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

Seventy-Ninth Session
May 12, 2017

The Committee on Health and Human Services was called to order by Chairman Michael C. Sprinkle at 1:36 p.m. on Friday, May 12, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Michael C. Sprinkle, Chairman
Assemblywoman Amber Joiner, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Richard Carrillo
Assemblyman Chris Edwards
Assemblyman William McCurdy II
Assemblywoman Brittney Miller
Assemblyman Tyrone Thompson
Assemblywoman Robin L. Titus
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

Assemblyman John Hambrick (excused)
Assemblyman James Oscarson (excused)

GUEST LEGISLATORS PRESENT:

Senator Pat Spearman, Senate District No. 1
Senator Tick Segerblom, Senate District No. 3
Senator Nicole Cannizzaro, Senate District No. 6

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Committee Policy Analyst
Mike Morton, Committee Counsel
Terry Horgan, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Gary W. Olsen, Chair, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services
Brian M. Patchett, Chief Executive Officer/President, Easterseals Nevada; Chair, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services
Eli Schwartz, Member, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services
Jeff Beardsley, Member, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services
Erik Jimenez, Private Citizen, Reno, Nevada
Jon Sasser, representing Legal Aid Center of Southern Nevada; Legislative Chair, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services
Paul Schubert, Chief, Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services
Chris Ferrari, representing Consumer Healthcare Products Association
Carlos Gutierrez, Vice President, State and Local Government Affairs, Consumer Healthcare Products Association
Brandi M. Planet, representing Consumer Healthcare Products Association
Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada
Alanna Bondy, Intern, American Civil Liberties Union of Nevada
Jared Busker, Policy Analyst, Children's Advocacy Alliance
Alexis Motarex, Government Affairs Coordinator, Nevada Chapter, The Associated General Contractors of America, Incorporated
Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada; and representing The Chamber, Reno-Sparks-Northern Nevada
Tyree Gray, representing Las Vegas Metropolitan Chamber of Commerce
Heather Korbulic, Executive Director, Silver State Health Insurance Exchange

Marta Jensen, Acting Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Glenn Shippey, Actuary II, Life and Health Section, Division of Insurance, Department of Business and Industry
Michael Hackett, representing Nevada Primary Care Association and Nevada Public Health Association
Oscar Delgado, Director, Communications, Community Health Alliance; Member, Ward 3, Reno City Council
Bill M. Welch, President/Chief Executive Officer, Nevada Hospital Association
George A. Ross, representing Sunrise Hospital and Medical Center

Chairman Sprinkle:
[Roll was taken. Committee rules and protocol were explained.] As we only have the interpreters for Senate Bill 481 (1st Reprint) until 2:30 p.m., we will be hearing it first. After hearing S.B. 481 (R1), it is my intent to do the work session. Members of the Committee, Senate Bill 151 (1st Reprint) has been removed from the work session for today.

Senate Bill 151 (1st Reprint): Authorizes the establishment of a public health laboratory in certain counties. (BDR 40-752)

With that, we will open up the hearing on Senate Bill 481 (1st Reprint).

Senate Bill 481 (1st Reprint): Creates the Nevada Commission for Persons Who Are Deaf, Hard of Hearing or Speech Impaired. (BDR 38-604)

Gary W. Olsen, Chair, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services:
[Gary Olsen spoke through an interpreter.] I am a deaf advocate in Nevada. I am here to address the issue about having a group established to have the Subcommittee on Communication Services (SOCS) transferred from the Aging and Disabilities Services Division (ADSD) office to the Office of the Governor. The reason for the suggestion for this concept is because over the years I have been here, and along with other deaf people, the goal has been to make sure that we deaf people have an opportunity and have a clear identity of what we can do, as written in Senate Bill 481 (1st Reprint). There is a lot of information there; however, I also sent out a copy of my testimony so you have it on your computers (Exhibit C). I will outline what I have here and try not to repeat what you have there.

There is a huge concern in the state that deaf children are being deprived of their language. They are not able to get the language early—the years between birth and three years old. There is no program for them. There is confusion in the system. We follow the Language Equality and Acquisition for Deaf Kids (LEAD-K) program on the national level. I would like to inherit the same language access for children. There is a movement by the federal government on the issue—the Alice Cogswell and Anne Sullivan Macy Act. The purpose is

to enhance the quality of education among the deaf people, children especially, and also for postsecondary—the people who cannot get jobs and things like that. They are pursuing the same goal, and we would like to have it here. We would like to enhance the state's education system by how it is providing the interpreters and how they are providing education to children.

Also, I would like to make sure the training programs are increased in this state—especially focused on the deaf. Many cannot get jobs because, once they leave school, they are not well trained to get employment. Other agencies are not necessarily able to fulfill their needs. I would like to see the deaf people get out of this school system and be able to work and earn a decent living, to be happy and have a family and things like that which many do not have.

We worry about the social life in this state. For example, watching television like the news or advertisements—many times there is no captioning. How can we learn and receive the information to share with our family or friends? We cannot. You can all sit and listen at any time; for example, here in this body. You can listen to each other or this group at home, but we cannot. We do not have captioning access. Not to say that nothing has been done for this state about captioning, a lot has been done. I appreciate what you have done in getting the interpreters for this state and especially for the legislation. It has been awesome, even though we have problems with interpreters—especially in the north, but not so much in the south.

So here is the interpreter issue and the captioning issue. We do not have enough interpreters in this state—especially in the north. It is a concern because that is what keeps us able to communicate together, and it is not happening much. My friends and I would like to come here more often to watch you in action, but there are a limited number of interpreters we can get ahold of, so we are left out. We do not know the system, and we do not know many things.

Another issue is postsecondary education. We need more opportunities for the deaf to be able to access postsecondary education to become qualified. There are many deaf who are qualified, and they have degrees. They would like to come here and work and advance at university levels, but it is hard to get that going because of the interpreter issue. It is true with the hospitals as well. It is a very serious issue with the hospitals. The deaf are denied an interpreter who knows and understands the language. They use video remote interpreters (VRI). They call someone—maybe in Texas—to sign for someone here. They use different sign modes, and there is confusion and frustration.

When a deaf client is in the hospital—maybe they were in an accident or wreck—they would like to have a specific interpreter. The hospital refuses them, and this is insane. Why can this person not have the best possible communication access? The same with family life. They need better social things. People can go to different parties and occasions—maybe motorcycle meetings—whatever it is you like to attend. The deaf cannot; they have no interpreters available. The other groups cannot afford to pay for the interpreters because they are not cheap. It becomes a burden.

We also notice an issue with cities and counties that do not include deaf people in their processes. For example in Reno, no one is sitting on the council there discussing the issues, and what is going on and helping to spread the word and helping us to understand what the needs are. For that reason, we think and believe strongly we should have a commission.

Another thing that is important—it is not only for the deaf. It is for the hearing people too, people like you. I cannot communicate with you, and you cannot communicate with me, so we ignore each other, and we are not making any progress. We are not successful. We are not enhancing our way of life with people in our work. I want that to be emphasized.

What we have here before you is S.B. 481 (R1), which in many ways is just a step in the right direction. We are not asking for a billion dollars to run a program or anything like that. We are just trying to make some movements and start planning and making sure that we can have a completion. It is not that we do not like ADSD and do not want to work with them. It is not true; we have been doing a fabulous job together. We would like to make sure that we are doing things on our own to have pride in ourselves. We would like to do what is necessary for the people and work together, but the opportunity is not there. I would like to see that change.

Over time, there have been improvements, and I have seen that happen here in Nevada, but we still have a long way to go. It is not fair, especially to the children and young people who would like to get a job, live here and enjoy living here. It is not the first time we have requested a commission. In the 1980s, we had one. Later on, it changed, and they put it at the University of Nevada, Reno. It got dropped. During the Office of Disability Services, it got picked up and started going again. We are really looking for a program we can run with skills.

We have many roads. Last session we had Assembly Bill 200 of the 78th Session that established four new positions for interpreters, mostly to help the legislators. What was not used was given to other groups to help them. That was successful, but not what we expected. Out of the four positions, we have had no applicants because it is a contract, and no one wants to work for a contract. Not nowadays. They need the money, and they want consistency, so we are proposing a bill to enable that to happen and make the shift from a contract position to a permanent position where interpreters can get state support, funding, and benefits. That bill is now pending. These are the things we are working on to try and push and see a change, but at the same time, we want to know why we cannot, as a deaf group, do it on our own working with the different agencies. That is what we want.

There has been some confusion. We have the Deaf Centers of Nevada (DCN), and we have SOCS, but they are two different things. Our proposal in the program is that we do the systematic advocating and work with other agencies to help them become familiar with the needs of the deaf people and how to deal with them. We provide trainings and things like that, so there is no reason why we could not. We know what we want and need; the other people do not. They just assume they know. They feel—oh, they need this or that—but they should not be judging us in 2017. We should be able to come forth, provide our support and

do the work as well. As far as our needs, we have community-based groups that are doing a fine job. I applaud DCN for doing good work. But, again, the commission can do the same thing, but we do not want to duplicate it. We want to leave that to the community-based programs that are providing services to the clients, which is a huge need. But the commission would be focused directly to the different agencies to help them understand better.

In the Department of Motor Vehicles (DMV), oftentimes deaf people go, and they are rejected because they cannot read; but they can sign. If you understand my signing, that is reading. They could take the test through an interpreter, but they are denied. They cannot. What is this? We are in the year 2017, not in the year 1917, and that is a big case. At the hospitals—they refuse to provide interpreters to the deaf when people are old or sick or dying. They refuse. They have to use the VRI. Those are things that are still out there.

The commission can do the work to educate them—especially working with the schools. By the way, there are about 27 other commissions out there. They have different names like the Office of the Governor has a commission for the deaf and one person running it. Other states like Texas, Nebraska, and Kentucky have big outfits. They all have them; why not us? We can find the funds. The Senate proposed an idea how health care could help, and we are investigating that. Plus, we have Senate Bill 400 before us. We are asking for possible permission for the Department to pursue funding outside the General Fund. Why cannot this happen? That is my point. I strongly believe we have a valuable reason for having a commission, and many others will agree, so I am asking if you will give full consideration for it. Thank you.

Chairman Sprinkle:
Thank you very much for your presentation today and your comments. We certainly appreciate your being here, and you, Senator, as well.

Senator Pat Spearman, Senate District No. 1:
I want to make the point that those of us who are not sight-challenged or hearing-impaired take what we can do for granted. We do not consider what others are doing. The medical piece ought to "set our hair on fire"—someone who is sick and cannot communicate with a medical professional about what is going on. It could be a life or death situation. We, as Nevadans, are better than that.

The bill before you includes an amendment that essentially takes the fiscal note off, but I want to tell you what the fiscal note was. For the biennium, we are talking about $386,612 to pay someone to run the commission. This is not even half a million dollars to help our citizens who really deserve better than this—wanting to be involved in how the government represents them, but not being able to because they are hearing impaired. Come on, can you imagine what that would feel like? [Senator Spearman turned off her microphone and mimed someone speaking.] That is what it feels like. You know something is going on, but because you are differently abled, you cannot even interact.

The fiscal note was taken off, but I promised I would look in the interim to see how we might be able to fund it. I also talked about passage of S.B. 400, which allows the Department of Health and Human Services to receive money for programs such as this. We can fund other stuff, but we do not have $386,000 for our citizens who happen to be differently abled—deaf, hard of hearing, or speech impaired. We do not have money to help them. Really?

I would urge your support in passing this bill; and I would also challenge this community, and for that matter this legislative body, to consider the testimony you just heard. People cannot even communicate for their health care. We ought to be able to find $386,000 somewhere in the budget this time and then work in the interim to get it up to the $1 million they need. That is the least we can do. The operative word there is "least," because I am sure we could do more. We have to do more. Our humanity demands that we do more.

In Christian tradition, and that is my faith, you will read in the New Testament—and the words in some Bibles are in red to show that these are the words ascribed to Jesus. He says this, as you have done it to the least of these, you have done it also to me. All they were asking for in this biennium if $386,612, but we cannot find that to help our citizens who want to participate in government and want to have a social life. They just want to participate in life as we do—as hearing people. That is all they are asking. They are not asking for a mansion or a Maserati. None of that. They just want help to be able to live the same type of life with the same comforts that hearing people have. I hope we can find that $386,612 in the budget this time and not make them wait another two years.

Chairman Sprinkle:
Thank you both for your presentation today. Committee, are there any questions? [There were none.] At this point, I would like to open the hearing up for testimony in support of S.B. 481 (R1).

Brian M. Patchett, Chief Executive Officer/President, Easterseals Nevada; Chair, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services:
I appreciate all your work this session, and all the wonderful things that have been passed out of this Committee to help folks with disabilities. I echo the words we just heard. I also appreciate what Gary Olsen said, and I certainly appreciate and agree wholeheartedly with Senator Spearman's passion and her plea. The folks here in this room who are deaf are part of this, and I appreciate their being here.

I want you to know that I completely support this bill. This is a bill that we worked on. I had the opportunity of working with Mr. Olsen and members of the subcommittee related to people who are deaf and hard of hearing. The Nevada Commission on Services for Persons with Disabilities unanimously supported this bill. I look forward to seeing this implemented over the next couple of years—that transition we made from the SOCS to the commission. Looking at it now, it is an unpaid director, as the Senator pointed out. I certainly would like to see this commission become very effective.

As a person with a disability—I think most of you know I have been legally blind since I was seven—I can appreciate what it is like to be without one of my senses—my ability to see—and I can only imagine what it would be like not to be able to hear. I wholeheartedly support having a commission composed of folks with hearing disabilities and speech disabilities strongly advocating and having the ear of all of us. It would go forward and make sure that children who are deaf and adults who are deaf can have full access to our community.

Chairman Sprinkle:
Thank you for your comments. Anyone wishing to testify who needs the services of an interpreter, please come forward now.

Eli Schwartz, Member, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services:
I would like to indicate my support for this commission. There is definitely a need for something like this that can ensure the quality of life and services for the deaf community and the hard of hearing. It could also make sure they are treated with dignity and respect. That is something that the commission can make sure happens. Thank you for your support on this. I definitely agree with what Mr. Olsen and Senator Spearman are saying, and I hope you can come through for us. I am a hard-of-hearing member of the community, and I have been very involved with something like this. There is definitely a need for this.

Jeff Beardsley, Member, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services:
[Jeff Beardsley spoke through an interpreter.] After what Mr. Olsen has already explained to all of you and what Senator Spearman said, I am in total support and agreement. We, the deaf and hard-of-hearing community in Nevada, need a better quality of life where we can have access to everything everyone else does. Build this bridge between the hearing and deaf community. With all of your support, this will happen eventually.

Chairman Sprinkle:
Is there anyone else in southern Nevada who wishes to come forward? [There was no one.] Is there anyone in the audience here in the north wishing to testify using the services of our interpreter? [There was no one.] Not seeing anyone, others wishing to testify in favor may begin.

Erik Jimenez, Private Citizen, Reno, Nevada:
I felt compelled to express support for this bill. I am testifying, not on behalf of any clients, just as a resident of Assembly District No. 24. I wholeheartedly believe that people with physical and cognitive differences should not be treated like second-class citizens. I would like to echo the concerns that Senator Spearman said. If we do not do this now, when are we

going to do this? Anybody who is born with some sort of difference should be able to engage and facilitate discussion with their government and be able to access services. I just think this is an incredible bill.

Jon Sasser, representing Legal Aid Center of Southern Nevada; Legislative Chair, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services:
We have been working on this bill since last summer. Ms. Marsheilah Lyons was a tremendous help and asset to all of us getting this language and putting this in a form that could be brought forward. It is important because it moves the body from being a subcommittee of our commission to a commission on its own that deals not with the Department of Health and Human Services, but with all aspects of state and local government, education, et cetera. It is a step in the right direction, and we look forward to the day it is funded and can do its full job.

Chairman Sprinkle:
Is there anyone else here wishing to testify in support of S.B. 481 (R1)? [There was no one.] Is there anyone in opposition to S.B. 481 (R1) either here or in southern Nevada? [There was no one.] Is there anyone wishing to come forward in neutral to S.B. 481 (R1) in either northern or southern Nevada? [There was no one.] Do you wish to come up for closing comments?

Senator Spearman:
Again, if we had $70 million extra in the budget to fund this $386,000, that would amount to .0055285714—that would amount to less than half a percent. If we just had $70 million extra, we could take out of that $70 million and fund $386,612. If we could just do that, I believe we would be answering the call, who is the least of these, and what is my moral responsibility to help them?

Chairman Sprinkle:
Thank you for bringing this bill forward. I will close the hearing on S.B. 481 (R1), and we will go ahead and open up our work session for today.

Marsheilah Lyons, Committee Policy Analyst:
The Committee should have before you a work session document. The first bill today is Senate Bill 46 (1st Reprint).

Senate Bill 46 (1st Reprint): Revises provisions governing background checks of operators, employees and certain adult residents of a child care facility. (BDR 38-131)

Senate Bill 46 (1st Reprint) expands the list of offenses the Division of Public and Behavioral Health, Department of Health and Human Services, must identify as part of a background check for an applicant for a license to operate a child care facility and for employees or certain adult residents of such facilities. Offenses newly required to be

included in background checks include any crime against a child, arson, assault, battery, kidnapping, and certain drug-related offenses.

Assemblyman Yeager proposed a conceptual amendment to include a review process for potential staff members who are ineligible for employment due to certain drug-related offenses pursuant to subsection 1, and the provision is similar to what is currently allowable in federal law. That language is at the bottom of the work session document (Exhibit D).

Chairman Sprinkle:
Are there any questions or comments on this bill or the proposed amendment? [There were none.] Not seeing any, I will take a motion for amend and do pass.

> ASSEMBLYMAN YEAGER MOVED TO AMEND AND DO PASS SENATE BILL 46 (1st REPRINT).
>
> ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

Assemblyman Yeager will take the floor statement.

Marsheilah Lyons, Committee Policy Analyst:
The next bill is Senate Bill 50 (1st Reprint).

Senate Bill 50 (1st Reprint): Provides for advance directives governing the provision of psychiatric care. (BDR 40-174)

Senate Bill 50 (1st Reprint) authorizes a person who is of sound mind and at least 18 years of age or an emancipated minor to execute an advance directive for psychiatric care to direct any provider of health care on how he or she wishes psychiatric care to be provided if incapable of making or communicating decisions concerning such care. The bill also authorizes a person to designate another person to make decisions for him or her if incapable of making such decisions. In addition, S.B. 50 (R1):

- Establishes the circumstances under which an advance directive for psychiatric care becomes operative;
- Authorizes a person to revoke such a directive;
- Sets forth the conditions under which a provider of health care may not comply with an advance directive for psychiatric care;

- Requires a provider of health care to make a reasonable inquiry as to whether a person determined to be incapable of making decisions related to psychiatric care has executed such a directive; and
- Shields providers from civil or criminal liability under certain circumstances.

The Nevada Justice Association proposed an amendment that is included in the work session document for this measure (Exhibit E). The intent of the amendment is to clarify liability provisions in the bill.

Chairman Sprinkle:
Committee, are there any questions or discussions on this bill? [There were none.] Not seeing any, I will take a motion for amend and do pass.

> ASSEMBLYMAN EDWARDS MOVED TO AMEND AND DO PASS SENATE BILL 50 (1st REPRINT).
>
> ASSEMBLYMAN YEAGER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

Assemblyman Edwards will take the floor statement.

Marsheilah Lyons, Committee Policy Analyst:
Next is Senate Bill 71.

Senate Bill 71: Revises provisions relating to medical facilities and facilities for the dependent. (BDR 40-183)

Senate Bill 71 makes various changes to provisions governing licensing and regulation of medical facilities and other related entities. Specifically, the bill:

- Includes a program of hospice care in the definition of "medical facility," enabling such a program to be licensed and regulated as a medical facility;
- Revises the definition of "psychiatric hospital," eliminating the requirement that residential care be provided at such a facility;
- Requires a person who is employed at or applies for a license to operate a psychiatric hospital that provides inpatient services to children to undergo a criminal background check and prohibits a person who has been convicted of certain crimes from being licensed to operate or be employed at such a facility; and

- Revises the administrative and civil penalties the Division of Public and Behavioral Health (DPBH), Department of Health and Human Services, may impose against a medical facility or facility for the dependent that violates certain provisions of its licensure.

The Division of Public and Behavioral Health proposed an amendment to this measure, which is included in the work session document (Exhibit F). This is in response to some of the discussion by Committee members during the hearing.

Chairman Sprinkle:
Committee, are there any questions or comments on Senate Bill 71?

Assemblyman Edwards:
Could staff do a quick overview of the fines?

Paul Schubert, Chief, Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services:
I am sorry, I did not understand the question.

Assemblyman Edwards:
As I recall, there were some fines involved for noncompliance. I was wondering if you could give us an overview of those.

Paul Schubert:
Whenever there is a citation at a health care facility, we have the ability to apply an administrative sanction. Those sanctions are applied through regulations. We have regulations that address how we apply those sanctions. In particular, there are fines that range from $200 all the way up to $1,000 per violation. Currently, those fines are applied based on scope and severity—the severity being how bad something is at a facility or the effect it had on patients at the facility. The scope being how widespread it was—whether it was an isolated incident or it affected a large number or a pattern of individuals in the facility. Those fines are applied based on the scope and severity of the issue and are elevated as I indicated from $200 up to $1,000. Our change to the regulation would allow a $5,000 maximum penalty rather than just a $1,000 maximum penalty.

Chairman Sprinkle:
Thank you for that answer. Are there other questions or comments on this bill? [There were none.] Seeing none, I will take a motion for amend and do pass.

ASSEMBLYMAN McCURDY MOVED TO AMEND AND DO PASS SENATE BILL 71.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblyman Edwards:
I am a bit uncomfortable with the fines imposed, so I will have to vote no on this. I may talk with them a bit more and vote yes on this later if I can get further resolution.

Chairman Sprinkle:
Is there any other discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYMEN EDWARDS AND TITUS VOTED NO. ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

Assemblyman McCurdy will take the floor statement.

Marsheilah Lyons, Committee Policy Analyst:
Senate Bill 151 (1st Reprint) has been pulled from this work session.

Senate Bill 151 (1st Reprint): Authorizes the establishment of a public health laboratory in certain counties. (BDR 40-752)

[This bill was not acted upon.]

Marsheilah Lyons, Committee Policy Analyst:
We are moving on to Senate Bill 163.

Senate Bill 163: Revises provisions relating to professional entities. (BDR 7-632)

Senate Bill 163 expands upon the current exceptions to the requirement that a professional entity only provide one type of professional service by authorizing practitioners in the fields of medicine, homeopathy, osteopathy, psychology, clinical social work, psychiatric nursing, marriage and family therapy, and clinical counseling to join together in any combination to offer their services through a single entity. Senator Farley and Assemblyman Araujo presented an amendment to the measure at the hearing, which is attached for the Committee's review (Exhibit G).

Chairman Sprinkle:
Committee, are there any questions or comments on this bill?

Assemblywoman Titus:
I am going to vote no on this bill because I am still not convinced it does not start us down the slippery slope of the corporate practice of medicine.

Chairman Sprinkle:
Are there any other comments or discussions on this bill? [There were none.] Not seeing any, I will take a motion for amend and do pass.

> ASSEMBLYMAN YEAGER MOVED TO AMEND AND DO PASS SENATE BILL 163.
>
> ASSEMBLYMAN McCURDY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYWOMAN TITUS VOTED NO. ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

Assemblyman Yeager can take the floor statement.

Marsheilah Lyons, Committee Policy Analyst:
Next is Senate Bill 291 (1st Reprint).

Senate Bill 291 (1st Reprint): Revises provisions relating to health care records. (BDR 54-350)

Senate Bill 291 (1st Reprint) requires a custodian of health records to: (1) retain the health care records of patients for at least five years; (2) make available to investigators certain health care records of a patient who is suspected of having operated a motor vehicle while intoxicated; (3) maintain a record of information provided by a patient relating to health insurance coverage; and (4) provide to the Department of Corrections the health care records of an offender at the State prison. A custodian of health care records is defined as any person having primary custody of records or a facility that maintains the health care records of patients.

The measure requires a custodian of health care records to make the relevant records available for inspection, including any records that reflect the amount charged for medical services or care provided to a patient. A health care records custodian who is not licensed and violates the requirements in this bill is guilty of a gross misdemeanor, and a civil penalty of not more than $10,000 may be collected for each violation. Any action to recover a civil penalty must be brought by the district attorney of the county in which the action is brought.

Finally, the bill authorizes the Board of Medical Examiners to take possession of health care records of a licensee's patients in the event of the licensee's death, disability, incarceration, or other incapacitation that renders the licensee unable to continue his or her practice.

The Board may provide a patient's records to the patient or the patient's subsequent provider of health care. A licensee must provide certain disclosures to patients concerning such records.

An amendment was proposed at the hearing by the Nevada Association of Counties, which is attached for the Committee's review (Exhibit H).

Chairman Sprinkle:
Is there any discussion on this bill?

Assemblywoman Benitez-Thompson:
I see that there is an amendment here. During the hearing, there was mention that a potential amendment might be coming, but I do not believe we had any discussion on the amendment. Could we get some clarification about what it does?

Marsheilah Lyons:
At the top of the amendment, there is an explanation from the Humboldt County Sheriff's Office, acting as county coroner, about some obstacles they ran into at the Humboldt General Hospital relating to a request for medical records on a deceased person. Specifically, the hospital took the position that the Health Insurance Portability and Accountability Act (HIPAA) indicated that if an exception to confidentiality does not exist under state law, and it is a "may" disclosure under HIPAA, they must follow state law. Since there is not an exception in *Nevada Revised Statutes* Chapter 629, they cannot provide records to the coroner based upon a simple request from the coroner.

The amendment is an attempt to remedy that situation by adding an additional provision (h) in section 5 of S.B. 291 (R1), which mirrors the federal law related to the sharing of those records.

Assemblywoman Titus:
I think this is an important addition to this particular piece of legislation. I have run into that multiple times in my practice in my community. It has been unclear in statute whether we could release to the coroner important information for their investigation. I absolutely support the bill and the amendment.

Assemblywoman Benitez-Thompson:
I believe that the language is up to $10,000 for each violation. Typically, patient records could number in the hundreds for each record that is held. Are we looking at a $10,000 violation for each record that is held, or would the company get the violation?

Chairman Sprinkle:
I will let our legal counsel weigh in on this.

Mike Morton, Committee Counsel:
Based on the statute as it is currently written and the way the bill would amend it as well as the testimony given on the record during the bill hearing, the violation would be for each record.

Chairman Sprinkle:
Committee, it sounds as though there are still some more questions with this bill that are going to need to be answered before I would feel comfortable moving forward with a motion. I will hold off on any motion at this work session for S.B. 291 (R1). We will move on to our next bill.

Marsheilah Lyons, Committee Policy Analyst:
Next is Senate Bill 366 (1st Reprint).

Senate Bill 366 (1st Reprint): Makes various changes relating to Medicaid. (BDR 38-927)

Senate Bill 366 (1st Reprint) requires the director of the Department of Health and Human Services to prepare a semiannual report that discloses certain employers in the state that have 50 or more employees who are enrolled in Medicaid and whether the employees have access to an employer-based health plan. The report must not contain individually identifiable health information, must comply with the federal Health Insurance Portability and Accountability Act, and must be posted on the Department's website and submitted to the Governor and the Legislature.

In addition, the bill creates the Advisory Committee on Medicaid Innovation within the Department's Division of Health Care Financing and Policy. The Advisory Committee must study and provide recommendations on issues such as public or private prescription purchasing coalitions, access to health insurance, and any federal Medicaid waivers for with the state may apply.

Senator Cancela submitted an amendment for this measure, which is attached for the Committee's review (Exhibit I). The amendment revises the due date of the report by removing the July 1 deadline. It clarifies that certain requirements apply to businesses with 50 or more employees. It specifies that the report include full-time employees who are enrolled in Medicaid, and it removes the requirement to post the report on the Department of Health and Human Services' website.

Chairman Sprinkle:
Committee, are there any questions or discussions on S.B. 366 (R1)? [There were none.] Seeing none, I will take a motion for amend and do pass.

> ASSEMBLYMAN THOMPSON MOVED TO AMEND AND DO PASS SENATE BILL 366 (1st REPRINT).

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN EDWARDS AND TITUS VOTED NO. ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

Assemblyman Thompson, I will give you that floor statement.

Marsheilah Lyons, Committee Policy Analyst:
Now, we are moving on to Senate Bill 374 (2nd Reprint).

Senate Bill 374 (2nd Reprint): Revises provisions relating to the use of marijuana or industrial hemp. (BDR 40-185)

Senate Bill 374 (2nd Reprint) prohibits a professional licensing board from taking disciplinary action against a licensee for holding a valid marijuana registry card or for engaging in lawful actions pursuant to the licensee's profession that relate to the use of medical marijuana. The bill sets forth similar provisions related to the use of recreational marijuana.

The bill also includes opioid addiction within the definition of "chronic or debilitating medical condition" for the purposes of obtaining a medical marijuana registry identification card. Additionally, the bill authorizes a provider of health care or a massage therapist to:

- Administer a marijuana-infused product or a similar product containing industrial hemp for topical use on human skin to a patient or client if the patient or client provides the product;
- Maintain a supply of products containing industrial hemp for topical use on human skin and administer such a product to a patient or client upon request; and
- Recommend to a patient or client the use of marijuana or industrial hemp to treat a condition.

There are no amendments in the work session document for this measure (Exhibit J).

Chairman Sprinkle:
Thank you for that overview. Senator, would you mind coming up for a quick question? Shortly before the hearing, one of your colleagues, Senator Spearman, mentioned that she would like to add her name to this bill. I just want to confirm that.

Senator Tick Segerblom, Senate District No. 3:
That is correct. I came to ask if you could amend the bill to add Senator Spearman as a cosponsor. We had combined our two bills, but I neglected to do that in the Senate.

Chairman Sprinkle:
Ms. Lyons, we will add amending Senator Spearman onto the bill as part of the work session document. Committee, any questions or comments on this bill?

Assemblywoman Titus:
Although I am supportive of the topical use of hemp products, I am concerned about the employer and employee situations identified in this bill, and specifically under section 1.5. I will be voting no on this bill.

Assemblyman Edwards:
I like most of the bill, so I am going to vote yes to pass it out, but I will reserve my right to change my vote on the floor of the Assembly.

Chairman Sprinkle:
Does anyone else have any comments? If not, I will take a motion for amend and do pass.

> ASSEMBLYMAN CARRILLO MOVED TO AMEND AND DO PASS SENATE BILL 374 (2nd REPRINT).
>
> ASSEMBLYMAN YEAGER SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYWOMAN TITUS VOTED NO. ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

Assemblyman Carrillo, I will give you that floor statement.

Marsheilah Lyons, Committee Policy Analyst:
The final bill today is Senate Bill 416 (1st Reprint).

Senate Bill 416 (1st Reprint): Authorizes the formation of apprenticeship programs for medical marijuana establishment agents. (BDR 40-1140)

Senate Bill 416 (1st Reprint) authorizes a medical marijuana establishment, an association of medical marijuana establishments, or a joint committee consisting of representatives of one or more medical marijuana establishments and a labor organization to propose and enter into an agreement to carry out an apprenticeship program for medical marijuana establishment agents.

There are no amendments in the work session document for this measure (Exhibit K).

Chairman Sprinkle:
Committee, any questions or comments on this bill?

Assemblywoman Titus:
I am going to vote no on this bill. Although I understand the need for educating folks who work in dispensaries and maybe bringing the whole industry current on some important regulations and an understanding of the products they are selling, I am concerned about the information I heard during testimony. Employees could possibly be directing people who walk in to different types of marijuana based on their diagnoses. I am concerned about the possible practice of medicine with that, so I will be a no on this bill.

Chairman Sprinkle:
Any other questions or comments on this bill? [There were none.]

> ASSEMBLYMAN THOMPSON MADE A MOTION TO DO PASS SENATE BILL 416 (1st REPRINT).
>
> ASSEMBLYMAN McCURDY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

> THE MOTION PASSED. (ASSEMBLYWOMAN TITUS VOTED NO. ASSEMBLYMEN HAMBRICK AND OSCARSON WERE ABSENT FOR THE VOTE.)

I will take the floor statement on this bill.

That ends our work session for today. We will get back to our bill hearings and open up the hearing on Senate Bill 159 (1st Reprint).

Senate Bill 159 (1st Reprint): Provides for the regulation of the sale of dextromethorphan. (BDR 40-543)

Chris Ferrari, representing Consumer Healthcare Products Association:
We are here in support of Senate Bill 159 (1st Reprint). The bill's sponsor, Senator Farley, may not be able to be here today, so we will present the bill. We have a one-minute video clip we wanted to show to the Committee to provide some context for the bill.

> My name is Jason. I had some horrific experiences with DXM [dextromethorphan] actually. It was weird. I could hardly move. All my motor skills had just been shot, so I ended up crawling to the bathroom. I basically ended up having this terrible vomiting. I felt my entire body sting from head to toe. It got to the point where I was like holding onto my sanity by a thread, and then, the thread basically snapped. Having weird auditory hallucinations, visual hallucinations. I was convinced that this was death. That one really scared me. I ended up falling asleep on the bathroom floor and woke up a few hours later. I felt like I was never going to have my sanity back, and I never experienced something like that before. It wasn't until

I made that decision to begin using the drug. Essentially, who I decided I wanted to be went out the window.

Carlos Gutierrez, Vice President, State and Local Government Affairs, Consumer Healthcare Products Association:
We represent the over-the-counter medicine manufacturers, including the manufacturers of cough medicine containing dextromethorphan (DXM), which was the subject of the video you just saw and what this bill is all about. I am here to speak in enthusiastic support for Senate Bill 159 (R1).

By way of background, dextromethorphan is a safe and very effective ingredient. You can find it in many of the most popular cold and cough medicines on the market today. It was first approved for over-the-counter sale back in 1954 by the U.S. Food and Drug Administration. It is a nonnarcotic. It is nonaddictive, and it works by raising the cough threshold in the brain. It has no pain relieving properties, and again, it is nonaddictive. It is used safely by millions of Americans every year, and we support unfettered access for adults for these over-the-counter medications for the folks who need it—particularly during the cough and cold season.

It is a really important ingredient; it is really effective and in no way do we want to limit that access, and this bill does not do that. It is a medication, though, and like any medication, if not taken as directed, it can be harmful to your health. Unfortunately, a few years ago, we began to see the teen population start to abuse dextromethorphan-containing cough medicines. In fact, when we first began our campaign on this issue, about 6 percent of teens admitted to abusing DXM medicines—sometimes taking 25 times the recommended dose. That is essentially taking the entire bottle, oftentimes called "robotripping," a play on Robitussin. Sometimes, they include alcohol and other substances. It produces hallucinations, confusion, blurred vision, and other loss of motor control.

We took this really seriously. We voluntarily placed a label on all our medications containing dextromethorphan. We began a very sophisticated public awareness program—not only to teens but also to parents and caregivers. We support state laws such as the policy being laid out by this bill, S.B. 159 (R1). Twelve states have already passed this, including your neighbors Arizona and California. Four other states are considering this around the country as we speak, so there could be about 17 states by the end of the year. Groups like the Community Anti-Drug Coalitions of America (Exhibit L), Partnership for Drug-Free Kids (Exhibit M), National Association of School Nurses (Exhibit N), Drug Abuse Resistance Education (D.A.R.E.), et cetera, are all supportive of this.

Best of all, we have seen an impact. We have seen a positive result. Teen abuse has been cut roughly in half since we first started this program and since states around the country started passing these laws. So, this is not an experiment; we know that it works. Since 2015 here in Nevada, over half the dextromethorphan-related poisonings reported to the poison control center were by teenagers. That is who we are targeting with this legislation. We stand in strong support of it and would request your support as well.

Brandi M. Planet, representing Consumer Healthcare Products Association:
[Brandi Planet provided additional information to the Committee (Exhibit O), (Exhibit P), and (Exhibit Q).] I am going to briefly go over the bill. Section 1, subsection 1, prevents knowingly selling or offering to sell medication containing dextromethorphan to minors. Section 1, subsection 2, permits the sale of dextromethorphan to a minor so long as that minor has a valid prescription. Subsection 3 sets forth the requirements for compliance with subsection 1, and specifically at the time of purchase, an identification check is required for those persons who reasonably appear to be under the age of 25. Subsection 4 states that a retail establishment is in compliance with subsection 1 if the owner had no actual knowledge of the sale and has a continuing training program in place to prevent violations. Subsection 5 provides the penalty structure for violations of subsection 1. Subsection 6 is a preemptive provision to prevent conflicting local ordinances to ensure uniform application of the law.

Finally, subsection 7 adds definitions for the words "identifications" and "minor." We would like to thank Senator Farley for bringing this bill and everyone who worked so hard crafting the bill language.

Chairman Sprinkle:
Are there questions from the Committee?

Assemblyman Thompson:
I have a question on section 1, subsection 7, where it talks about identification. We all know a driver's license is valid, but could you share with us what other identification would show that the person is 18 years of age or older. Could that be a gym membership?

Brandi Planet:
That is one of the reasons we added the definition. "Identification means any document issued by a governmental entity that contains a physical description or photograph of the person . . ." and includes the date of birth—things such as a passport, military identification card or identification card that is not used for the purpose of driving. We wanted to make sure that it was narrow. As you said, someone could use a gym card or similar form of identification.

Assemblyman Thompson:
When we start talking about REAL IDs, I do not know how much this will change, but it is something we should be thinking about.

Assemblyman Edwards:
I notice in the penalty section, the first offense is just a warning, and then the fine for the second offense goes to $50. How do you track people who are going from store to store to store? How would the second store know the individual had already done it once? Would the third store know you had done it twice before? Has that been figured out?

Chris Ferrari:
That is a question better left to our friends in retail, most of whose members already have some type of program related to that. This is more focused on the seller of the product than on the purchaser. Most of the major retailers already have a program for purchase in place for identification check. There may be someone who is offering this product who does not have that type of system in place, but this is more to focus on those folks.

As to the specifics of what would happen over time if someone was abusing that on a regular basis, I am not sure I have an appropriate answer for you at the moment. That will avail itself over time in terms of what one would do to make sure that stopped.

Assemblyman Carrillo:
My question is in regard to section 1, subsection 3, paragraph (a). Do you have to be 25 years of age or older to purchase this product? Do I understand that correctly?

Brandi Planet:
You would be able to purchase the medication so long as you were 18 years or older. That particular section determines that you will be asked for your identification.

Chairman Sprinkle:
Are there other questions, Committee? [There were none.] I am not seeing any, so I will go ahead and open this up for support for S.B. 159 (R1). Is there anyone here in support? [There was no one.] Is there anyone in opposition to S.B. 159 (R1)?

Wendy Stolyarov, Legislative Director, Libertarian Party of Nevada:
Throughout its history, the Libertarian Party has taken an extremely liberal position on controlled substances because, throughout human history, prohibitions have been tried repeatedly and have failed. Prohibition and restriction of drug sales have two inevitable effects. First, they render access more difficult for the preponderance of customers who are not intending to abuse them. Second, they create black markets in which third-party sellers distribute lower quality or contaminated versions of the product at elevated prices and in more dangerous environments.

Neither of these outcomes is desirable or, we believe, the intent of the legislation. In the first case, legitimate sales to minors purchasing cough syrup for sick, single parents, whether at home or waiting in the car, would be blocked, and the preponderance of nonabusive customers who may look young would have to be carded before purchase. In the second case, if we wished to be genuinely compassionate about youth drug addiction, banning DXM from sale to minors is not the solution. The committed user will find himself purchasing a potentially tainted substance in an unsafe environment—not something any of us would want for our children. The answer to drug abuse is education and better parenting, not regulation that will, in practice, make our children less safe. The Libertarian Party of Nevada, therefore, opposes S.B. 159 (R1).

Chairman Sprinkle:
Is there anyone else here in opposition to S.B. 159 (R1)? [There was no one.] Is anyone here neutral to S.B. 159 (R1)? [There was no one.] Do you want to make any closing comments?

Chris Ferrari:
Thank you again. We appreciate your consideration and support of this legislation. There is an abuse problem in our state, and because there is limited funding to address that abuse problem, we can take relatively minor steps to curb a major action. We believe it is in the best interest of Nevada's children, especially in conjunction with the work this body has done on opioid abuse and otherwise. We thank you for your time and for your support.

Chairman Sprinkle:
Thank you for being here today and presenting for the Senator. We will close the hearing on S.B. 159 (R1) and open up the hearing on Senate Bill 253 (1st Reprint).

Senate Bill 253 (1st Reprint): Establishes the Nevada Pregnant Workers' Fairness Act to provide protections to female employees and applicants for employment who are affected by a condition of the employee or applicant relating to pregnancy, childbirth or a related medical condition. (BDR 53-773)

Senator Nicole J. Cannizzaro, Senate District No. 6:
Today I am here to present to you Senate Bill 253 (1st Reprint) which establishes the Nevada Pregnant Workers' Fairness Act. One thing that is difficult for young professionals, and certainly I fall into that category, is if you have taken all that time in your life to go to school, study, and get on board with a profession, sometimes the decision between pursuing that profession or having a family can be a very difficult one. Especially when you feel as though it might be very difficult for you to maintain your employment during the time in which you would be pregnant, or shortly thereafter, once you have returned to work.

One of the things S.B. 253 (R1) seeks to do is make it so that working women—and in Nevada that makes up a huge percentage of our workforce—can stay at work and still pursue a family even though they know they are often the primary breadwinners for their families or they are single mothers. This bill seeks to create some parity, so there is less disparity in the workforce for working women who want to have a family. One of the things we should be doing is making it easier for our working families, and especially for working mothers, to stay in that capacity.

This piece of legislation strengthens the economy and promotes healthy pregnancies and economic security for pregnant women and their families. Pregnancy discrimination occurs throughout the country. Despite existing legal protections, the National Partnership for Women and Families reports nearly 31,000 charges of pregnancy discrimination were filed at the U.S. Equal Employment Opportunity Commission and at state-level fair employment practice agencies between October 2010 and September 2015. The number of charges filed remained relatively unchanged from year to year.

The federal Pregnancy Discrimination Act (PDA) of 1978 was the first law to explicitly protect pregnant workers. The PDA amended Title VII of the Civil Rights Act of 1964 to make clear that employers cannot deny women job opportunities simply because they are or might become pregnant, and employers must treat pregnant workers the same as non-pregnant workers who have a similar ability to work. The PDA helped combat pregnancy discrimination in significant ways, but it does have its limitations. For instance, some courts have ruled that it does not require employers to provide reasonable accommodations to pregnant workers who need to modify their job duties, conditions, or schedules as a result of physical limitations related to their pregnancies. However, the U.S. Supreme Court recently held in *Young v. United Parcel Service, Inc.* [575 U.S.__(2015)] that employers are likely violating the PDA if they accommodate most injured or non-pregnant workers with disabilities while refusing to accommodate most pregnant workers with similar needs. The decision clarified the rights of more pregnant women but some still face uncertainty.

That basically means that there is a strong likelihood that many employers who already provide reasonable accommodations for injured workers or workers with disabilities, likely already owe a duty to their employees to provide a reasonable accommodation if that employee is pregnant. It would be of the same sort of accommodation for that pregnant worker. However, this is something that would have to be litigated in the courts to find whether that employer actually has that duty; and whether that specific duty is owed to that specific pregnant worker. This is something I do not believe should be litigated in the courts. I think it is something that is incumbent upon us to ensure that working women can continue to nurture and raise their families without the risk of losing their jobs. I would note, while there are some courts that have found that this falls within Title VII of the Civil Rights Act, there are courts that are not interpreting this as falling with that, and that is what S.B. 253 (R1) seeks to do—to bridge that gap and to provide those protections across the board.

I would like to note that there is overwhelming bipartisan support for this legislation in states that have passed similar legislation. In fact, 18 states, the District of Columbia, and 4 cities have passed laws requiring employers to provide reasonable accommodations to pregnant workers. From West Virginia to Utah to California, lawmakers have concluded that accommodating pregnant workers who need it is a measured approach grounded in family values and basic fairness.

I want to walk you through what S.B. 253 (R1) does and note a couple of things. This bill has changed substantially from its original introduction in the Senate. That is because I have worked diligently with many of the stakeholders—including those from the business community—to ensure that the piece of legislation we are putting before you is workable for those employers, so we take those considerations into account when considering whether to enact this piece of legislation. At this point, I am still talking about whether there are additional changes to be made to the legislation as everyone is still reviewing it, but we have made significant changes to make this something that is workable for employers.

The only amendment I would be presenting to this Committee today is that Senator Hardy has expressed his support and would like to be added as a cosponsor, so that is one thing I will be adding to this bill. I would note that this bill did pass out of the Senate unanimously. As you can see, not only is this getting bipartisan support in other states, it is also getting bipartisan support in the Nevada Senate, and for that, I am both grateful and proud.

Senate Bill 253 (R1) provides protections to employees in Nevada similar to protections in the federal Pregnancy Discrimination Act. This bill ensures that workers with limitations related to pregnancy, childbirth, or related medical conditions, are not forced out of their jobs or denied reasonable workplace accommodations. The Nevada Pregnant Workers' Fairness Act promotes nondiscrimination by specifying that employers with 15 or more employees must abide by certain terms. This measure also applies to state and local governments. Sections 3.3, 3.5, and 3.7 of this bill clearly define a related medical condition and condition of the applicant related to pregnancy, childbirth, or related medical condition.

Section 5 of this bill requires such employers to provide reasonable accommodations upon a request to the female employees and job applicants affected by a known limitation related to pregnancy, childbirth, or a related medical condition, unless the accommodations would impose an undue hardship on the business of the employer. Additionally, employers may not take an adverse employment action against a female employee for requesting or using an accommodation, denying employment opportunity to a qualified female employee or job applicant based upon a need for a reasonable accommodation, require a female employee or job applicant to accept an accommodation or to take leave from employment if an accommodation is available, and require a female employee to take leave if another reasonable accommodation can be provided.

This bill seeks to provide for employers that, if an accommodation that is requested by an employee would pose an undue hardship, that employer would not be required to provide that reasonable accommodation. Sometimes what we see in the workplace is that female employees, when asking for an accommodation, are frequently told that they should take leave rather than the employer making a reasonable accommodation. This bill provides that if there is a reasonable accommodation that can be made for that employee that does not impose an undue hardship, that the employer would have a duty to provide that reasonable accommodation. If the employee has notified their immediate supervisor and has requested an accommodation, then the employer must seek to, or attempt to, or provide that accommodation to that employee.

There are some protections built into this. There is a burden on the employee to tell the employer that they are pregnant and to request an accommodation. Then it is incumbent upon the employer to verify whether that is an accommodation they can make.

An employer who is a licensed contractor is not subject to these requirements under certain circumstances; however, he or she is encouraged to provide a reasonable accommodation to the extent practical. The reason for that particular amendment came from many of our contractors who indicated, that for a lot of their jobs, there would not be an ability to make a reasonable accommodation. For example, modifying a piece of heavy equipment could potentially cost tens of thousands of dollars, and that would not be practical. So, there is a carve-out for those types of employers. In addition, an employer may require a female employee to provide an explanatory statement from the employee's physician concerning the specific accommodation recommended by the physician for the employee.

Section 6 of this bill describes the requirements and manner in which to provide a reasonable accommodation. Section 7 of this bill sets forth the prima facie burden that a female employee, as I mentioned earlier, or applicant for employment, is required to meet concerning a reasonable requested accommodation before the burden of proof would shift to the employer to demonstrate that providing such accommodation would impose an undue hardship on the business of the employer and the manner in which to determine whether an undue hardship exists.

Section 8 of this bill requires an employer to provide a written or electronic notice that a female employee has the right to a reasonable accommodation for a condition relating to pregnancy, childbirth, or related medical condition. The employer must provide the notice within ten days after the employee notifies her immediate supervisor she is pregnant. Section 11 of this bill extends the existing law requiring leave policies to be the same for pregnant employees as for other employees, so it applies to a female employee who is pregnant or has a condition that is related to childbirth or a related medical condition.

A person injured by an unlawful employment practice within the scope of this measure may file a complaint with the Nevada Equal Rights Commission as described in section 15 of the bill, and may file an action in district court if the Commission does not conclude that an unfair employment practice has occurred. That is contained in section 16 of the bill. Section 17 requires the Commission to develop and carry out programs to educate employers and others about their rights and responsibilities under this act.

What we are not talking about is substantially changing one's employment duties in order to accommodate that person because she is pregnant. What we are talking about generally are things such as allowing an employee to have a water bottle on site, so she can stay hydrated. We are talking about allowing an employee to take regular bathroom breaks to accommodate the pregnancy. We are talking about allowing an employee who might have a position that involves standing most of the day to have increments during the day when that employee might be permitted to sit so as to maintain a healthy pregnancy. That is an important thing to keep in mind.

One thing I want to note is that a survey by the Job Accommodation Network—a technical assistance provider to the Department of Labor's Office of Disability Employment Policy—found that a majority of employers reported no cost for those reasonable accommodations.

So things such as providing a chair, allowing a bathroom break, and allowing an employee to maintain a water bottle with them do not have a cost to the employer but are so significant to these employees.

Of those employers who did report a cost, the majority of them reported a cost of $500 or less. These are for temporary accommodations to keep an employee employed. I think what S.B. 253 (R1) really is getting at is promoting our working families and healthy pregnancies and ensuring that women can stay in the workplace and do not have to leave just because they are pregnant.

Chairman Sprinkle:
Committee, are there any questions?

Assemblywoman Benitez-Thompson:
In section 3, you referenced an employer with 15 or more employees. Typically when we talk about small businesses, for instance the Family and Medical Leave Act uses 50 or more employees, there are different definitions in different statutes—state and federal—about what it means to be a small business. Is the number of 15 employees referencing a federal code or some other definition of small employer?

Senator Cannizzaro:
My understanding is that the federal PDA applies to employers with 15 or more employees. We did have discussions in our working group about whether to make this apply to employers with 50 or more employees, but we really did want to make sure that we were providing this for as many individuals as possible. So, 15 would exclude extremely small businesses but would include some of those smaller businesses. Most of these accommodations we are talking about are no cost or of a minimal cost to the business. I think that was a good balance, but I am almost sure that the number came from the PDA.

Assemblywoman Joiner:
I appreciate so much your bringing this bill. This is perfect timing. There was news this morning that there are awful maternity/mortality rates in our country. A lot of it is during pregnancy—women are not being taken care of and not getting the right treatment, and how they are responded to when they have issues is not at all good. It is horrifying to me how poorly we treat our pregnant women. Which entities are included? Is it public and private of a certain size?

Senator Cannizzaro:
Yes, it would include state and local governments and private employers who employ 15 or more employees.

Assemblywoman Benitez-Thompson:
Just for the legislative record, because it sounds as though there has been a lot of conversation, could you spell out your intent when you are talking about "reasonable accommodations"? Could you give some examples of what the presenting issue might be

and the accommodations for that issue? As you have had conversations off the record, it is important to make sure what is embedded in the record.

Senator Cannizzaro:
Yes. As we were talking about a reasonable accommodation, I did want to note a couple of things in terms of the process. An employee does have to tell their immediate supervisor that they are pregnant, so we are not putting a burden on an employer to assume someone is or is not pregnant. An employee would have to tell her employer, "I am pregnant." Under this bill, the employer has to provide notice to that employee within ten days that the employee has certain rights as a pregnant employee—which would include requesting a reasonable accommodation. The employee then has to request the reasonable accommodation. For example, I am a pregnant employee and my job is to stand at a front desk for a majority of the day, so typically, my job duties have me standing for eight hours a day. I may, as a pregnant employee at a certain point in my pregnancy say, "Hey, I would really like it if I could just have a stool that I could sit on intermittently when I start to feel a little tired." The employer then has an obligation to attempt to accommodate that reasonable request—if it is deemed to be reasonable—and provide a stool to that employee.

Let us say that an employee's primary duty is to load and unload heavy boxes. That is her job; she is a stock person. At some point, she tells her employer that she is pregnant and asks for an accommodation to not have to stock boxes anymore. The employer could determine that is not a reasonable accommodation because it would prohibit them from engaging in their business practice. That would be a version of an accommodation that would not be reasonable for that employer to comply with. There may be other avenues such as requesting that the employee take leave.

Another example that was brought up during the conversations I had was what if we have an employee who engages in heavy manual labor with heavy equipment. Asking to modify that piece of equipment to accommodate for additional space in the driver's seat may cost that employer tens of thousands of dollars. The undue hardship does include that if the accommodation would present an overly burdensome cost on that employer, they would not have to provide that accommodation. So, when we are talking about accommodations, we are talking about things like, I may need a 15-minute leave break during long depositions in order to use the restroom; I may need a day to go and see my physician. I may need to have a water bottle with me.

In my office, we typically have to grab a box of copy paper and bring it to our office in order to stock the copier. If I were pregnant, at a certain stage in the pregnancy that would be too heavy, so I may request for a reasonable accommodation to have someone assist me with manual labor in that regard. These are the types of accommodations we may be asking for. I certainly cannot tell you every example, but those are some of the examples I could provide to this Committee.

Chairman Sprinkle:
Committee, do you have further questions? [There were none.] Is there anyone here in support of S.B. 253 (R1)?

Alanna Bondy, Intern, American Civil Liberties Union of Nevada:
The American Civil Liberties Union of Nevada (ACLU) wants to offer their support for S.B. 253 (R1). Approximately 37 percent of Nevada mothers are the sole or primary breadwinners for their families. Another 24 percent are cobreadwinners, contributing 25 to 49 percent of the income to their households. Without reasonable accommodations, women are forced to leave the workplace early and are unable to continue to financially support their families.

Women of color are disproportionately affected by pregnancy discrimination because women of color disproportionately work in low-wage jobs with rigid schedules and less progressive policies. This bill works toward ending discrimination to women in the workplace, and the ACLU urges your support of this bill

Jared Busker, Policy Analyst, Children's Advocacy Alliance:
We are in support of this bill.

Chairman Sprinkle:
Is there anyone else in support of S.B. 253 (R1)? [There was no one.] Is there any opposition to the bill? [There was none.] Anyone neutral to S.B. 253 (R1), please come forward.

Alexis Motarex, Government Affairs Coordinator, Nevada Chapter, The Associated General Contractors of America, Incorporated:
We would like to publicly thank Senator Cannizzaro for all her efforts to accommodate the unique circumstances that can occur in the construction industry, and we appreciate her willingness to address those in the bill.

Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada; and representing The Chamber, Reno-Sparks-Northern Nevada:
This afternoon, I am also representing the Reno-Sparks Chamber of Commerce, who were unable to be here today. Our members support reasonable accommodations for pregnant women. We believe that responsible employers already provide such accommodations as one of their strategies to retain qualified workers.

We were participants in the working group with the bill's sponsor, and we very much appreciate her availability and willingness to work with the business community on this issue. My testimony is neutral because, while there has been great progress to make this bill workable, we have just one minor concern we would still like to address. We are looking at section 5, subsection 3, paragraph (d) on page 6 that lists "providing assistance with manual labor" as a reasonable accommodation. Our members believe that this may be potentially

problematic as they are interpreting it to mean that another employee must be nearby and ready to assist that pregnant employee. That may not always be feasible. Conceptually, we would suggest amending that line to read something like, "providing assistance with manual labor that is incidental to normal job duties." We think that would tighten up the language of that particular provision.

Tyree Gray, representing Las Vegas Metropolitan Chamber of Commerce:
We are coming here in neutral. We would again like to give accolades to Senator Cannizzaro for working with the business community. As Lea Tauchen said, there still may be just a small number of things that the stakeholders are looking at, but we have made great progress since this bill's introduction.

Chairman Sprinkle:
Obviously, with time constraints upon us, I would suggest you get back with the Senator as soon as possible. Is there anyone else here neutral to S.B. 253 (R1)? [There was no one.] Not seeing anyone, Senator, would you like to come back up?

Senator Cannizzaro:
I am aware of some of the minor concerns that still exist with certain parts of the language. We are working through those. It is my intent to remain cooperative with those who have continued to be part of the working group and the process on this bill, so we can get to a point where I think we have resolved all the concerns. I will continue to do that; I think some of these changes are very small.

The term "reasonable accommodation" does also find some support in other areas of the law such as the Americans with Disabilities Act and also when talking about injured workers, so there is some legal guidance on that as well. I did just want to voice that for the record. Thank you to the Committee for letting me present this bill. I think it is such an important piece of policy, and I hope to earn your support.

Chairman Sprinkle:
With that, we will close the hearing on S.B. 253 (R1).

[(Exhibit R) was submitted but not discussed and is included as an exhibit for this meeting.]

I am going to turn the meeting over to my Vice Chair.

[Assemblywoman Joiner assumed the Chair.]

Vice Chair Joiner:
The hearing is open on Assembly Bill 374.

Assembly Bill 374: Requires the Department of Health and Human Services to make coverage through the Medicaid managed care program available for purchase. (BDR 38-881)

Assemblyman Michael C. Sprinkle, Assembly District No. 30:
From this point on, Assembly Bill 374 will be called the Nevada Care Plan. The amendment in front of you (Exhibit S) pretty much is the bill as it stands now, and that is what we will be referring to today as opposed to the original version you may have taken a look at before.

I want to talk about the concept of what we are doing here. In essence, this bill will provide all people with access to the benefits we have all come to associate with fee-for-service Medicaid. However, this is for any individual who is not currently eligible for those Medicaid benefits—in essence, the welfare program we all know. This is for everybody else.

As this bill was introduced, one of the biggest problems was that people were still really comparing it or making it as if it were part of the Medicaid program, and it is not. That is why we came up with a new name. I think it is an important name; a kind of catchy name—Nevada Care Plan. It is for those people who are not eligible to be Medicaid recipients, but they are still going to have the opportunity to buy into an insurance program like any other at a premium cost. The intent was, and still is, to have that premium cost at approximately 1 or 2 percent over the cost for these benefits. That is a way for some money to be generated back into the Medicaid program as a whole, and for this state to start taking very baby steps in becoming more self-supportive with our own Medicaid program. We are all familiar with some of the concerns that have been coming out of our federal government lately. We do not know where Medicaid will be in the future, and this is a very subtle way to start refocusing on what we want to do for all Nevadans.

After the bill was introduced, a lot of people were very interested, as you can imagine. There were a ton of questions and probably more than one concern. But mostly it was, "What are you trying to do? We cannot find any precedent for this anywhere." The fact of the matter is, there really is not any precedent. Should this bill move forward, should it pass and be implemented, we will be the first state in the nation that is actually putting something like this forward. I think that is an extremely important point because of all the unknowns and uncertainty concerning health care at the federal level.

I put together a working group, and we have been meeting fairly regularly since this bill was first introduced. The working group included department heads, members from the Office of the Governor, Nevada Medicaid, the Division of Insurance, the Silver State Health Exchange, and some community providers as well. We all sat down and started dissecting what it was I was trying to accomplish with this bill; what the roadblocks were; and what we needed to put together to move forward.

Most important was the framework. We knew that we only had a limited number of days, and this was going to be much bigger than what we could put together in one session, so the day after sine die we could actually open this up to the public. It was way too big, but I believe with this amendment that is in front of you, you are going to see a framework that will be able to be implemented. I have pushed out the implementation date a little bit to January 1, 2019. That is so we have enough time to really put together a plan that is going to work and succeed.

We did identify some issues. Some of them are taken care of by this amendment; others are going to still need to be addressed and talked about as we go into the interim with this working group. Some of those are federal regulations—they are always a big deal—and we need to be sure that we are looking at what those regulations are, what we can and cannot do, and potentially, what waivers might be out there that would be available for us to be able to bypass those regulations and still be able to put together the product I have been talking about here. Some of those are also the incentives that are currently available through the Affordable Care Act (ACA). We are not sure if those incentives are still going to be there in the future, but as with everything else we have been doing during this legislative session, we cannot go by the "what ifs;" we have to go with what we currently have.

Use of the Silver State Health Insurance Exchange was initially an idea I had that I thought was perfect, ideal, and brilliant for this. Come to find out, it is actually not possible. I do believe there is a way to utilize some of the benefits of our Exchange without violating any of the federal regulations that were awarded in the Affordable Care Act to do so. We want health care to remain affordable and accessible to all within the state of Nevada without industry disruption. Coming from a public service background, I do not always think about things from a business sense, but it is vitally important that we take into consideration those who are already providing products and services like this. We do not want to disrupt that too much because then it potentially becomes impossible for people to find the insurance that they need. So that is also another thing we continue to work on and look at. A lot of that is going to be addressed once we can gather more factual data.

This bill is going to establish the Nevada Care Plan within Medicaid Services, and we will be working very closely with the Commissioner of Insurance. This is a health care plan that mirrors the benefits associated with Medicaid fee for service. It establishes a premium amount for the plan using actuarial data that will be obtained during the interim. We have been very fortunate, through the Division of Insurance, to potentially have the ability to use some unused funds to do an actuarial study of exactly what we are talking about here. What I mean by that is getting real numbers as to how many people in the state of Nevada are currently not insured, and how many people are underinsured. How many people would be potentially hurt if some of the current suggestions coming out of Washington, D.C., actually were signed into law, and how many would then be looking for other forms of insurance. Then, of course, and this is easier to get, we need information regarding those people who are currently on Medicaid and currently eligible for Medicaid.

This actuarial study is really going to get us to the premium. If any of you did have a chance to look at the original bill, I put some specific numbers in it. That has all been edited out, because we really do not know right now what that number is—what it is actually going to look like. Obviously, is has to be competitive with any other insurance plan that is out there without getting into that world of true marketplace disruption. As I stated before, that is a concern I do have and will continue to have through these discussions.

By obtaining a waiver, the plan will use the Silver State Health Insurance Exchange to promote the plan and direct individuals to insurance providers who have contracted to assist in administering the plan. It cannot be used as a portal as the Exchange is now, but, if we are able to get this waiver, we would be able to use it as a general informational thing to direct individuals to the actual plans that would now be contracting into the service we are talking about here. It would still require a waiver, but it is possible to use what is already established and something that a lot of people have come to identify as a means of looking at new insurance plans or changing without actually violating the federal rules.

If we do get a waiver, and this is another big part of this—but it is not anything that would prevent this bill from moving forward—we would also be looking at what kind of tax incentives currently available to people could also be applied to premium reimbursement to offset some of the costs of enrollment.

The implementation date was extended to allow the working group to establish regulations and firm up the structure of the product to be provided. Again, it was brought to my attention immediately that this was going to be a big deal, and they needed time to really work on this.

I believe this is addressing some of the uncertainty that we are all seeing and hearing about in the news concerning what health care is going to look like in the future. It is important for two reasons. By far the most important—the reason we are all sitting here today—is so that we are providing affordable, accessible health care to the people we represent. Far more importantly, if we do this right, we potentially will be laying groundwork and a framework that all the other states in our nation can start looking at to provide these similar services to their citizens as well. That is a really important thing to keep in mind.

The working group I put together has been phenomenal. They have been so open-minded and really willing to sit down and work through the problems—not just shoot arrows at the problems or create new problems. That gives me a lot of inspiration and hope. If we can pass this bill, if we can get this structure and framework out there, we will continue into the interim to put together a product that makes a lot of sense and that is affordable and accessible and really going to benefit the people we serve. I would be more than happy to answer any questions about this bill or the thoughts behind it.

Vice Chair Joiner:
Are there any questions from Committee members for the bill's sponsor? Did you say that you had some agency folks with you who might be neutral?

Assemblyman Sprinkle:
Yes, there are. Because they are agency individuals, they have to speak as neutral, but they are certainly accessible for more specifics as to what it is exactly we are working on.

Vice Chair Joiner:
If there are any questions for Assemblyman Sprinkle, let us take those, and then I am going to open it up to neutral testimony from our technical experts.

Assemblywoman Titus:
Under your proposed amendment, there are three fiscal notes, but they are all zeros. I know this is a policy committee, but at some point will we be seeing estimated costs?

Assemblyman Sprinkle:
If you look at the very last page of the amendment, there is a request for a full-time equivalent position within Medicaid. As opposed to going into a fiscal discussion at this point, I am pretty much positive that once this bill passes out of this Committee, it will be heading to the Assembly Committee on Ways and Means, and those questions and concerns can be raised there.

Assemblywoman Titus:
Do you know how many potential applicants we will have?

Assemblyman Sprinkle:
That gets back to the reference I made about the actuarial study that is going to go on during the interim. This was certainly a question that we had in the working group. That question is not just associated with this bill. That data has been very difficult to collect as a whole; however, this specific bill and specific program is going to give us very important information as far as what those numbers do look like for the industry and the people as a whole, so we can get a better idea about who is truly uninsured right now. The most recent number I have been hearing is around 11 or 12 percent of the population, but that is not a firm number. We really do not know, because so many of these people are so hard to identify. This study could potentially do that. I can let the agencies discuss this further, but from a general sense, no, we do not and that is why we need that information before I could ever have a firm idea about how many people this plan potentially is going to affect.

Assemblywoman Titus:
Do you have a number of insurance providers interested in this? I have heard that some have left the state. Insurance companies are not sure where they fit in all this, so I am curious whether we have insurance companies that are even potentially interested in this.

Assemblyman Sprinkle:
I am not sure if this is the exact answer you are looking for because I have received anecdotal information as well as comments in the hall, but there are a lot of individuals and companies that are very interested in what we are doing here. Not all of them potentially are looking to get into the Nevada market, but I do know that there are those throughout the nation right now looking at what we are doing here to see how this might affect them in a positive, and I am sure some of them, in a negative way as well. I do not have any exact number for you, but I can definitely assure you that there are a lot of eyes on this, and there are a lot who are interested in what we are trying to do here.

Assemblyman Yeager:
This is a very exciting bill. With the uncertainty about the future of health care, it is nice that Nevada is taking the lead here and has a chance to get this right and show the nation what we can do. I want to thank you for your work on this. I know how hard you have worked on this issue and how many people you brought together, and I would offer my services in any way possible to help get this through.

Vice Chair Joiner:
I found the phrase in the bill that anyone is eligible who is not currently in Medicaid—so, really, anybody is eligible whether they are currently on the Exchange or currently out in the market. The question I had was about the coverage. It looks as though it is comparable to the version we currently have of the fee-for-service Medicaid and not the managed care. Could you give a few more details about that? Is that comparable to the Silver State Exchange or what we would see on the outside market? I have always heard that Medicaid has great coverage—and sometimes it is better than those of us who have to buy coverage on the outside market. As you were preparing this, how did you chose that or what would that include?

Assemblyman Sprinkle:
We had a lot of conversation about that. There is a lot of interest from the managed care organizations already in the state about how that is going to play into all this. These are still things we need to work out. Those are contractual things, legal things, involved here—which is where Assemblyman Yeager may wish he had not offered to help. What we need to do at this point, as we are winding down the session, we need a framework to work from. I do believe this framework gets us there, and fee for service is a good basis for what it does. As you can see in the amendment, it does specifically cull out one of the things—nonemergency transports would not be offered. There is the potential in the future, and we have had a lot of discussions about this already, to have different premium plans just as you see with other insurance companies.

Right now, we are just going with that basic coverage that you would see, and that will be what we initially offer. As this takes off, as we move forward and see interest grow, which I am sure it will, then we can start looking at different premium levels that would make sense.

Assemblyman Carrillo:
In section 3, I am concerned about the provider networks—the managed care organizations (MCOs). Current recipients under MCOs have complained to me in my district about wait lists or long waits between time of call and available appointments for providers. Providers have claimed that it is incredibly difficult to become a provider in existing MCOs, especially in the behavioral health end. I worry that these networks will not be able to keep up with the potential demand. Can you speak to that?

Assemblyman Sprinkle:
Again, these are discussions the working group has already had, and we will continue to have them. Provider adequacy has been a problem that we have been looking at throughout this entire session. It was brought to me during the interim. I have heard the same concerns you just stated. I am not going to say that with implementation of this plan, or any other, we are still not going to have that problem because we need more providers. There is plenty of legislation out there right now that is trying to work on that. I am sure that this will be a continuing concern and idea going into the future.

How network adequacy and some of the other things that go wrong with those MCO plans are going to fit into the structure and the framework we have right now, to be quite honest, I do not know. I do not have that answer for you today. This is yet another topic we have talked about and why this working group needs to have this structure in place. Language at the very end of the bill is enabling legislation for regulations and other things. We are going to build the product as a whole, so it addresses some of these concerns you are talking about. I do believe once we get there, January 1, 2019; hopefully, some of that will be addressed and from a much broader sense. As a body, we will continue to look at provider access, reimbursement rates, and everything else that goes along with that. But that is a little bit outside the scope of this bill.

Assemblyman Carrillo:
Would you expect that the plans that would be purchased through Nevada Care would include the same value-added benefits that are provided under Medicaid MCOs? For example, Amerigroup provides free memberships for kids 5 to 14 to the Boys and Girls Club as well as free GED testing and extra transportation benefits.

Assemblyman Sprinkle:
If you look at this as if this were any other insurance plan, I think everybody wants to be competitive. We are looking at what benefits are being offered. We needed a base level to go with to put the structure and the framework in place. But absolutely, added benefits are going to be looked at. As we start looking at different premium levels, what you are purchasing and what you are getting, yes, to stay competitive, all those aspects will have to be taken into consideration as we move forward with this plan.

Vice Chair Joiner:
Are there any other questions from Committee members for the sponsor? [There were none.] If not, I will open it up to neutral for those agencies and experts who are here. That way, Committee members can get an idea who is in the room and ask you questions, too. Please come up if you are in neutral.

Heather Korbulic, Executive Director, Silver State Health Insurance Exchange:
The Silver State Health Insurance Exchange's mission is to increase the number of insured Nevadans by facilitating the sale of qualified health plans. We have had an opportunity to be working with Assemblyman Sprinkle throughout the last few weeks. We have not had a chance to fully review the most recent amendment and have not had an adequate

opportunity to look at the impacts on our marketplace. Assemblyman Sprinkle pointed out some of the concerns with using HealthCare.gov. The way the Exchange is currently set up, we use HealthCare.gov for consumer eligibility to enroll consumers into qualified health plans.

The way the architecture of HealthCare.gov rules engine works is that it strictly only allows the sale of qualified health plans as per the ACA. So, A.B. 374 proposes that the Nevada Care Plans be sold through the Exchange. Because these plans are not exactly modeled and not exactly in compliance with all of the ACA standards, the rules engine of HealthCare.gov is not flexible enough, the architecture is not flexible enough, nor will they allow for the modification of rule changes. So, it would basically not be possible to sell Nevada Care Plans on HealthCare.gov.

The Exchange has been looking into potentially transitioning away from HealthCare.gov to a private rules engine or private eligibility platform. If we were granted permission to do so, the Exchange could design and build rules and processes that would accommodate the sale of the Nevada Care Plans. In order to transition to a different platform, the Exchange would have to have a Section 1332 Waiver. That would require the Centers for Medicare and Medicaid Services (CMS) to interpret a policy differently than they currently interpret it, which is always in the works, and I am always pressing them for this. But what would have to be done is ask them to separate an integrated eligibility engine. Right now, if you are going to operate as a fully state-based marketplace, you are going to have to have a rules engine that not only determines applicant eligibility for a qualified health plan but also determines eligibility for Medicaid—all in the same place. Those are prohibitively expensive to build, so we would have to have a waiver that would allow for us to not integrate those systems.

We have had multiple conversations with tech vendors related to a transition. Many of the tech vendors have indicated that if we were able to transition away, the infrastructure they could create for us would allow for the sale of the Nevada Care Plan, should that become available.

Additionally, in terms of tax subsidies, A.B. 374 allows for the Director of the Department of Health and Human Services (DHHS) to pursue a waiver to allow for advanced premium tax credits and cautionary reductions to be applied to these Nevada Care Plans. Existing codes of federal regulations prohibit the use of subsidies to purchase plans that do not currently meet the ACA qualified health plan standards. It is possible that CMS would allow the use of subsidies to purchase Nevada Care Plans through the use of Section 1332 Waivers; however, there is only one way to determine eligibility for such subsidies, and that is through the HealthCare.gov or through the exchanges.

In the case the Exchange is allowed to transition to a private platform, we would be able to determine subsidy eligibility; however, new business processes would have to be developed to coordinate the payment of subsidies to the insurers that would be offering these plans. Consumer premiums for qualified health plans are determined by age bands, carrier rates,

medical-loss ratios, and provider costs, so determining federal subsidies and premium rates for Nevada Care Plans will require actuarial analysis and rate studies which Assemblyman Sprinkle has already indicated an interest in doing.

If the Exchange was to facilitate the sale of Nevada Care Plans, it would require additional full-time employees to support this increased population volume. Additional funds would need to be allocated for outreach, education, enrollment, navigator services, and our call center services along with technology costs. Based on some of the conversations I had with Assemblyman Sprinkle in our work group, I understand that his intent is to have the Exchange act as sort of a portal in order for consumers to have access to information and education on all of the plans that would be available to them—for example, Medicaid-qualified health plans and, potentially, Nevada Care Plan products. We do believe that if we were to host a website that redirected consumers who were interested in Nevada Care Plans, we would be able to support such an endeavor.

Marta Jensen, Acting Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:
As Assemblyman Sprinkle indicated, this bill establishes the framework for an additional insurance option for individuals who make too much money to qualify for Medicaid. There was a discussion starting with Medicaid managed care versus fee for service, but one of the things we talked about is that in the managed care programs, there are several services that are carved out—populations, geographic regions, and services. So, we thought fee for service was a better model to pull from—minus the not-emergency transportation—at this time.

As Assemblyman Sprinkle also indicated, there is funding available to the Division. We believe that we would hire a contractor to help us explore this option to further define what that means. We do have some time since the implementation date is January 1, 2019. But at this point, there are so many what-ifs with the ACA repeal/replace. We are not sure where it is going to go, but rather than wait and see, we thought we would take a more proactive approach through this work group. We really want to make sure people continue to have access to affordable health care, and this may be a vehicle to get us there.

Glenn Shippey, Actuary II, Life and Health Section, Division of Insurance, Department of Business and Industry:
We appreciate being part of the discussion with Assemblyman Sprinkle and the other agencies that are in the work group. As Assemblyman Sprinkle indicated, the Division does have federal grant funds that we believe we can use to fund an actuarial study to put us in a position to potentially seek some federal waivers that would enable the Nevada Care Plan to come into the state. We look forward to our continued efforts in this area.

Assemblywoman Benitez-Thompson:
With the bill, we are getting the ability to divert a contract to investigate with some actuaries what the solvency piece of this would be—if it would work out. From the program piece, we were thinking along the lines of other state programs, specifically the Children's Health

Insurance Program. It targets those people who are still in poverty but just above eligibility for Medicaid. Perhaps it could be opened up to parents as well as their children. As we are looking for a way to bring people in, are we thinking of things like that within this proposal?

Marta Jensen:
It is open to anyone who could qualify. It also concerns us with the expanded population. We are not sure where that is going to go with a repeal/replace of the ACA, but it would be anyone who could be eligible. What we are finding is that we have a lot of people who are working, but they are either underemployed or the wages are just not sufficient. So they are still in poverty, even though they are working, and that would be a market we would want to look at. The concern is if we do not have something in place between Medicaid and possibly the Exchange, people will just start showing up in the emergency rooms again when we have been working over these last few years to alleviate that stressor.

Vice Chair Joiner:
Are there any other questions from Committee members? [There were none.] Is there anyone else in neutral who would like to testify? If not, we will go back to those who want to testify in support. If there is anyone who wants to speak in support, come forward.

Michael Hackett, representing Nevada Primary Care Association and Nevada Public Health Association:
We come here in support of A.B. 374. The Nevada Primary Care Association is a federally designated primary care association for the state of Nevada. We have 9 federally qualified health centers or community health centers that operate 33 clinical sites around the state. These health centers provide primary, dental, and behavioral care services to uninsured and Medicaid populations, and we provide these services to everybody who presents themselves for care at our doors.

We support this bill, understanding that this is not Medicaid that is being offered. I think it is still to be determined what the impact would be on the uninsured patient population we currently see. As the bill's sponsor stated in his testimony, this is also about ensuring the long-term viability and sustainability of the existing Medicaid program. That is something we support. Our community health centers derive a significant portion of their revenue from patient services that they provide through Medicaid. In addition, since Medicaid was expanded, the percentage of patients we see at our clinics has increased significantly, so ensuring the long-term sustainability of Medicaid is very important to our clinics.

Finally, I also represent the Nevada Public Health Association, and we would also like to be on record in support of this bill. One of the long-standing priorities for the Public Health Association has been to improve and to ensure access to health care, and we think this bill is a step in that direction.

Oscar Delgado, Director, Communications, Community Health Alliance; Member, Ward 3, Reno City Council:
The Community Health Alliance (CHA) is a nonprofit health center in northern Nevada, which represents nearly 30,000 residents in the city of Reno. We provide services such as primary care, pediatrics, integrated health services, dental services, and pharmaceutical and nutrition services to our patients. We provide these services regardless of a patient's ability to pay. The Community Health Alliance supports A.B. 374, also known as the Nevada Care Plan, which requires the Department of Health and Human Services to allow Nevadans who earn more than 138 percent of the federal poverty level, which in turn would otherwise qualify for Medicaid, to purchase a premium-based Medicaid plan through the Silver State Health Insurance Exchange. At CHA we firmly believe that this bill will strengthen the Medicaid program and increase enrollment in these plans. It would also provide more choices for Nevadans to choose from on the Exchange.

As expressed earlier by Assemblyman Sprinkle, we feel we need to be proactive, especially with the changes taking place in Washington, D.C., by reassuring our constituents—our community members, those we serve in our community—that we have something in place in case something dramatically and negatively impacts those we currently serve. We are here to provide service and support for this plan moving forward.

Vice Chair Joiner:
Is there anyone else here in support of this measure? [There was no one.] Seeing none, I will open it up now to anyone in opposition. Please come to the table.

Bill M. Welch, President/Chief Executive Officer, Nevada Hospital Association:
I feel awkward being up here in opposition, because I want to speak first on the things we support in the bill, and then get to the concerns that cause us to be here in opposition. First, we recognize and support the concept Assemblyman Sprinkle is trying to accomplish here. I have had the opportunity to talk with him briefly about the bill. To the extent that we do not know what is going on with the ACA and to the extent that this bill would create an opportunity to those people who might lose coverage under the ACA, we certainly support this Nevada Care Plan becoming available.

We also support trying to work toward finding opportunities and options for coverage for those who continue to be uninsured in the state. As Assemblyman Sprinkle indicated, there are many uninsured out there. The number we hear is that about 11 percent of our population is uninsured. To the extent that the Nevada Care Plan, if it were to be implemented and passed, could help provide coverage for those individuals, we are certainly supportive of that. To the extent that there are people who have limited health care benefits, or what we refer to in the health care industry as underinsured, we certainly think this is a great opportunity for those people.

Our concern comes because this is a Medicaid plan; it is structured under the Medicaid plan. As I understand the mechanism and how it would work, individuals who exceed Medicaid eligibility criteria as we know it today would be getting those benefits. We are supportive of

that concept; however, we are very concerned about the compensation or the reimbursement to the provider community. Those of you who have been here for a period of time have heard about the underpayment by Medicaid to hospital providers. Currently, we are at about 53 percent of cost. If you add in the supplemental programs and the disproportionate share programs, we get to around 57 or 58 percent of cost. We are concerned about moving more and more of the population into an insurance program like that—people who may not need to be in that type of coverage plan. As I recall, a number of the first enrollees who came onto the Health Exchange were individuals who already had health care coverage under other health care plan opportunities. These people moved into the Exchange. We have a similar concern that unless there are parameters established, we could see the insurance market be disrupted to some extent with individuals currently covered under the commercial plans covering the cost of care opting to move into this plan. As you said, Vice Chair Joiner, there are some Medicaid fee-for-service plans that are better than a lot of the health care coverages individuals are buying. If we move all this population into a plan that is paying less than cost, that could have serious unintended consequences on the health care delivery system in the state.

We look forward to working with Assemblyman Sprinkle and his Committee to see what can be done to try to protect and prevent the insurance market from being disrupted by this. We also want to make sure we work with those who need coverage who do not otherwise have the opportunity to get that coverage. If we move any more of the insured population into a health plan that covers less than cost of care that could have serious consequences. Today on average, only 21 percent of the patients who present in our full-service acute care hospitals cover the cost of care; 79 percent of the patients who present in our hospitals pay less than cost of care. They are under some form of government-funded program or they are uninsured.

George A. Ross, representing Sunrise Hospital and Medical Center:
I am disappointed that I have to be up here in opposition. I was really hoping I could come up in support, because as Mr. Welch said, we do admire the work Assemblyman Sprinkle has done as well as that of the folks he is working with. We think it is very important to try to make sure that group of folks just above the Medicaid level, who are very fearful right now about losing coverage, find a way to get coverage. To the extent that this is also attractive for those who are not covered by any insurance right now, that is good, too.

Our problem is basically what Mr. Welch said, but it is much worse. I know some of you have heard the data and are tired of them, but the data is why we are so concerned and why I had to come up here in opposition. The problem is moving any segment of our potential patients out of commercial-payment levels into a number that would be basically 1 percent above cost. The way the patient base has worked over the last few years, Sunrise really depends on those commercial payers—both in the emergency room and with inpatients—to cover the big hole that is not covered by Medicaid. That is a big hole because we are the biggest Medicaid provider. Forty-two percent of our inpatients are Medicaid; another 4 percent are self-pay or charity; in the emergency room (ER), 55 percent are Medicaid and 13 percent are basically uninsured. So, that means 68 percent in our ER and 46 percent of

inpatients. Medicare, which is nearly everyone else other than commercial payers, pays just under cost. Only a few are able to pay, and we rely on those commercial payers to fill that hole. None of our costs go down. Our nurses need to get paid; they do great work, and they get paid well. The gas company, the power company, and the water company all want their money. They do not lower their bills just because we have this patient mix.

We really like the concept Assemblyman Sprinkle is pushing, but it is very difficult for Sunrise to maintain its level and quality of care and continue to provide access to care. Quite frankly, we are hoping to provide a lot more access to care if we can get a margin that allows us to do that. Margins are slipping back to the recession days as I speak, and that is not an exaggeration, unfortunately, so I appreciate the chance to speak.

If there is any way we can work with Assemblyman Sprinkle and the folks who have been working with him in that working group to make this work, we would love to because we think conceptually it is a great idea. It is just that the implementation as described today could cause our hospital a great deal of problems. If we have problems, then so do the people who need health care on the eastern side of Las Vegas, as well as those who need the high-acuity care we also provide.

Vice Chair Joiner:
Is there anyone else in opposition to this bill? [There was no one.] Seeing none, would you like to make any closing comments?

Assemblyman Sprinkle:
I stated in my testimony multiple times the concern I have for marketplace disruption. At no point in my testimony did I specifically say what provider reimbursement rates were going to be. What I said was that we were putting together a framework of a plan that even those in opposition just now said is a good idea. This framework is going to allow us in the next year and a half to come up with something that is really going to work. We keep referring to what we keep hearing about in the news. I just heard the other day that a rather large nationwide insurance company is talking about getting out of these exchanges and these plans altogether. What happens when the expansion population is no longer getting insurance either, which is one of the potential effects of what is being talked about in Washington, D.C.?

As I hear reimbursement rates being talked about right now, I one hundred percent understand and guarantee that this will be a very important topic of conversation as this working group goes forward into the interim; but I would also say, what do those rates look like when people are showing up in the emergency rooms, and they have no insurance at all? This is a potential way to start providing affordable and accessible insurance and health care to individuals who would not otherwise have it.

I remember writing a paper when I was in eighth grade about health care. It had to do with the *U.S. Constitution*, if you can believe that. What I thought back then was that health care is not something that is a benefit. Health care is an absolute necessity for people to be active members of our society, to be able to provide for their loved ones and for themselves, and to

actually have a lifestyle that reaches a level of enjoyment and happiness. It is a right; it is not just a product, and unfortunately, that is kind of what I heard a little bit here in these closing minutes from those in opposition. This is not just a product that I am talking about. This is something that I believe every single one of us and everybody in the state of Nevada deserves. Regardless, I am going to continue to work hard for this. I am going to continue to force my working group to work hard on this, and I do believe that this will come to fruition. Thank you very much for allowing all the testimony today.

Vice Chair Joiner:
Thank you. With that, I will close the hearing on A.B. 374. That was our last bill today. Is there anyone here for public comment either in Las Vegas or in Carson City? [There was no one.]

[Assemblyman Sprinkle reassumed the Chair.]

Chairman Sprinkle:
This meeting is adjourned [at 3:58 p.m.].

RESPECTFULLY SUBMITTED:

_____
Terry Horgan
Committee Secretary

APPROVED BY:

_____
Assemblyman Michael C. Sprinkle, Chairman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a copy of written testimony titled "Meeting the Needs of Nevada's Deaf and Hard of Hearing Population," dated June 13, 2016, revised April 2017, submitted by Gary W. Olsen, Chair, Subcommittee on Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons With Speech Disabilities, Nevada Commission on Services for Persons with Disabilities, Aging and Disability Services Division, Department of Health and Human Services, in support of Senate Bill 481 (1st Reprint).

Exhibit D is the Work Session Document for Senate Bill 46 (1st Reprint), presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit E is the Work Session Document for Senate Bill 50 (1st Reprint), presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit F is the Work Session Document for Senate Bill 71, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit G is the Work Session Document for Senate Bill 163, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit H is the Work Session Document for Senate Bill 291 (1st Reprint), presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit I is the Work Session Document for Senate Bill 366 (1st Reprint), presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit J is the Work Session Document for Senate Bill 374 (2nd Reprint), presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit K is the Work Session Document for Senate Bill 416 (1st Reprint), presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit L is a copy of a letter addressed to Senator Pat Spearman, Chair, Committee on Health and Human Services, dated February 23, 2017, from Arthur T. Dean, Chairman and CEO, Community Anti-Drug Coalitions of America, submitted by Brandi M. Planet, representing Consumer Healthcare Products Association, in support of Senate Bill 159 (1st Reprint).

Exhibit M is a copy of a letter addressed to Senator Pat Spearman, Chair, Committee on Health and Human Services, dated February 24, 2017, from Marcia Lee Taylor, President and CEO, Partnership for Drug-Free Kids, submitted by Brandi M. Planet, representing Consumer Healthcare Products Association, in support of Senate Bill 159 (1st Reprint).

Exhibit N is a copy of a letter addressed to Senator Pat Spearman, Chair, Committee on Health and Human Services, dated May 11, 2017, signed by Beth Mattey, President, National Association of School Nurses, submitted by Brandi M. Planet, representing Consumer Healthcare Products Association, in support of Senate Bill 159 (1st Reprint).

Exhibit O is a copy of a document titled "DXM Restrictions to Minors in NV," dated March 2017, submitted by Brandi M. Planet, representing Consumer Healthcare Products Association, in support of Senate Bill 159 (1st Reprint).

Exhibit P is a copy of data from the Poison Control Center, dated May 5, 2017, submitted by Brandi M. Planet, representing Consumer Healthcare Products Association, in support of Senate Bill 159 (1st Reprint).

Exhibit Q is a copy of a document titled "SB159: Restrict Teen Access to Dextromethorphan (DXM) Act," submitted by Brandi M. Planet, representing Consumer Healthcare Products Association, in support of Senate Bill 159 (1st Reprint).

Exhibit R is a copy of a letter addressed to the Committee on Health and Human Services, dated May 9, 2017, submitted by Aviva Gordon, Legislative Committee Chairwoman, and Amber Stidham, Director of Government Affairs, Henderson Chamber of Commerce, in opposition to Senate Bill 253 (1st Reprint).

Exhibit S is a copy of mock-up amendment 4637, dated May 12, 2017, submitted by Assemblyman Michael C. Sprinkle, Assembly District No. 30, regarding Assembly Bill 374.