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

## Seventy-sixth Session
## April 14, 2011

The Senate Committee on Health and Human Services was called to order by Chair Allison Copening at 3:40 p.m. on Thursday, April 14, 2011, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 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:**

Senator Barbara K. Cegavske, Clark County Senatorial District No. 8

**STAFF MEMBERS PRESENT:**

Marsheilah Lyons, Policy Analyst
Risa Lang, Counsel
Shauna Kirk, Committee Secretary

**OTHERS PRESENT:**

T. Brian Callister, M.D., President-Elect, Nevada State Medical Association
Janine Hansen, Nevada Eagle Forum
Lynn Chapman, Nevada Families Association
Daniel Braisted
Greg Clemenson
Juanita Clark, Charleston Neighborhood Preservation

John Wagner, Independent American Party
Randi Thompson, National Federation of Independent Business
Larry Hardy
Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates
Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Robert D. Fisher, President, CEO, Nevada Broadcasters Association
Marla McDade Williams, B.A., M.P.A., Deputy Administrator, Health Division, Department of Health and Human Services
Joseph A. Greenway, Director, Center for Health Information Analysis, University of Nevada, Las Vegas
Bill M. Welch, Nevada Hospital Association
Bobbette Bond, Health Services Coalition
Robin Keith, Nevada Rural Hospital Partners Foundation
Renny Ashleman, Nevada Health Care Association
Mary Wherry, R.N., M.S., Manager, Public Health and Clinical Services, Health Division, Department of Health and Human Services
Peggy Lear Bowen

CHAIR COPENING:
We will open the meeting with Senate Bill (S.B.) 310.

**SENATE BILL 310**: Enacts the Freedom of Choice in Health Care Act. (BDR 40-69)

SENATOR BARBARA K. CEGAVSKE (Clark County Senatorial District No. 8):
I am honored to present a bill on behalf of ex-Senator Raggio and Senator Hardy. Senate Bill 310 would enact Freedom of Choice in the Health Care Act. It is model legislation developed by the American Legislative Exchange Council (ALEC). It is in response to proposed efforts of the 111th United States Congress health-care reform and is based on an Arizona ballot question that narrowly lost the same year.

The bill was originally requested by ex-Senator William J. Raggio who felt the measure would be timely in the wake of health-care reform legislation that was eventually passed by the 111th Congress. A March 29, 2011, press release issued by ALEC has indicated a total of 44 states have announced legislation based on their freedom of choice in health care. Six states have passed the ALEC model as a statute, and two states have passed the model as a

constitutional amendment. An act of citizen's initiative is currently under way in Mississippi. According to their Website, ALEC is the nation's nonpartisan individual-membership association of state legislators with nearly 2000 legislators across the nation and more than 100 alumni members in congress. Their mission is to promote free markets, individual liberty and federalism through its model legislation in the states.

T. BRIAN CALLISTER, M.D. (President-Elect, Nevada State Medical Association):
A key concept with this bill is recognizing what a lack of choice does regarding quality of care. Treatment choices need to be made between a patient and a physician. If you mandate a single plan, at any level, restrictions can come from above that deny the choices of the physician and the patient. There is more than one way to approach a medical issue, and that is a judgment call between physician and patient. Anything that removes access to quality interventions is something all physicians and patients are going to be against. This bill addresses that.

JANINE HANSEN (Nevada Eagle Forum):
This is one of the most critical measures before this Committee this Session. My doctor uses many alternative treatments which may not be approved by the U.S. Food and Drug Administration (FDA), U.S. Department of Health and Human Services. When my mother fell, she was prescribed medication not approved by the FDA. After taking that medication for one month, she was completely able to stop taking the narcotic painkillers she had been taking for 10 years and was able to take care of herself. My doctor called it a miracle. These kinds of options will not be available to us unless we have freedom of choice. *The Constitution of the United States*, Amendment 9, reads, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people." The first ten amendments are critical to maintaining our liberties. It is critical for people to have the option for the kind of health care they want. Most health-care policies do not cover alternative care. This means what I want will not be covered under existing health care. If my family and I do not have the right to make these choices, our health will be in jeopardy. More and more people are informed consumers of alternative medicine. People who choose alternative medicine have invested a lot of time becoming informed. These alternatives are often preventive medicines which are not generally the focus of traditional medicine. When we take away a person's right to make this choice, we are denying a fundamental right that is a God-given right. Last year, I was hospitalized with no insurance.

The hospital bill was over $26,000. My husband was out of work, and we were in a bad financial situation. My brother, who often works in insurance, said insurance companies never pay more than 50 percent. My husband took that information to the hospital and negotiated my bill down from $26,000 to $7,000. That says something about what is going on in health care. People who do not have insurance are paying a large portion of the hospital's overhead. We do need health-care reform. What we cannot do is take away people's freedom and basic liberties that are fundamental to the American way of life and force them into a system. We encourage you to stand up for liberty and do as our founding fathers have done. Do not allow the overreaching hand of the federal government to take away our fundamental rights.

LYNN CHAPMAN (Nevada Families Association):
I would like to echo what has been said regarding my right to choose. This is my body. I should have the right to decide what I want to do with my body and what option I want to take in treating it.

DANIEL BRAISTED:
There are many schools of thought regarding ways to good health. Some people say to eat, drink and be merry as tomorrow you may die; some people say the body catches diseases; and some people say we get disease by what we eat and think. Each belief would dictate a different set of actuarial tables that would govern the rates for that insurance. It is not fair to force someone into one-size-fits-all coverage. It is flawed and unfair. Please vote yes on S.B. 310.

GREG CLEMENSON:
I am here representing myself. I am a licensed health insurance agent. I support this bill on behalf of myself and my clients. There are over 80 preventive health-care benefits included in health-care reform that have caused insurance rates to go up by more than 10 percent. The whole idea of this was to reduce cost of coverage. Health insurance coverage for children under 19 years of age is nonexistent. I handle a lot of group coverage, and to cover a child on most group plans costs approximately $300 to $400. Health-care reform stifles free-market competition.

JUANITA CLARK (Charleston Neighborhood Preservation):
Charleston Neighborhood Preservation encourages this Committee to vote yes on this bill. Senate Bill 310 preserves the rights of Nevadans to make personal

health-care decisions. Please pause and consider the state of mind which brings us here to read this sentence in the Legislative Counsel's Digest of S.B. 310.

> This bill also includes a pledge from the Legislature that it will not enact legislation which requires a person to participate in any health care system or plan or which imposes any type of penalty against a person for declining health care coverage or for participating in any particular health care system or plan.

JOHN WAGNER (Independent American Party):
I would like to echo what has been said and ask for your support of this bill.

RANDI THOMPSON (National Federation of Independent Business):
The National Federation of Independent Business (NFIB) has joined Nevada in the lawsuit to fight the Patient Protection and Affordable Care Act (PPACA). We applaud the goal of the bill, but the individual mandate forcing citizens to purchase government-approved health care undermines the basic core principles of government mandates and gives the federal government too much power. That is why NFIB has been supporting health-care exchanges. Beyond the constitutional aspects, there is a cost to Nevadans. The federal health-care bill will cost an extra $613 million in providing health care for the State from 2014 to 2019. The individual mandate translates to a tax on small businesses for health insurance plans. The focus of this bill has been on small businesses that cannot afford health insurance for their five to seven employees. We also expect to see a 10 percent to 15 percent increase in premiums.

LARRY HARDY:
I have been in the insurance-brokerage business for about 40 years in Nevada. I am in favor of this bill. It allows Nevadans to be independent and make our own decisions in health care. People should have freedom of choice.

ELISA CAFFERATA (Nevada Advocates for Planned Parenthood Affiliates):
We are neutral on this bill. We do ask you to consider making it a fair and balanced approach which would not require people to buy a certain product and never by State statute prohibit people from buying specific products with their own private dollars.

CHAIR COPENING:
Mr. Duarte, what would be the impact to the State?

CHARLES DUARTE (Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):
The Department of Health and Human Services, Health Division (HD) is actively involved in the implementation of the Affordable Care Act.

CHAIR COPENING:
It is my understanding the Governor is requesting the State to go forward with this, because if we do not, the federal government will take it over.

MR. DUARTE:
Yes. The State has decided to move forward with the development of a health insurance exchange consistent with the requirements of PPACA. If we fail to make significant progress toward that goal by January 1, 2013, the Secretary of the U.S. Department of Health and Human Services has the authority to develop an exchange for Nevada's citizens.

CHAIR COPENING:
We will now close the hearing on S.B. 310, and open the meeting on S.B. 245 with a work session document (Exhibit C).

**SENATE BILL 245**: Creates the Statewide Alert System for the Safe Return of Missing Older Persons. (BDR 38-710)

SENATOR KIECKHEFER:
When we originally heard the bill, the Safe Return of Missing Older Persons alert system was going to be run through the State's emergency alert system which has been taken out. How is this going to work?

ROBERT D. FISHER (President, CEO, Nevada Broadcasters Association):
If it is done through Alert ID, it will appear immediately on telephones. If the Las Vegas Metropolitan Police Department decided to send out activation through the facsimile system, over 5,000 people would immediately receive it. If we use the State Website, it will go out to as many people who sign up. Local television and radio might carry the activation, but it would not be sent out via the emergency alert system.

SENATOR WIENER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 245.

SENATOR KIHUEN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will now open the meeting on S.B. 370 with a work session document (Exhibit D).

**SENATE BILL 370**: Makes various changes to provisions governing children who are placed with someone other than a parent. (BDR 38-909)

CHAIR COPENING:
It is my recommendation we rerefer this bill to the Senate Committee on Finance without recommendation.

SENATOR HARDY MOVED TO REREFER S.B. 370 TO THE SENATE COMMITTEE ON FINANCE WITHOUT RECOMMENDATION.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will now open the meeting on S.B. 371 with a work session document (Exhibit E).

**SENATE BILL 371**: Makes various changes concerning the protection of children. (BDR 38-3)

MARSHEILAH LYONS (Policy Analyst):
This bill has an amendment proposed by Dr. Roitman (Exhibit F), and a proposed amendment by Donna Coleman (Exhibit G).

SENATOR HARDY MOVED TO REREFER S.B. 371 TO THE SENATE COMMITTEE ON FINANCE.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will now open the meeting on S.B. 209 with a report of the subcommittee on sentinel events (Exhibit H).

**SENATE BILL 209**: Revises provisions relating to reports of sentinel events and related information reported by certain medical facilities. (BDR 40-193)

MS. LYONS:
The subcommittee that was assigned to S.B. 209, S.B. 264, S.B. 338, S.B. 339 and S.B. 340 recommends this Committee "Amend and Do Pass" all five bills with the final amendments that were recommended by the subcommittee for each measure. The subcommittee further recommends this Committee consider some outstanding issues that were presented. These issues are outlined on page 2 of the subcommittee's report (Exhibit H).

**SENATE BILL 264**: Revises provisions concerning the regulation of certain medical facilities. (BDR 40-15)

**SENATE BILL 338**: Revises provisions relating to reports of certain medical and related facilities. (BDR 40-261)

**SENATE BILL 339**: Establishes provisions relating to the safety of patients in certain medical facilities. (BDR 40-662)

**SENATE BILL 340**: Revises provisions relating to programs to increase public awareness of health care information. (BDR 40-663)

SENATOR LESLIE:
There will be a fiscal note on some of these bills, and they will have to go to the Senate Committee on Finance.

MS. LYONS:
The first outstanding issue related to the proposed amendment for S.B. 339 includes a provision giving immunity for the disclosing facility from third-party lawsuits when that facility, through a review process, determines an infection was acquired at another facility. Proponents for the immunity provision indicated the review and determination of where an infection is acquired is made by a facility committee and is a reasonable assumption. A complete epidemiology investigation to determine the source of the infection does not provide information in a timely manner and would be cost-prohibitive. Opponents of this provision indicated concerns with authorizing such immunity when the source of the infection was not going to be definitively determined, but rather based on the reasonable assumption. The question is posed to the full Committee regarding the necessity of the immunity provision.

The second issue relates to data reported on the public Websites be reported as a per incident number and as a rate. In order to make the information useful to the public, they would want to be able to assign a rate for whatever the national standard is for reviewing it. That would leave each indicator flexible. If the Committee's intent is not to specify a rate in statute, the Committee may need to consider establishing a process for determining the appropriate rate to be listed in statute or authorize a specific entity to establish the rate. You will see the same language regarding a number and rate throughout several of the bills. The Committee's decision would apply to each of the bills. I have been notified by the HD the date can remain the date that is in this bill.

SENATOR LESLIE:
An issue we did not talk about was how to display the information. The Nevada Hospital Association (NHA) preferred the rate be shown on the Website. A person clicking on it would get the whole number and an explanation. Some of the other bill proponents would prefer to have both the number and rate available at the same time.

MARLA MCDADE WILLIAMS, B.A., M.P.A. (Deputy Administrator, Health Division, Department of Health and Human Services):
Currently, we report sentinel data. If the effective date on this bill is changed, we could not post anything prior to that date. It would be best to have it upon passage and approval.

CHAIR COPENING:
How is this information currently displayed?

MS. MCDADE WILLIAMS:
For sentinel events, it is a number. A rate makes more sense when looking at infection data. That will actually have a denominator for infection data. We report numbers for sentinel events, but we do not report by facility name.

CHAIR COPENING:
Are the numbers reported in a perspective manner that considers the size of the health facilities? Is it easily understandable to the public?

MS. MCDADE WILLIAMS:
It is reported by type of event. There is no relationship to a hospital right now.

SENATOR LESLIE:
The rate issue does not apply to this particular bill. Why are you suggesting this become effective upon passage and approval?

MS. MCDADE WILLIAMS:
If we had data and the date is October 15, 2011, we would have to wait until October 15, 2011, to be able to post it.

SENATOR HARDY:
Does this protect the identity of the patient?

MS. MCDADE WILLIAMS:
There are other bills out for consideration that make the clarification. This allows us to report by facility, which always protects the identity of the patient.

SENATOR KIECKHEFER:
If two facilities have the same number but one served 12 times as many patients, would that be meaningful data for comparing quality of care?

MS. MCDADE WILLIAMS:
I am not aware of anyone reporting sentinel event data as a rate. They all report numbers.

SENATOR KIECKHEFER:
Is that happening nationally?

MS. MCDADE WILLIAMS:
Yes.

SENATOR LESLIE:
These comments were not meant for S.B. 209 (Exhibit I). The appropriate motion would be just to do pass. I do not believe we need any amendments. The effective date is July 2011.

SENATOR LESLIE MOVED TO DO PASS S.B. 209.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR COPENING:
We will now open S.B. 264.

**SENATE BILL 264**: Revises provisions concerning the regulation of certain medical facilities. (BDR 40-15)

SENATOR LESLIE:
We have been talking about putting up a rate and a number for some quality indicators. Who will decide what rate to use? Does that come from the nationally recognized body that is collecting the data?

JOSEPH A. GREENWAY (Director, Center for Health Information Analysis, University of Nevada, Las Vegas):
These rates are set by the national standards. We can put in a provision that if one of them is not set, to work with the NHA, or whoever is involved, to determine what is the best rate.

SENATOR LESLIE:
I would like the Committee to hear both sides of the argument about how to display the rate and the number.

BILL M. WELCH (Nevada Hospital Association):
The NHA requests the information be expressed as a rate. If this is to assist the consumer in making an educated decision, putting raw numbers on the site is not going to be an accurate tool by itself. I will use Sunrise Hospital and Medical Center and Southern Hills Hospital and Medical Center as an example. Sunrise Hospital's volume will be much higher, and the type of cases will be much more complex through the emergency system. If Sunrise Hospital had 100 incidents of infection and Southern Hills had 20, someone might think Southern Hills is a much better hospital with only 20 incidents. We believe sentinel events can be expressed as a rate based upon 1,000 patient days. It is consistent with how we track patients within the hospital. We are not suggesting the numbers not be displayed. The rate would be listed, and when someone moved the computer mouse over the rate, it will automatically bring up the whole number and how it was calculated.

BOBBETTE BOND (Health Services Coalition):
The Health Services Coalition (HSC) feels that displaying both numbers is a great compromise. What Mr. Welch has said regarding the different hospitals is true. We support the idea of a rate. We strongly feel there needs to be a number as well. The HSC supports this transparency work. When there is public posting, it can become a competition within the Nation. We did not intend rates to be displayed. We just do not want only rates displayed.

CHAIR COPENING:
It sounds like we are all in agreement for both the rate and number.

MR. DUARTE:
Over the last few years, we have had a difficult time getting into regulations for publishing the types of information we are talking about today. Having the intent expressed in this statute gives us better instruction for moving forward with the Website. I do not think we need to put how the Website is going to be arranged or look like in statute.

SENATOR LESLIE:
Can Mr. Greenway comment on the fact that Ms. McDade Williams does not think sentinel events can be displayed as a rate along with a number, and Mr. Welch thinks we can?

MR. GREENWAY:
The NHA is currently working on a Website to post sentinel events, and it does display sentinel events by rate. We can do both.

MS. MCDADE WILLIAMS:
I would like to clarify what I said. No other states are posting a rate for sentinel events.

MR. WELCH:
Tomorrow, I am unveiling our Website to the NHA's Board of Directors. We are expressing our sentinel events as a rate based on 1,000 patient days.

SENATOR KIECKHEFER:
It looks as if we are retaining the definition in existing statute for sentinel event. That has had various interpretations over recent years. We do not always screen for infections when people are admitted into a hospital and cannot always know if an infection is present upon admission.

MS. MCDADE WILLIAMS:
The HD has the responsibility to report infection data as it is reported through the National Healthcare Safety Network (NHSN). We also have sentinel event responsibility. Not all infections are sentinel events. Sentinel event reports are not just a total number for a facility. Many different events happen at a facility. If we go down that path, should we post a rate per each event, per 1,000 days? That would give 20 different rates based on the type of event. What needs to be posted needs to be clear.

SENATOR KIECKHEFER:
The definition of sentinel event, on its face, means an unexpected occurrence involving a facility-acquired infection. What I heard you say was "sometimes."

MS. MCDADE WILLIAMS:
It goes into the definition of unexpected. As we have moved forward in regulations and experience the concept of sentinel events, things that are not expected to have happened to a patient become the "unexpected" that require analysis.

SENATOR KIECKHEFER:
Are there acceptable rates of facility-acquired infections, and when within that frequency, is it not considered a sentinel event? Are you saying it is still up to the facility to decide?

MR. WELCH:
The State has adopted regulations to implement the intent of sentinel event reporting. There is an algorithm through which a hospital must go. If it processes through that and meets a certain standard, then it has to be reported as a sentinel event. Not all infections are sentinel events, because they do not bring the risk or the potential risk that is defined in a sentinel event. There is much clearer language in regulations and reporting tools. It is a very formal, structured process.

There are approximately 28 specific types of categories. We are going to be posting by rate for those 28 different categories.

> SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED WITH THE DOCUMENT IN THE WORK SESSION S.B. 264.
>
> SENATOR WIENER SECONDED THE MOTION.

SENATOR KIECKHEFER:
Does that include posting a rate for sentinel events and not just the other data?

SENATOR LESLIE:
Page 2, number 2, of the work session document for S.B. 264 (Exhibit J), says post health-care information for sentinel events on the State Website as both a rate and a number by facility. The only conflict is in S.B. 209. We have not gotten that far.

> THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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CHAIR COPENING:
We will now open the meeting on S.B. 338.

**SENATE BILL 338**: Revises provisions relating to reports of certain medical and related facilities. (BDR 40-261)

MS. LYONS:
The amendment for this bill is on page 2 of the work session document for S.B. 338 (Exhibit K). There are several provisions. The first is to amend section 1, subsection 3, paragraphs (a) and (b).

MS. MCDADE WILLIAMS:
Facilities that are already reporting this information only wanted us to have access to their data for the NHSN as of October 15, 2010. To accommodate similar concerns that might come up for nursing homes, we would have an effective date of October 15, 2011. On page 2, Exhibit K, in the first amendment to section 1, line 31 would read October 15, 2010, and on line 35 would read October 15, 2010. In the second amendment to section 1, line 2 would read October 15, 2010. The nursing homes would be October 15, 2011.

CHAIR COPENING:
You said previously October 15, 2011. Just above that on line 26, it says a medical facility or facility for skilled nursing by January 1, 2012. Do we need separate dates?

MS. MCDADE WILLIAMS:
The clarification there is " ... by each medical facility ... ."

CHAIR COPENING:
Is the date in the three sections we see for October 15, 2011, to be changed to October 15, 2010?

MS. BOND:
What happened on the sentinel events registry date? In the beginning of the conversation, Ms. McDade Williams mentioned that date being as soon as the bill could pass.

MS. MCDADE WILLIAMS:
It makes sense that it be effective July 1, 2011, for the sentinel events. The concern is that some hospitals have already been reporting into the system prior to us enacting the regulations. They did not want us to be looking at that data prior to the effective date of the regulations which is October 15, 2010. For

sentinel events, we would be able to report that data as soon as the bill is effective. For NHSN, we can only report from a certain period of time.

> SENATOR LESLIE MOVED TO AMEND AND DO PASS WITH THE REVISED AMENDMENT S.B. 338 WITH THE NEW DATE OF OCTOBER 15, 2010.
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> SENATOR WIENER SECONDED THE MOTION.
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> THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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CHAIR COPENING:
We will now open the meeting on S.B. 339.

**SENATE BILL 339**: Establishes provisions relating to the safety of patients in certain medical facilities. (BDR 40-662)

MS. LYONS:
The proposed amendment from the Committee begins on page 2 of the work session document for S.B. 339 (Exhibit L).

ROBIN KEITH (Nevada Rural Hospital Partners Foundation):
Nevada Rural Hospital Partners Foundation was actively involved in this work group. We struck the language relating to certified infection preventionist. We tried to find a way we could increase the level of infection control expertise in existing staff and ensure each person responsible for infection control in our facility had a basic level of training. The bill is now constructed to ensure that happens. It is Senator Breeden's hope the bill would require medical facilities to post certain information about infections and to provide various types of information to patients so patients would not be in facilities without realizing they had an infectious disease. That is what section 2 of the bill does.

It would require that hospital safety plans be posted on the Website. We also ask that a new section be added to provide immunity for the disclosing facility from a third-party lawsuit based on the disclosure of a suspected source of an infection. We do not want to set up a situation where a hospital is being sued

because of an accusation by one hospital of another in regard to a patient acquiring an infection.

CHAIR COPENING:
Were all of these amendments heard before the subcommittee?

MS. KEITH:
Yes.

SENATOR BROWER:
Is there anything in this bill or elsewhere in statute that requires a facility to inform patients they have an infection or to inform patients where the facility thinks the infection originated?

MS. KEITH:
I do not believe so.

SENATOR BROWER:
The best way to avoid liability is to not engage in speculation. If we can avoid that, can we avoid liability concerns and the need for immunity?

RENNY ASHLEMAN (Nevada Health Care Association):
We are required to tell a patient whether or not the patient acquired an infection in our facility. If a patient just came from a different hospital and we tell that patient they had it when they got here, we have identified where they may have contracted it. That is the concern.

SENATOR BROWER:
How can the facility that is telling patients they have an infection be liable to a third party?

MR. ASHLEMAN:
We are being compelled to make this public by law. We are telling patients what happened, and they are going to make a reasonable assumption.

CHAIR COPENING:
I cannot imagine how anyone could know what is that source of infection. I believe there needs to be some immunity there. When you receive a new patient, do you generally take blood tests right away?

MS. KEITH:
That would be determined on a patient-by-patient basis depending on the symptoms coming in.

CHAIR COPENING:
Taking a blood test could compound the fact that you may be in a lawsuit later, could it not?

MS. KEITH:
Yes, it could.

MS. LYONS:
I would like to clarify a provision on page 5 of the proposed amendment, Exhibit L, regarding this amendment. There is a recommendation to codify the epidemiology program currently provided by the HD. That is a broad program. We received information from Ms. McDade Williams that this would be accomplished by amending chapter 449 of the *Nevada Revised Statutes* requiring the HD to provide education and technical assistance to prevent infections in facilities regulated by the HD. You should have a separate handout from Ms. McDade Williams clarifying information about how that would be included (Exhibit M). I do not think the intent was to codify the entire epidemiology program, but to codify those sections that relate to technical assistance provided in education for prevention and infection control in facilities.

CHAIR COPENING:
We will incorporate this as a conceptual amendment to the other amendment.

SENATOR BROWER:
If we are granting immunity in a situation where it is unlikely to be a claimed liability anyway, then we are not depriving third parties of any rights. Are we still working off of a conceptual amendment? Conceptually, I do not have a problem with it.

SENATOR KIECKHEFER:
Ms. McDade Williams, is this a service the HD is already providing to facilities regulated by the HD? I want to be sure this is not going to be a fiscal burden.

MS. MCDADE WILLIAMS:
We do provide education and technical assistance to facilities we regulate through our health facility survey staff. It is paid for by the regulated industries.

SENATOR WIENER MOVED TO AMEND AND DO PASS WITH BOTH AMENDMENTS S.B. 339.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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CHAIR COPENING:
We will now open the hearing on S.B. 340.

**SENATE BILL 340**: Revises provisions relating to programs to increase public awareness of health care information. (BDR 40-663)

MS. LYONS:
The amendment is on page 1 of the work session document for S.B. 340 (Exhibit N). The proposed amendment is to exempt the requirement to report by diagnoses-related group and to distinguish principal and secondary surgical procedures for outpatient services.

SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 340.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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CHAIR COPENING:
We will now open the meeting on S.B. 246.

**SENATE BILL 246**: Makes various changes concerning required training for employees who administer medication to a child at certain entities that have custody of the child pursuant to the order of a court. (BDR 40-796)

MS. LYONS:
There is an amendment proposed by the HD on page 2 of the work session document for S.B. 246 (Exhibit O).

SENATOR LESLIE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 246.

SENATOR WIENER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR HARDY WAS ABSENT FOR THE VOTE.)

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CHAIR COPENING:
We will now open the meeting on S.B. 382.

**SENATE BILL 382**: Establishes provisions relating to early intervention services for infants and toddlers with disabilities. (BDR 40-630)

MS. LYONS:
There is an amendment proposed by Senator Cegavske (Exhibit P). She indicated this amendment is replacing the bill.

SENATOR LESLIE:
I think this is micromanaging by statute. There are issues, but I think they can be handled without us passing a law. I am uncomfortable having this in statute.

CHAIR COPENING:
How many children are on the waiting list?

MARY WHERRY, R.N., M.S. (Manager, Public Health and Clinical Services, Health Division, Department of Health and Human Services):
We had 500-plus children on the waiting list. The State had the children waiting because we were performing so many processes that we handed it off to the

private sector. It took approximately six months to get caught up with the demand that had built up. In the Las Vegas area, we have gone from 286 children waiting for one service down to 71 children waiting for speech and language pathology. A child who is waiting for more than 30 days for a service can be considered waiting. If there is a turnover in staff, someone could end up with a child waiting for 5 to 20 days. The real issue is when we have children who have been waiting for six months for speech or language pathology service.

CHAIR COPENING:
Is the reason for the waiting list because there is not enough money?

MS. WHERRY:
It has been because the State has not had the resources. A large portion of our budget goes to the private sector for the community partners that have been working with Senator Cegavske on this bill.

CHAIR COPENING:
We have written testimony from Lisa Cridland in support of S.B. 382 (Exhibit Q).

SENATOR LESLIE:
Will you explain how this amendment helps?

MS. WHERRY:
Through this amendment, we would have the opportunity to move money from one category to another in our budget and could move children who may be waiting for services to the community partners. It would expand their ability to serve children. It would be done on a case-by-case basis, based on how much money we have. We still cannot exceed our budget authority.

SENATOR LESLIE:
Can you do that now? We do not usually do this in statute.

MS. WHERRY:
Yes. In the budget discussion, it would be an opportunity for us to know the Legislature wants us to do that.

SENATOR KIECKHEFER:
Our budgeting process prevents children from being served in the private sector because the money is in the wrong category. I recommend the amendment. It gives the ability to move that money to get a child service as soon as possible.

CHAIR COPENING:
I also believe it should be left the way it is, but my hope would be that you would seek permission in situations where you believe a child is waiting too long.

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS AMENDED S.B. 382.

SENATOR BROWER SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS COPENING, KIHUEN, LESLIE, AND WIENER VOTED NO.)

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PEGGY LEAR BOWEN:
I want to thank the Committee for their work for the Silver Alert for our elders.

SENATOR KIECKHEFER:
I would like to make a motion on S.B. 310.

**SENATE BILL 310**: Enacts the Freedom of Choice in Health Care Act. (BDR 40-69)

SENATOR KIECKHEFER MOVED TO DO PASS S.B. 310.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION FAILED. (SENATORS COPENING, KIHUEN, LESLIE AND WIENER VOTED NO.)

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CHAIR COPENING:
We will adjourn the Senate Committee on Health and Human Services meeting at 5:42 p.m.

RESPECTFULLY SUBMITTED:

Shauna Kirk,
Committee Secretary

APPROVED BY:

Senator Allison Copening, Chair

DATE:

| EXHIBITS | | | |
|---|---|---|---|
| **Bill** | **Exhibit** | **Witness / Agency** | **Description** |
| | A | Agenda | Agenda |
| | B | Attendance Roster | Attendance Roster |
| S.B. 245 | C | Senator Allison Copening | Work Session Document |
| S.B. 370 | D | Senator Allison Copening | Work Session Document |
| S.B. 371 | E | Senator Allison Copening | Work Session Document |
| S.B. 371 | F | Norton A. Roitman, MD | Proposed Amendment |
| S.B. 371 | G | Donna Coleman | Proposed Amendment |
| S.B. 209<br>S.B. 264<br>S.B. 338<br>S.B. 339<br>S.B. 340 | H | Senator Allison Copening | Work Session Document |
| S.B. 209 | I | Marsheilah Lyons | Work Session Document |
| S.B. 264 | J | Senator Sheila Leslie | Work Session Document |
| S.B. 338 | K | Marsheilah Lyons | Work Session Document |
| S.B. 339 | L | Marsheilah Lyons | Work Session Document |
| S.B. 339 | M | Marla McDade Williams | Proposed Amendment |
| S.B. 340 | N | Marsheilah Lyons | Work Session Document |
| S.B. 246 | O | Marsheilah Lyons | Work Session Document |
| S.B. 382 | P | Senator Barbara K. Cegavske | Work Session Document |
| S.B. 382 | Q | Lisa H. Cridland | Written Testimony |