to ensure the best services and best quality of care is delivered to the people in southern Nevada. We want physicians who are going to school here to stay here.

SENATOR HARDY:

If I have to go from 20 percent to 65 percent in 18 months, doctors will need to figure out where they are going to be and how they are going to do that in their early residency. We need to recruit them. I do not know where you are going to find another 200 doctors in the next 18 months.

SENATOR WIENER:

My recommendation would be no more than 85 percent.

MS. BAUMGARTNER:

We do not disagree. One of the things we are trying to remedy with this is to have more doctors available to train, and we hope to get to 65 percent as quickly as we can. That is the maximum we can go; we can certainly go below.

SENATOR HARDY:

Have we heard from UNSM and how they are going to help on this?

MARCIA TURNER, PH.D. (Nevada System of Higher Education; University of Nevada School of Medicine; School of Dental Medicine):

Can you repeat the specific question?

SENATOR HARDY:

Where are you going to find the 300 doctors to get you up to 65 percent and beyond?

DR. TURNER:

It is our desire to continue to work with community physicians. There are basically three different categories of affiliation. There are full-time faculty members, part-time faculty members and there is a volunteer category. There is a scenario where new physicians are recruited into town because of some wonderful new center of excellence on which we start working within the UNSM and UMC. This gives us an ability to bring talented people into Nevada, but more likely it is an opportunity to join forces with new groups of physicians in town, with whom we are not officially affiliated. We do not think this will happen overnight, but it helps us to move the ball forward and to work towards the academic health center model.

SENATOR HARDY:

You do not mind partnering with another medical school in town that could also qualify as one of the higher institutions and could qualify their doctors to be on the staff of UMC? The uniqueness of medical staff only being affiliated with UNSM would not have to be unique; it could be any medical school. If you look at the medical campus where we are going to build the medical empire, it seems to be preclusive instead of inclusive. Are you saying we need to include other medical schools in the community, that can do the same thing to qualify their physicians, to be on the full-time faculty at UMC?

DR. TURNER:

The intent is to strengthen the partnership and to enable and facilitate the development of the partnership between the UNSM, SDM and UMC. It will give those organizations a chance to develop business models, centers of excellence, and to attract more paying patients to UMC. It will also enable them to live up to the mission of both institutions. Doctor Carrison, Chief of Staff, UMC, is a doctor of osteopathic medicine and is on our medical staff. If he decided to teach at Touro University Nevada, or wanted to do something at the Cleveland Clinic, we would have no problem with that. We have a number of osteopathic medicine physicians from local and other schools involved in our residency programs. The core idea of this bill is to try to give both institutions the ability to build a stronger foundation and to move forward. Having the UNSM as the core business partner is an important part to the financial success.

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SENATOR HARDY:

This goes back to the original discussion about the fiscal viability of UMC at \$80 million to \$100 million a year, and we want that to grow. It seems to me, if we want to grow in partnership, that would include another medical school instead of excluding another medical school's staff privileges. In many models you have the same hospital complex where two medical schools are existent on the faculty. This is a statute that seems to be more exclusive than inclusive.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 29.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY VOTED NO.)

Ms. LYONS:

Assembly Bill 50 is in your work session document ([Exhibit U](#)). You received a letter today from CARE, [Exhibit O](#), in support of this bill. There were no amendments proposed for this measure at the hearing and there was no testimony in opposition.

SENATOR HARDY MOVED TO DO PASS A.B. 50.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Ms. LYONS:

Assembly Bill 110 is in your work session document ([Exhibit V](#)). The bill was heard on May 5, 2011, and no amendments were proposed for the measure.

[ASSEMBLY BILL 110 \(1st Reprint\)](#): Establishes the Kinship Guardianship Assistance Program. (BDR 38-196)

SENATOR LESLIE MOVED TO DO PASS A.B. 110.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. LYONS:

Assembly Bill 154 is in your work session document ([Exhibit W](#)). The bill was heard on May 5, 2011. You have a proposed amendment by Clark County ([Exhibit X](#)). The sponsor testified that he supported the proposed amendment. Clark County is proposing this amendment to clarify that only the agency which provides child welfare services and any employee thereof who provides child welfare services to the child will maintain the identification kit in their file. There is also information provided by Assemblyman Jason Frierson ([Exhibit Y](#)). Senator Hardy had requested some information about the provisions in the measure and where they might be located in the NRS or the *Nevada Administrative Code* (NAC).

ASSEMBLY BILL 154 (2nd Reprint): Enacts provisions which guarantee certain rights to children placed in foster homes in this State. (BDR 38-802)

SENATOR HARDY:

The letter dated May 11, 2011, [Exhibit Y](#), is in my packet. I want to clarify the answers Assemblyman Frierson provided. On page 2, [Exhibit Y](#), first paragraph, it lists "forced psychotropic medication." Obviously, that does not apply to an interaction with a Medical Legal 2000 (ML2000). There are times where people are committed and are going to be given psychotropic medication, whether they like it or not.

CHAIR COPENING:

Assemblyman Frierson has arrived, so could you repeat your question, Senator Hardy?

SENATOR HARDY:

On page 2 of your letter, [Exhibit Y](#), it says " ... a foster child be free from unreasonable searches, forced psychotropic medication" If people are committed to a mental facility with a ML2000, where they are a danger to themselves or others, they will probably get psychotropic medicine, whether they like it or not. You probably do not mean that it applies in that way.

ASSEMBLYMAN JASON M. FRIERSON (Assembly District No. 8):

The letter is my summary in the interest of not typing out the entire six-page bill. The summary says a child will be free from forced psychotropic medication, but I would refer to the actual bill. In the actual bill, section 3, subsection 7, paragraph (d), states "The administration of psychotropic medication unless the administration is consistent with NRS 432B.197 and the policies established pursuant thereto," So someone who was a ML2000, according to law would need to be medicated, and this would not prevent that from happening.

SENATOR HARDY:

We need to look at your summary as a summary. I do not want to have legislative intent making this confusing to us. With "discrimination," if there is a problem with the child feeling discrimination, then the recourses already use the lawyers, the appropriate court system and the bill of rights to say "yes" you can be protected from discrimination. As far as I can tell, there is no punishing of the foster family, or the foster parents, other than allowing for the removal of the child.

ASSEMBLYMAN FRIERSON:

That is absolutely right. That was intentionally removed from NRS 424 so we removed the consequences and did not create any additional consequences. They would simply go through the normal process. Either the foster parent would request the child be moved, or the child, through the attorney or case worker, would request to be moved. I have personal knowledge of a family where the children were not comfortable and asked to be moved, and they facilitated the movement.

SENATOR HARDY:

You bring up an interesting point. When you took this from one statute and put it into another, does that negate the other statute where there is still a penalty?

MS. LANG:

No, it will not negate another specific statute.

SENATOR HARDY:

Is there still a misdemeanor penalty involved with the foster parent if the child says "I was discriminated against?"

ASSEMBLYMAN FRIERSON:

Any violation of NRS 424 is a misdemeanor. This bill does not deal with NRS 424. This bill mirrors provisions from either NRS 424 or NAC 424. The particular provision involving discrimination is in NAC 424.450, which is not in the statute that involves criminal penalty.

SENATOR HARDY:

I am looking at Ms. Lang to give me assurance the foster family will not be subjected to a misdemeanor if the child feels discriminated against.

MS. LANG:

I do not have those sections in front of me, but whatever the current law is in regard to that, this does not change it.

ASSEMBLYMAN FRIERSON:

Ms. Silverman, Attorney for the Children's Attorney Project, is in Las Vegas. I sought information from her, and she relayed the same thing, that the child would simply request to be moved and they will facilitate that movement.

SENATOR HARDY:

Right now in statute, is there no misdemeanor on the foster family?

ASSEMBLYMAN FRIERSON:

For this particular provision, no. This came from the NAC 424.450. I am unaware of any criminal prosecution authority for that type of violation, and my bill does not deal with that aspect of the existing law.

SENATOR HARDY:

On all other rights we are listing, is there any misdemeanor charge or any other charge to a foster family other than sexual abuse?

ASSEMBLYMAN FRIERSON:

My understanding is that a violation of any provision in NAC 424 is a misdemeanor, and that is existing law. I listed as many of the NRS 424 provisions I could that this bill mirrors. Ms. Silverman may be able to elaborate on it. There are separate criminal charges such as sexual assault, child abuse, child neglect, etc., and those are existing criminal penalties. I am not entirely in the position to answer questions about a bill that my bill does not impact.

SENATOR HARDY:

I get nervous when we have a bill of rights, and there is no misdemeanor or any other penalty, but there may be one somewhere else that I do not know about. I am now giving people a false sense of security about what their rights are as the foster family.

ASSEMBLYMAN FRIERSON:

At every opportunity we have made it very clear that this bill, and specifically for legislative intent purposes, creates no additional rights.

SENATOR HARDY:

Thank you. You have addressed the issue about mail in your summary where it says they can "receive correspondence with family members as well as the right to send and receive mail," unless there is a court order preventing them from that. Is that correct?

ASSEMBLYMAN FRIERSON:

That is correct.

SENATOR HARDY:

In your summary, page 2, [Exhibit Y](#), where you address NAC 424.575, it says " ... give any religious training different than the child or child's parent's beliefs without consent." The Ten Commandments are religious, and if you say "do not steal" and the child says "you cannot tell me that because I do not believe that," what then?

ASSEMBLYMAN FRIERSON:

That may be a religious foundation in some faiths, but it is also the law. There is a separate provision saying you cannot violate the law. There is also a catchall in this bill saying the provisions can be applied in a manner, time and place that do not disrupt the operation of the home. The foster family never loses the opportunity to request that a child be removed if the child is not willing to comply with the rules of the house independent of religious faith.

SENATOR HARDY:

Thank you for putting that on the record. In your summary, page 3, [Exhibit Y](#), where it says " ... a foster care provider may be represented by legal counsel in proceedings related to their license as well as the care given to a child by that provider." Is that free to them?

ASSEMBLYMAN FRIERSON:

The Children's Attorney Project is a program providing free attorneys to represent foster children, and they only represent about one-third. The remaining children are represented by attorneys pro bono.

SENATOR HARDY:

I am not talking about the child now; I am talking about the foster care provider. Are those legal fees free or is that something for which the foster parents have to pay?

ASSEMBLYMAN FRIERSON:

I am aware of indigent representation by the Office of the Public Defender, DHHS. They do not represent all of the cases. There are contract attorneys who are contracted with the county or local government, and there are public defenders. If they wanted to pay for their own attorney, they certainly can do so.

SENATOR HARDY:

I have a question about section 9, where school employees shall not disclose the fact that a child has been placed in foster care. What if somebody says they are in foster care? What happens to them? Is there no misdemeanor charge or punishment for the coach who says to the other coach, "by the way, Johnny is a foster child, and that is why he was not at home because he is in foster care"?

ASSEMBLYMAN FRIERSON:

There is federal law that addresses school employees and privacy matters. For the record, that is the federal Family Educational Rights and Privacy Act, Title 34 Code of Federal Regulations section 99.31(a), that precludes them to do that.

SENATOR HARDY:

Would they go to a federal prison and not a Nevada prison if they say, "Johnny is not here because his foster parent came to pick him up"?

ASSEMBLYMAN FRIERSON:

Under A.B. 154 they would not go to prison at all because there are not any criminal consequences.

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SENATOR HARDY:

You have answered all of my questions. Thank you.

SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 154.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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MS. LYONS:

Assembly Bill 280 was heard on May 5, 2011, and is in your work session document ([Exhibit Z](#)). There are two proposed amendments for this measure. The first one is from the Health Services Coalition and the Nevada Healthcare Policy Group ([Exhibit AA](#)) and it sought to add a checklist related to the discharge of the patient. The second proposed amendment is from AARP Nevada ([Exhibit BB](#)) to specify that infection prevention hand hygiene includes hand washing as one of the accepted protocols.

ASSEMBLY BILL 280 (1st Reprint): Requires the adoption of patient safety check lists and patient safety policies at certain medical facilities. (BDR 40-517)

SENATOR LESLIE:

I am going to make a pitch for the AARP Nevada proposed amendment, [Exhibit BB](#). I did some research on the Internet about hand washing after Senator Hardy talked about what he had read. It is all over the board. There are some sites that say hand sanitation, some still say hand washing. I thought Mr. Winters made the most compelling comment when he brought in the sign from our own restrooms that says "Wash Your Hands." I still go back to my experience during the hepatitis C crisis, when the HD, and all of the health advocates insisted that patients needed to tell doctors to wash their hands. I understand that is not necessarily the most appropriate protocol in every medical situation. There are different types of hand sanitation, and hand washing may not be appropriate for a particular medical situation. When you look at the proposed amendment submitted by AARP, all it is asking is that we include hand washing as one of the accepted protocols. Given all of the

testimony we have had this Session in this Committee about hospital-acquired infections and all the other problems, I personally would prefer that proposed amendment.

SENATOR HARDY:

I would personally prefer everybody wash their hands too. I recognize that we have had a huge paradigm shift with checklists and hand hygiene, even on the same patient. It is a sterile procedure when you take a needle and put it into somebody's subclavian artery. In looking at new protocols, you wash your hands before you put on gloves, you wash your hands after you put on gloves or you do hand hygiene, and you still have to allow for hand washing. You have hand rubs because sinks are not close enough to the patient. We need to send the message that we are serious about hand hygiene and recognize this is not just hand washing. We will be taking a step backwards if we amend this bill to say hand washing. That would give people permission to think that hand washing is enough, and it is not.

SENATOR HARDY MOVED TO DO PASS A.B. 280.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

MS. LYONS:

Assembly Bill 533 is in your work session document ([Exhibit CC](#)). This bill was heard on May 3, 2011, and there is a proposed amendment 6836 from Assemblywoman Marilyn Kirkpatrick ([Exhibit DD](#)). The primary provisions are on page 4. There was a concern expressed about trying to qualify someone for Medicaid. If the facility was not able to find a family member or someone who was able to go through that process for the resident, there were times when the facility might need to do that for them. This proposed amendment gives a very limited, focused ability for them to be named as the agent for the specific purpose of going through the process of applying for Medicaid.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 533.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Ms. LYONS:

Assembly Bill 535 is in your work session document ([Exhibit EE](#)) and was heard on May 3, 2011. There are two proposed amendments for this bill. The first is from Senator Hardy who would like to specify that licensing residential facilities for groups is done by the Bureau of Health Care Quality and Compliance, HD. The second proposed amendment from Assemblywoman Kirkpatrick is to clarify the intent of the bill to address referrals made for medical facilities as well as facilities for the dependent. That language will be different than what I have there; Ms. Lang has already shared that with me.

SENATOR HARDY MOVED TO AMEND AND DO PASS AS AMENDED
A.B. 535.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:

We are finished with work session, and I open the hearing for public comment. With no further business to come before the Senate Committee on Health and Human Services, the meeting is adjourned at 5:33 p.m.

RESPECTFULLY SUBMITTED:

Annette Ramirez,
Committee Secretary

APPROVED BY:

Senator Allison Copening, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 170	C	Assemblywoman Peggy Pierce	Proposed Amendment
A.B. 170	D	Michelle Gorelow	Written Testimony
A.B. 170	E	Michelle Gorelow	March of Dimes 2010 Premature Birth Report Card
A.B. 170	F	Ann Lynch and Amy Beaulieu	Written Testimony; the American Lung Association support for bill.
A.B. 170	G	Ann Lynch and Christopher Roller	Written Testimony, the American Heart and Stroke Association support for bill.
A.B. 362	H	Assemblywoman Olivia Diaz	Out-of-School Time Definition
A.B. 362	I	Danielle Bowen	Written Testimony
A.B. 362	J	Jim Richards	Written Testimony
A.B. 362	K	Nevada Afterschool Network	Statement of Support
A.B. 362	L	Charles Searle	Written Testimony
A.B. 362	M	Julie Woodbury	Written Testimony
A.B. 362	N	Darren McKay	Written Testimony
A.B. 50	O	Larry Fry	Coalition of Assisted Residential Environments
A.B. 533	P	Larry Fry	Coalition of Assisted Residential Environments
A.B. 535	Q	Larry Fry	Coalition of Assisted Residential Environments
A.B. 29	R	Marsheilah Lyons	Work Session Document
A.B. 29	S	University Medical Center	Proposed Amendment
A.B. 29	T	Dale Carrison	Letter of Support

A.B. 50	U	Marsheilah Lyons	Work Session Document
A.B. 110	V	Marsheilah Lyons	Work Session Document
A.B. 154	W	Marsheilah Lyons	Work Session Document
A.B. 154	X	Clark County	Proposed Amendment
A.B. 154	Y	Assemblyman Jason M. Frierson	Letter of Information
A.B. 280	Z	Marsheilah Lyons	Work Session Document
A.B. 280	AA	Health Services Coalition and the Nevada Healthcare Policy Group	Proposed Amendment
A.B. 280	BB	AARP Nevada	Proposed Amendment
A.B. 533	CC	Marsheilah Lyons	Work Session Document
A.B. 533	DD	Assemblywoman Marilyn Kirkpatrick	Proposed Amendment
A.B. 535	EE	Marsheilah Lyons	Work Session Document