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

Seventy-Eighth Session
May 4, 2015

The Committee on Health and Human Services was called to order by Chair James Oscarson at 1:36 p.m. on Monday, May 4, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4404B of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman James Oscarson, Chair
Assemblywoman Robin L. Titus, Vice Chair
Assemblyman Nelson Araujo
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Jill Dickman
Assemblyman David M. Gardner
Assemblyman John Hambrick
Assemblywoman Amber Joiner
Assemblyman Brent A. Jones
Assemblyman John Moore
Assemblywoman Ellen B. Spiegel
Assemblyman Michael C. Sprinkle
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Senator Moises (Mo) Denis, Senate District No. 2
Senator Joseph (Joe) P. Hardy, Senate District No. 12
Assemblyman James Ohrenschall, Assembly District No. 12

STAFF MEMBERS PRESENT:

Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Karyn Werner, Committee Secretary
Norma Mallett, Committee Assistant

OTHERS PRESENT:

Michael D. Hillerby, representing State Board of Pharmacy
Mary Lau, President and Chief Executive Officer, Retail Association of Nevada
Vicki Higgins, Private Citizen, Las Vegas, Nevada
Mona Lisa Samuelson, Private Citizen, Las Vegas, Nevada
Tracey D. Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services
Kelli Goatley-Seals, Health Educator Coordinator, Washoe County Health District
Joseph P. Iser, M.D., Dr.P.H., M.Sc., Chief Health Officer, Southern Nevada Health District
Benjamin Schmauss, State Director, Government Relations, American Heart Association
Elisa Cafferata, President and Chief Executive Officer, Nevada Advocates for Planned Parenthood Affiliates, Inc.

Chair Oscarson:
[Roll was taken. Committee rules and protocol were explained.] We will now open the hearing on Senate Bill 288 (1st Reprint).

Senate Bill 288 (1st Reprint): Revises provisions relating to prescribing controlled substances. (BDR 40-889)

Senator Moises (Mo) Denis, Senate District No. 2:
Let me talk to you about why I brought this forward. One of my first bills when I came to the Legislature 10 or 12 years ago had to do with prescription narcotic abuse and trying to determine how to do different things. Back then, I proposed something like this, but it was more difficult to do then because the

database was more difficult to use. I am glad we have fast-forwarded now to this opportunity.

As I mentioned in the long joint hearing on prescription drug abuse, mine was the very short bill because I only had a small piece of it. We fall short in Nevada of achieving the greatest benefit from using our state's Prescription Monitoring Program (PMP). For a long time, accessing and reviewing the information in the system by prescribers has been optional, resulting in the system being underutilized and thereby diminishing its valuable purpose. [Read from written testimony (Exhibit C).]

I also have a representative from PMP here with me. We have some amendments that we missed, so we will talk about those.

Michael D. Hillerby, representing State Board of Pharmacy:
In talking with the folks who are the day-to-day management of the PMP, we found a couple of things in the bill that needed to be changed. The first is on page 3, in section 2, subsection 4. Currently, when prescribers or practitioners access the database, they can look at their prescribing history. The original version of the bill would have required those prescribers to look at their prescribing history every six months to check for any signs of abuse or fraud. The bill, as currently drafted, requires them to look at their own demographic or registration information. The software does not allow that currently. Once you have registered and you want to make changes, you must call the State Board of Pharmacy. They make sure you are who you say you are and that your Drug Enforcement Administration (DEA) registration is current, and then they make the changes. We would need to add language in subsection 4 to say "when the functionality is available." The next time there is a software upgrade, to avoid a fiscal note, we will have the contractor make the changes to the software because it does come at some expense.

The other issue is on page 13. In section 7.7, subsection 15, we would strike line 8 on that page regarding veterinarians. Veterinarians do not have access to the program. They need to have a DEA registration to possess and prescribe controlled substances. We do not track prescriptions that are issued to pets or livestock. We would not want them to be in trouble for not accessing a program to which they have no access. Those are the two changes we would suggest.

Assemblywoman Titus:
Regarding veterinarians, since they do have DEA numbers and they can write for narcotics for pain, is that tracked through the pharmacies, and if not, where is that tracked?

Michael Hillerby:
I am not sure I know the answer to that. We do not track it in the PMP because that is obviously for human patients, but I will get that information for you. The Nevada State Board of Veterinary Medical Examiners handles the discipline and regulations of their profession, so there is not a specific tracking mechanism by pet, prescription, or client that I am aware of, but we will ask and see if we have anything specific.

Chair Oscarson:
Are there any questions? Seeing none, we will go to support for S.B. 288 (R1) and ask anyone to come up who would like to testify.

Mary Lau, President and Chief Executive Officer, Retail Association of Nevada:
I am representing Liz MacMenamin, who is attending a meeting on prescription drug abuse. We have worked with Senator Denis for years, and we support the amendments and this bill. It is all part of the process and part of what Assemblyman Sprinkle worked on during the interim.

Chair Oscarson:
Is there any other testimony in support? Seeing none, is there any testimony in opposition?

Vicki Higgins, Private Citizen, Las Vegas, Nevada:
I oppose this bill. First and foremost, I feel there are Health Insurance Portability and Accountability Act (HIPAA) violations involved. If we need to create a database—and I want to say thank you for trying to protect us—I would request that it not be a general patient database, but for abusers or people who are known to offend. I feel this is a gross injustice and an infringement into HIPAA. No matter what medicine I am taking, I do not feel it is up to a police officer to have access to my list of medicines unless I am a noted offender. I would encourage an offender registry and not a patient registry. The registry needs to be for people who are being naughty or uncontrolled.

At the mention of medical marijuana, it says it is going to be studied. We are approved for this, and I am hoping that this is not included as an unapproved controlled substance, because our state has made it quite clear that we, as patients, have our rights.

Mona Lisa Samuelson, Private Citizen, Las Vegas, Nevada:
I am a 25-year resident of Nevada, and I have come to give voice for the medical marijuana community. Once again I am here because our communities overlap. When you talk about medical patients on the marijuana program, you are talking about the most sick, injured, and dying because of the way the

legislation was written up. I am here to speak on behalf of those who are too sick and ill to come up here and let you know that we do not want a registry of offenders. We do not have a problem with a registry of offenders; we have a problem with your creating a database. It is obvious that you are writing into law that you are looking for the inappropriate use by patients of controlled substances as well. That will be medical marijuana pretty soon. We are very much against this. I do not want my personal information to go to an investigator.

On top of that, in section 2, subsection 10, you are opening it up for the Pharmacy Board and the Investigation Division of the Department of Public Safety to be able to "apply for any available grants and accept any gifts, grants or donations to assist in developing and maintaining the program." Here is where I am really worried that you are going to start accepting DEA money. We have not even figured out our medical marijuana program laws and we are already making a registry of offenders. Call it what you like, but I will tell you what it looks like to your citizens: it looks like what you are trying to do is use our medical records and regulating us into a criminal history. We do not like that. We do not take too kindly to that. I am here to speak out for the medical marijuana community and let you know that we are not criminals and we do not take kindly to this. This is not just us. We are all on pain medications of some type. We are all on antihistamines or some kind of controlled substance. I want you to keep in mind that the citizens are very upset.

Chair Oscarson:
I will refer you to the federal government that does not have a handle on medical marijuana or marijuana and how it is handled. Are there any other comments? Seeing no further testimony in opposition, is there anyone in the neutral position? Seeing no one here or in Las Vegas, we have a question.

Assemblywoman Titus:
I was looking through the bill again to make sure we could designate two people to access this database and that we do not personally have to access it. Is that correct? It is not in this bill, so is that existing law?

I was sitting here trying to see how easy the program is since I am still practicing, but have been here for the last four months, going on five. I tried to access my database but could not get in just now. It is really not as simple as everyone says. The system is down, which is not uncommon in rural areas. If we only have to do it twice a year, I am a proponent of making sure that we, as providers, are doing things right. This is not about patients; this is really about providers doing due diligence to make sure we check to ensure no one

has stolen our prescription pads. It happens. People in our offices have access to them. Patients may get access to them and write prescriptions for themselves. It has happened to me, so I have no problem with checking periodically to ensure I am doing a good job. I do have some problems with the system not being as easy to use as stated, so I am going to have to go back to my office and call the number to get access again. There are issues to it; it is not that simple. I am not totally opposed to this.

Michael Hillerby:
I apologize. I realize the record cannot see me nodding in the back of the room. Yes, by regulation and policy, a doctor, physician, or practitioner can designate two people in his or her office to be designees to have access to the program, and that is typically what happens. We have heard that the program has been down for a total of 1 1/2 hours during the last year. There have been some access issues, and I will ask about that. It may not expect to see you logging in from a different location. There may be some security issues, but I am not an expert so I will ask that question. I am happy to help you if I can.

Chair Oscarson:
For the record, I want to say that any time I have had to contact the Board of Pharmacy on issues, Mr. Pinson, who is the Board's executive secretary, and the staff have been outstanding in their professionalism and courtesy. They always expedite responses to questions that I have had. I appreciate that.

Michael Hillerby:
Thank you, and I will happily pass that along.

Senator Denis:
I appreciate the opportunity to have this discussion. Having been a computer troubleshooter for my entire career, I know that there is no such thing as perfect software or a perfect database. One thing that I see coming out of this, by more people having to access the system, is it will cause them to make sure the system is always up and running. They are going to have other folks there, and at the end of the day it is going to make it an even better system as more and more people use it.

As far as the other comments that were made, this does not create the database. There were references to things in the bill, and the opposition's comments have nothing to do with any of that. It was existing law that they were talking about. This is just about accessing the database, and I urge your support.

Chair Oscarson:
Is there any other discussion regarding this bill? Seeing none, I will close the hearing on S.B. 288 (R1). I will now open the hearing on Senate Bill 402.

Senate Bill 402: Makes various changes concerning the prevention and treatment of obesity. (BDR 40-891)

Senator Moises (Mo) Denis, Senate District No. 2:
I am excited to bring this bill before you today. Senate Bill 402 has powerful potential to change the way we think about obesity. It helps us find solutions to this disease that is plaguing society. [Read written testimony (Exhibit D).]

In addition, we are going to talk about an amendment. I will stop there for now.

Assemblyman Jones:
By redefining obesity as a disease, how do you see that affecting employment and the Americans with Disabilities Act on the state level, insurance, and all of these various other issues that will come up? Will all of this have to change in business? Have you thought about what the result will be?

Senator Denis:
As far as the insurance issue, many insurance companies have already redefined it this way. As far as some of those other issues, perhaps those who come after me will be better at answering that particular question. I do not know that those issues came up when we talked about it on the Senate side. I do not believe that redefining it that way will necessarily affect some of those issues that you presented. We can take a look at that.

Tracey D. Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services:
I have just a couple of points to add about obesity as a chronic disease. First, one of the points that Senator Denis made that is very important is that it is already being acknowledged as a chronic disease in many national and international organizations, including the World Health Organization and the National Center for Health Statistics. In addition, with the Affordable Care Act, obesity is one of the conditions that is considered a covered benefit. You will find that it is already a part of some of the preventative services.

Over the last five years, our funding for obesity has been reduced from hundreds of thousands of dollars to $50,000 now. In fact, there seems to be quite a stigma associated in the medical profession world about the discussion of obesity and the appropriate access to treatment for obesity. We believe that changing obesity to include the definition of a chronic disease would expand our

opportunity for grants, expand the opportunity to remove the stigma, allow primary providers to focus on the disease and the implications, and help us to look at all opportunities. We do an annual report and really focus on some of the options for prevention and treatment.

Assemblywoman Titus:
Do the Centers for Disease Control and Prevention (CDC) already release reports on obesity in the United States, including statistics in individual states?

Tracey Green:
Yes, they do. In response to Assemblyman Jones, I have not seen any impact because it is currently a covered benefit under insurance and it is acknowledged as a risk factor. I have not seen anything that would impact the Occupational Safety and Health Administration (OSHA) or work-related conditions. I can follow up on that as well.

Assemblyman Gardner:
You said that most insurance companies have already changed their definition to a chronic disease. Do you know when that happened and why?

Tracey Green:
I believe that it was 2009 when the National Center for Health Statistics acknowledged obesity as a chronic disease. The American Medical Association, the World Health Organization, the Cleveland Clinic, and the American Association of Endocrinologists all acknowledged obesity as a chronic disease between 2007 and 2010. I can get the specific years. With the Affordable Care Act, obesity was included as one of those treatable conditions under prevention.

Assemblyman Gardner:
As a preventable disease, what services are available? Can you tell me how this would allow doctors to combat obesity?

Tracey Green:
I am a certified bariatrician. In the field of bariatrics—which is both surgical and nonsurgical weight management—there is a full array of what I would consider to be preventative treatment, as well as treatment. They include medication management, physical activity, nutritional assessment, risk assessment based on underlying endocrine value, prediabetes, and diabetes, so there is an array of treatment modalities and options for individuals. It deserves evaluation independent of other conditions. Obesity can be associated with things like sleep apnea and diabetes. If you just look at obesity as a symptom, you may not look toward those other underlying conditions associated with obesity.

Assemblywoman Titus:
Along those lines, we already can and do treat for obesity. By definition, any problem that a person has, regardless of what you call it, for more than three months becomes a chronic disease. This really does not change how we can treat the disease. I have concerns regarding the need for this bill. Of course, obesity is a crisis, but I do not think this bill goes to solving that crisis.

Tracey Green:
My first comment is that, yes, you are correct. We can still treat. There are a couple of areas that I think are important. First, we have a chronic disease and wellness council—Advisory Council on the State Program for Wellness and the Prevention of Chronic Disease—that focuses on the "diseases" that have been addressed. While obesity could be listed, since it is not considered a chronic disease by all entities, it is not one of the up-front areas in which we focus on grants acquisition. We believe it would improve the state's bringing in grants surrounding chronic diseases specific to obesity. Second, there really is a stigma, a sense of weakness, that is associated with overweight and obesity. From a state perspective, by moving the definition to chronic disease, we physicians can begin addressing it as an illness as opposed to a weakness.

Assemblywoman Dickman:
Do you think it is possible that this bill would enable people who do not have physical causes for being overweight—other than overeating and not exercising—to say that they have a disease and that it is not their fault rather than exercising and eating right?

Tracey Green:
The best way to answer that is whether we believe addiction is also a disease or a reason not to exercise or eat appropriately. For many individuals, there is not an underlying endocrinological disorder, but instead it is an ingestion issue: the amount of food, the type of food, and the amount of exercise. I would see it as an opportunity to provide a more broad approach to it, as opposed to an excuse.

Assemblyman Gardner:
I was looking at the definition, and I wonder how the sections like the body mass index (BMI) of 30 or higher, or the fat percentage, or the waist size were developed. How were the various types decided?

Tracey Green:
Those were all selected by different national organizations. Because of the "may" language, it allows for all of those to be included. When you see

percentiles for children, it is because we do not traditionally use things like waist size for children. The CDC has graphs that say what average weights are and then you use standard deviations off of that average weight to evaluate overweight and obesity in children. For others, the BMI has limitations for people who are bodybuilders or very athletic. We like to have alternative measures: waist to hip ratios, et cetera. This gives us the opportunity to use the best of those measurements that are available and acknowledged by national organizations, but not be exclusive to anyone.

Assemblyman Araujo:
My district is a very diverse district. I know that obesity is an issue that affects all communities, but it can significantly impact minority communities even more. This will help us get one step closer to creating the awareness that we need in some of our more vulnerable areas.

Assemblywoman Spiegel:
There are a number of Nevadans who have been battling with weight issues for decades. I think this bill will make it easier for the state to get grants and look at research. There is a lot going on in the fields of nutrition and endocrinology, and looking at elements that we do not think about today that could be related to this. There could be some additional findings from the scientific community to help with the battle in the future. This bill will pave the way toward getting to that point.

Chair Oscarson:
Are there any more questions or comments? Seeing none, we will see if there is any support.

Senator Denis:
Would you like to talk about the proposed amendment (Exhibit E)?

Chair Oscarson:
Let us get it all out there. That would be a great idea.

Senator Denis:
Two or three sessions ago, one of the bills that I had was on child obesity because of the high prevalence of childhood diabetes and childhood obesity, especially in the Hispanic community. I was looking at that issue, and we found that we could not apply for grants because we did not have any data concerning the height and weight of our school children. We implemented it, but it had a sunset in it that we extended so they could continue to get the data. We have had great success in using that data. Once again, we are going to lose the opportunity to continue to get that data. This amendment to do the

height and weight test was included in a different bill that did not pass. It has to do with physical education in school. As we were looking at this, we thought it would make sense to include that language in here since we are talking about obesity. It would allow folks to continue to apply for grants and to use that data in ways to help our kids avoid childhood obesity and diabetes.

That is what the amendment does. It talks about the where, which is in a school district in a county whose population is 100,000 or more; it provides that the school districts are not to keep track of any personal information other than height and weight so there is no identifying information; and it says that the Division of Public and Behavioral Health shall complete a report relating to that region of the state, publish it, and disseminate the report 12 months after receiving the results.

Tracey Green:
It is important to add that this is a representative sample of fourth, seventh, and tenth graders. It is not all students in every school district. The representative sample that we have been collecting is approximately 20 students at the targeted schools. We have collected 16,733 data points, or children, that we have studied to date. We have used this data to support further funding for both our adolescent and adult obesity work. The University of Nevada, Las Vegas, is also looking at kindergarten children, and overweight and obesity in kindergarten children in Nevada is at 29.6 percent. We know that one-third of the children in kindergarten are overweight or obese, and we know that a very high percentage of those children will be overweight and obese adults.

Chair Oscarson:
We are going to take testimony in support.

Kelli Goatley-Seals, Health Educator Coordinator, Washoe County Health District:
The Washoe County Health District (WCHD) supports the addition of language in S.B. 402 that would maintain the collection of height and weight measurements by school districts in Washoe and Clark Counties. The WCHD is dedicated to promoting health and preventing disease, and uses surveillance data related to diseases and their risk factors to help keep our community healthy. [Read from written testimony (Exhibit F).]

Chair Oscarson:
Is there any other testimony in support in Las Vegas or Carson City? There are others in support in Las Vegas.

Joseph P. Iser, M.D., Dr.P.H., M.Sc., Chief Health Officer, Southern Nevada Health District:
We, too, are here in support of S.B. 402 in general, but in particular the parts that Senator Denis just mentioned as an amendment relating to the collection of height and weight data. In southern Nevada, we have been fortunate to be able to apply for grants that some big cities are eligible for, and we have received those. We have spent well over $250,000 working with our school districts in terms of training and buying equipment to be able to standardize these tests, and we hope the ability to collect this data does not sunset. What we really need is the ability to look longitudinally over time to make sure our interventions make a difference. That is what the CDC will want to see from us. By keeping this information available to us, they will be able to see the differences, and it will allow Washoe and Clark Counties and the state to apply for different grants.

Chair Oscarson:
I am sure you will share some of those grants with the rural areas where they could use some of that expertise and knowledge, and maybe share with them some of the things that you get in the grants.

Benjamin Schmauss, State Director, Government Relations, American Heart Association:
I am also a licensed teacher in the state of Nevada. I started my career as a teacher and have kept that license active. I formerly ran the Healthy Schools Program for the Alliance for a Healthier Generation. The $1.3 million grant was actually received by the American Heart Association and the Clinton Foundation. Part of that grant had BMI data in it. For five years I ran that program in over 120 schools throughout Nevada, including in Nye County. That is how I met the superintendent and many other great leaders and teachers in Nye County. We worked in the rurals and in urban areas. [Read from written testimony (Exhibit G).]

I have a lot of other statistics that others have gone over, so I will skip those. I want to talk about something of greatest concern, and that is the fact that this is spreading to our children. I have dedicated most of my career to addressing childhood obesity. I am fortunate now to work at the American Heart Association, and we place a very high priority on addressing the nation's childhood obesity epidemic and are in support of a more comprehensive surveillance in the United States.

If we allow the BMI to sunset in Nevada, we leave money on the table that could be used for programs like the Healthy Schools Program that I once ran. That program did not just address kids being overweight; it addressed prevention. We are talking about differentiated instruction for multiple learning

styles. In our schools, when I worked with the teachers and administrators, we did not just talk about getting kids moving and eating healthier. We also talked about incorporating moving throughout the learning day so we could optimize the brain for learning. I am fortunate enough to have a master's degree in brain research in teaching and learning environments. We know that healthy kids learn better.

At the American Heart Association, we know that having this BMI data will allow us, and support us, in seeking out grants, gifts, and donations to be able to address our issue of obesity, and in turn that will help our learning. We support S.B. 402 and the amendment that Senator Denis brought forth.

Assemblyman Jones:
With the $1.3 million grant that you were discussing, what resulted from that? Was there a reduction in obesity? Did you have some particular marker that improved dramatically? Did anything happen with that $1.3 million that was spent? Was there a benefit?

Ben Schmauss:
We do have nationwide results because the Healthy Schools Program is a nationwide program, and we had individual funding in Nevada. They did not utilize that. That program funding was for implementation over a four-year period of time. They did not study those obesity impact results in Nevada. We do have validated results for our nationwide program and the things that we implemented. I can get you some of the results that we have throughout Nevada, specifically some of the work that we did close to where you are now, in Douglas County. Douglas County did a lot of pretty impressive interventions in their BMI program, and so did Carson City. Carson City High School is actually 1 of 381 schools recognized nationwide out of 125,000 schools throughout America as an award-winning, healthy school. I would like to get you that information.

Chair Oscarson:
Is there any other testimony in support? Seeing none, I will take testimony in opposition. Seeing none, I will take neutral testimony. There is none, so Senator Denis will wrap it up.

Senator Denis:
I appreciate the opportunity to have this discussion on this important issue. As was pointed out earlier, obesity is not a simple thing; it is a very complex issue. It might be choices in some cases but not in others, and we have seen the research. That is what drew me to this. Some of the universities and other researchers show that these issues are real issues that need to be treated

medically. By redefining obesity and putting an emphasis on it, it will help us to be a leader in the country. It will help us in the future, especially with the children. I ask for your support.

Chair Oscarson:
I will close the hearing on Senate Bill 402. We will now open the hearing on Senate Bill 458. We heard this bill last session and passed it, but it sounds like it needs some tweaking.

Senate Bill 458: Revises provisions governing notifications to patients regarding breast density. (BDR 40-979)

Senator Joseph (Joe) P. Hardy, Senate District No. 12:
We did well with notifying people that they have dense breasts, which is a risk factor for breast cancer. Over the interim, we established regulations that require someone who has dense tissue in their breasts on their mammogram report to receive the following statement. Please notice how many times the word "cancer" is mentioned.

> Early detection of cancer is very important. Although mammography is one of the most accurate methods for early detection, not all cancers are found through mammography. Diagnosis by mammography may be limited by factors including, but not limited to, prior surgery, breast implants, and breast density. Dense breast tissue is relatively common and is found in 40 percent of women. The presence of dense tissue makes it more difficult to detect cancer in the breast and may be associated with an increased risk of breast cancer. We are providing this information to raise your awareness of this important factor and to encourage you to discuss dense breast tissue and other breast cancer risk factors with your health care providers. Together, you can decide the appropriate schedule for your personal mammograms and whether any additional screenings should be considered because of your breast density or other breast cancer risk factors. Early detection of cancer is important and far outweighs any risk associated with a radiographic procedure. A report of your mammography results was sent to your physician.

The word "cancer" appears seven times. When a woman hears the word "cancer" or "surgery," she does not remember anything after that word. When we started looking at the anxiety that this has created when received in the mail, for a woman, it is disconcerting. What we have tried to figure out is how we can put it in such a way that a person can understand, but not downplay it.

The result is in the mock-up before you of Proposed Amendment 6937 (Exhibit H). This amendment came about because I had folks come into my office and ask what "as necessary" meant in section 1, subsection 1 of the bill. We changed the words to "if applicable." That is where this language is now. Then, if a person gets a reading on their mammography that uses the word "density," the following—which is on page 2, lines 22 through 30 of the amendment—will be included:

> Your mammogram shows that your breast tissue is dense. Dense breast tissue is common and is not abnormal. However, dense breast tissue can make it harder to evaluate the results of your mammogram and may also be associated with a modestly increased risk of breast cancer. This information about the results of your mammogram is given to you to raise your awareness and to inform your conversations with your physician. Together, you can decide which screening options are right for you. A report of your results was sent to your physician.

That is the wording if it is applicable, if the person has dense breast tissue. There are four levels. First, when a radiologist reads a mammography, it is in a system called the Breast Imaging Reporting and Data System (BI-RADS) method. Besides that, it states what the category level is. There is a level zero that says that it was not a well-enough performed test; a level one, which is benign; and a four, which is that we know you have cancer and it is biopsy-proven already, and this confirms it, so make sure you do something about it.

This is the wording from the Mayo Clinic website:

> Breast tissue is composed of milk glands, milk ducts and supportive tissue (dense breast tissue) and fatty tissue (nondense breast tissue). Radiologists used mammogram images to grade breast tissue based on the proportion of dense to nondense tissue. According to the BI-RADS reporting system, the levels [of density] are almost entirely fatty, scattered areas of fibroglandular density, heterogeneously dense and extremely dense.

Those are the words that the radiologists use. The bill is to allow a person to know that they have something that is real, and if they have breast tissue that is dense, they get wording that is less anxiety-provoking.

Assemblywoman Titus:
What is the radiologists' input? I have been looking for their statements on this particular bill.

Senator Hardy:
The radiologists have not been against it.

Assemblywoman Titus:
I would really like to have a comment from the radiologists one way or the other. Not being against it may mean that they are not aware of it. Are they aware of it?

Senator Hardy:
I have talked with radiologists. I cannot claim that all radiologists are aware of it.

Assemblywoman Titus:
Having ordered thousands of mammograms on patients, and having had them myself, if we force this particular comment, which I am not against—it is less frightening for patients—we are striking all of the current requirements that are in section 1. This seems to just address the dense breast issues, when we know there can be cysts in breasts or other fatty tissue. That is wording that you would see in the mammograms, and I do not see where any of that is in there after you strike all of the other minimum requirements for patient information. We are just focusing on the dense breast issue, but as we all know, there are many other issues and statements that could be in that disclaimer.

Senator Hardy:
That is correct. This does not preclude, make, or remove any other requirement the radiologist has or will have on reading the mammography.

Assemblywoman Titus:
Thank you for the clarification, but it seems that the amendment is striking all of those requirements. It is all crossed out. It looks like it deletes all of those other requirements in section 1, subsection 2, paragraphs (a) through (d), and section 1, subsection 3, paragraphs (a) and (b) of the original bill. I do not know if that was intended or not, but that is how it appears to me.

Senator Hardy:
It is my understanding that, inasmuch as things are already in place, we did not have to remove anything that is already being done. I would be happy to get this reconfirmed for you and me.

Assemblyman Thompson:
Personally, I have a lot of members of my family having to deal with breast cancer, some survivors and some, unfortunately, not. Since this will go to different communities, will this be translated to other languages? Will there be any part, like in section 1, subsection 2, that Dr. Titus was referring to, that has a referral for support? Is there a listing of the different breast cancer organizations that women, or men, could reach out to? It could be a scary notice for people. This is not a notice that you get every day. Have you considered anything like that?

Senator Hardy:
I appreciate the input. No, I did not consider anything like that. What I wanted was to ensure the people who get the letter directly from the mammography unit go to their doctor. Your point is very well taken about the support system that is out there now. That shows how concerned and appropriate you are. Thank you.

Assemblywoman Spiegel:
My understanding is that the regulations that were put in place after last session's bill stipulated that the letter would include the type or category of dense breast tissue. Would that still be included or is that something that will be taken out?

Senator Hardy:
Yes, the radiologist is tasked with ensuring that the type of dense breast tissue is included in the report. That will be the type of disclaimer that I read from the Mayo Clinic. Once the breast density level has been identified, that is where the words "if applicable" come in regarding the new paragraph which replaces the paragraph that used the word "cancer" seven times.

Chair Oscarson:
Are there any other questions? Seeing none, we will ask for testimony in support of S.B. 458.

Elisa Cafferata, President and Chief Executive Officer, Nevada Advocates for Planned Parenthood Affiliates, Inc.:
We are fulfilling an obligation and commitment to Senator Hardy that we would support this bill [referred to written text (Exhibit I)]. We have supported several of his bills this session.

For the record, Planned Parenthood's three health centers in Nevada typically do not provide mammograms. We do provide referrals after screenings, and sometimes we partner with the community mammography vans that provide

these exams as a service to the community. It is our mission to empower patients and help them understand their health and the issues they need to follow up on.

We think this is an important bill that will provide women with the language to encourage them to have the right conversation with their health care professionals. A couple of times in this Committee, we have had situations where the women legislators know exactly what the bills are talking about since we have gone through it, but the male legislators may not know how it works since they probably have not had a mammogram. Typically, if your doctor refers you for a mammogram, you go and have the test. You expect to get a follow-up letter if your results are normal. If there is any question whatsoever or the results were not conclusive, you will get a phone call from the office asking you to come back for further diagnosis or treatment. Regarding Assemblyman Thompson's question about resources, the follow-up visit would include conversations about the resources that you would need to seek and what the next steps are.

Our concern with the old language that was put in place last session was that there is no medical standard of care that is provided to tell women what to do if they have dense breast tissue. There really is no recommendation of what you should do. It depends on the risk factors and what your individual situation is. This is an emotional issue and a difficult conversation to have. We think this strikes the right balance between emotions and medicine, and empowers patients to get the care they need.

Assemblyman Hambrick:
My better two-thirds, who is in the audience, was saved by mammography. She had breast cancer 15 years ago and, in the last 1 1/2 years, mammography found a trace of Hodgkin's lymphoma in the lymph nodes. It was discovered very early. I will be supporting this bill, and I cannot imagine that the language in this bill could do anything but help and encourage women and their husbands. Dr. Hardy, kudos.

Chair Oscarson:
This truly is a sensitive issue that has touched most of us in one way or another. Is there any other testimony in support in Las Vegas or here? Seeing none, is there any testimony in opposition? Seeing none, is there any testimony in neutral?

Assemblyman James Ohrenschall, Assembly District No. 12:
I am testifying neutral on Senator Hardy's measure. Last session, I sponsored Assembly Bill No. 147 of the 77th Session. Many of you were cosponsors of

the bill. As you will recall, last session we heard testimony from family members and one patient, Dr. Nancy Cappello, who is the head of a national group that informs patients who have dense breast tissue. The family members, including the Graham family and Wendy Damonte, testified regarding loved ones who had received clean mammograms that said everything was okay. However, within a period of months, they were told they had stage 4 cancer and that the mammogram was incorrect because of the breast density. The goal of A.B. No. 147 of the 77th Session was to ensure that patients would have this knowledge. There was a lot of give and take, and in the end, the give and take was that we did not want to put any notice in statute. We wanted to leave it to the experts at the Department of Health and Human Services, and to allow them to determine by regulation what the notice was going to be. There were hearings and comment periods in which Ms. Cafferata, Dr. Cappello, Wendy Damonte, and I participated. We came up with the regulation that is there now.

Whether cancer is mentioned too many times or not—and the wording may not be perfect—we did not want any patient having a mammogram to not have all the facts. We did not want them to think everything was okay and not know that dense tissue could not only make the mammogram ineffective but could also mean you are more likely to develop breast cancer or a growth.

I am testifying in neutral and am not opposed to Dr. Hardy's proposal to revamp the language. We could argue ad infinitum about what the right language is, but what is important is to make sure every patient who has dense breast tissue is made aware of it. I hope that is clear. That was one goal that was crystal clear with A.B. No. 147 of the 77th Session. Regardless of the category of breast density, every patient who had heterogeneously dense breast tissue would be informed of that. That patient could then decide what she wanted to do and how to follow up. The patients and their physicians would decide whether they needed ultrasound or another kind of testing, or nothing at all.

We all know the old saying that knowledge is power. That is what spearheaded A.B. No. 147 of the 77th Session. I do not think we were trying to tell anyone how to do their job, but we did feel that the patients had a right to know.

Chair Oscarson:
Is there any other testimony in neutral? [There was none.] Dr. Hardy, we received the proposed amendment from your office.

Senator Hardy:
Yes, that is the amendment that I was referencing (Exhibit H). If I may, I appreciate Assemblyman Ohrenschall for championing this critical issue

last session. The legal cite, 42 U.S.C. § 263b(f)(1)(G)(ii)(IV), on page 1, line 5 of the amendment, is about whether or not a physician is available, a summary of the written report shall be sent directly to the patient in terms easily understood by a layperson. That is about the report that will be sent out whether or not the physician is involved.

Chair Oscarson:
Seeing no further testimony, I will close the hearing on S.B. 458. We will open it for public comment either here or in Las Vegas. Seeing no one, the meeting is adjourned [at 2:51 p.m.].

RESPECTFULLY SUBMITTED:

_____
Karyn Werner
Committee Secretary

APPROVED BY:

_____
Assemblyman James Oscarson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Health and Human Services

Date: May 4, 2015 **Time of Meeting: 1:36 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 288 (R1)	C	Senator Mo Denis	Written Testimony
S.B. 402	D	Senator Mo Denis	Written Testimony
S.B. 402	E	Senator Mo Denis	Proposed Amendment
S.B. 402	F	Kelli Goatley-Seals, Washoe County Health District	Written Testimony
S.B. 402	G	Benjamin Schmauss, American Heart Association	Written Testimony
S.B. 458	H	Senator Joe Hardy	Proposed Amendment
S.B. 458	I	Elisa Cafferata, Nevada Advocates for Planned Parenthood Affiliates, Inc	Written Testimony