MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR

Eightieth Session
March 25, 2019

The Committee on Commerce and Labor was called to order by Chair Ellen B. Spiegel at 12:54 p.m. on Monday, March 25, 2019, behind the bar of the Assembly, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Ellen B. Spiegel, Chair
Assemblyman Jason Frierson, Vice Chair
Assemblywoman Maggie Carlton
Assemblyman Skip Daly
Assemblyman Chris Edwards
Assemblywoman Melissa Hardy
Assemblywoman Sandra Jauregui
Assemblyman Al Kramer
Assemblywoman Susie Martinez
Assemblyman William McCurdy II
Assemblywoman Dina Neal
Assemblywoman Jill Tolles
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Michelle Gorelow, Assembly District No. 35

STAFF MEMBERS PRESENT:

Patrick Ashton, Committee Policy Analyst
Barbara Taylor, Committee Manager
Karen Easton, Committee Secretary

Katelyn Malone, Committee Secretary
Earlene Miller, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Josh Griffin, representing Nevada Subcontractors Association
Kelly Gaines, President, Nevada Subcontractors Association
Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO
Misty Grimmer, representing Nevada Resort Association
Abraham Camejo, President, Camejo Safety Inc, Las Vegas, Nevada
Ray Fierro, Administrator, Division of Industrial Relations, Department of Business and Industry
Grace Vergara Mactal, Executive Director, Service Employees International Union Local 1107
Melanie Sisson, Private Citizen, Henderson, Nevada
Marlene Lockard, representing Service Employees International Union Local 1107
Jane Thomason, representing National Nurses Organizing Committee
Jess Lankford, Chief Administrative Officer, Nevada Occupational Safety and Health Administration, Division of Industrial Relations, Department of Business and Industry
Katherine Lohmeyer, Private Citizen, Las Vegas, Nevada
Christy Tolotti, Private Citizen, Reno, Nevada
Brenda Marzan, President, Service Employees International Union Local 1107
Kent M. Ervin, Legislative Liaison, Nevada Faculty Alliance
Jesse Wadhams, representing Nevada Hospital Association
Marissa Brown, Workforce and Clinical Services Director, Nevada Hospital Association

Chair Spiegel:
[Roll was called.] We need to consider the introduction of five bill draft requests (BDRs).

BDR 43-936 — Revises provisions relating to advertising vehicles for sale. (Later introduced as Assembly Bill 454.)

Is there a motion to introduce BDR 43-936?

ASSEMBLYWOMAN JAUREGUI MOVED TO INTRODUCE BILL DRAFT REQUEST 43-936.

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED.

BDR 54-933 — Revises provisions governing chiropractic physicians and chiropractor's assistants. (Later introduced as Assembly Bill 457.)

Chair Spiegel:
Is there a motion to introduce BDR 54-933?

ASSEMBLYMAN EDWARDS MOVED TO INTRODUCE BILL DRAFT REQUEST 54-933.

ASSEMBLYMAN YEAGER SECONDED THE MOTION.

THE MOTION PASSED.

BDR 54-934 — Revises provisions relating to the Board of Psychological Examiners. (Later introduced as Assembly Bill 453.)

Chair Spiegel:
Is there a motion to introduce BDR 54-934?

ASSEMBLYWOMAN JAUREGUI MOVED TO INTRODUCE BILL DRAFT REQUEST 54-934.

ASSEMBLYMAN EDWARDS SECONDED THE MOTION.

THE MOTION PASSED.

BDR 53-1102 — Makes various changes relating to families of injured workers. (Later introduced as Assembly Bill 455.)

Chair Spiegel:
Is there a motion to introduce BDR 53-1102?

ASSEMBLYWOMAN TOLLES MOVED TO INTRODUCE BILL DRAFT REQUEST 53-1102.

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED.

BDR 53-1104 — Revises provisions relating to the minimum wage. (Later introduced as Assembly Bill 456.)

Chair Spiegel:
Is there a motion to introduce BDR 53-1104?

ASSEMBLYWOMAN CARLTON MOVED TO INTRODUCE BILL DRAFT REQUEST 53-1104.

ASSEMBLYMAN McCURDY SECONDED THE MOTION.

THE MOTION PASSED.

[The meeting recessed at 12:57 p.m.]

[The meeting was reconvened at 1:37 p.m. in Room 3137 of the Legislative Building and was videoconferenced to Room 4100 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada.]

Chair Spiegel:
I will open the hearing on Assembly Bill 290.

Assembly Bill 290: Revises provisions relating to occupational safety and health. (BDR 53-286)

Assemblywoman Sandra Jauregui, Assembly District No. 41:
Assembly Bill 290 would create an Occupational Safety and Health Administration (OSHA) registry within the state of Nevada. It would be a place where OSHA trainers could submit a list of all trainees who have successfully completed their OSHA 10 and OSHA 30 courses. Counterfeit OSHA cards have been an ongoing problem in Nevada and other states. States have long requested a national registry but have not received federal assistance to get it done. It is time to make Nevada the gold standard and be the first state to pioneer this. We hope that other states would soon follow our lead. Some people are going out of their way to acquire fraudulent cards; what they save in time and a couple of hundred dollars could cost someone their life.

In 2017 the state of New York called for a crackdown after reporters unveiled a black market within New York City that was helping construction workers obtain fraudulent OSHA cards. This investigation was the result of more than 30 construction workers dying in construction-related accidents within two years in the city. On February 15, 2019, the U.S. Department of Labor issued a statement after it was discovered that a trainer sold over 100 fraudulent cards to construction workers. The statement said, "OSHA's outreach training serves to educate workers about safety issues they will encounter on the job site. Falsifying documents not only undermines the programs, it fails to protect workers on the job." Workplace safety is important. We talk about it almost every session. The only thing we are hoping to accomplish with this bill is to prevent future fraudulent cards and help create safer workplaces for everyone. We understand that there is little to zero action we can take to combat the fraudulent cards that have been previously issued, but this is starting the process, and in time the process will catch up with itself.

I want to highlight section 5, subsection 2, paragraph (c) of the bill. It was important to me to protect hardworking Nevadans so I was clear in my bill that the cost of the registry could not be borne by workers. According to the Division of Industrial Relations (DIR) [Department of Business and Industry], there are currently about 95,000 construction workers in Nevada. We must take action to protect them from the bad actors. I was on a conference call with the DIR and Nevada OSHA last week, and they had witnessed firsthand a fraudulent OSHA card the prior week. It had the name of a trainer and the completion date the prior year when that particular trainer had not taught any OSHA classes in years.

Josh Griffin, representing Nevada Subcontractors Association:
As Assemblywoman Jauregui stated, this is exactly the problem that we are trying to address. The Nevada Subcontractors Association is composed of thousands of men and women who work mostly in the residential construction industry. This bill is intended for all safety training for all of the things that OSHA requires for certification. This is an opportunity for employers and employees to know that there is a resource for them to find out if the people they hire have been trained and the people who are doing the certification are in a registry maintained by OSHA.

Kelly Gaines, President, Nevada Subcontractors Association:
With me today are the board chairman of the Nevada Subcontractors Association, Mike Colvin of Colvin Construction, and association vice president Danny Gonzalez, who is the owner of Power House Plastering. Our subcontractors make up the vast majority of the residential construction industry in southern Nevada. The Nevada Subcontractors Association represents about 150 businesses that are owned and/or operated in Nevada. I am in support of A.B. 290 which would allow the accessibility to our employers to access a database when they are hiring an employee to be able to validate that their OSHA training has been certified. We have identified fraudulent activity with the cards. Ultimately, the passing of this bill would align the vested interest in the employee's safety. It would have the employee invest in their own safety.

Chair Spiegel:
Are there any questions from the Committee?

Assemblywoman Carlton:
How do you see this process working?

Assemblywoman Jauregui:
I have had a couple of conversations with DIR, where this would be located. We see it becoming another page on their website where an employer can type in the number on the OSHA registry card. It should bring back the name of the employee to match the card, the date the training was completed, and the name of the trainer.

Assemblywoman Carlton:
Would the responsibility for this be with DIR?

Assemblywoman Jauregui:
That is correct.

Assemblywoman Carlton:
How many people would be part of this and how long would you give them to get this updated?

Assemblywoman Jauregui:
We were envisioning starting today and moving forward. We understand that it would be impossible to catch every fraudulent card that was created prior to the implementation of this bill. We would like to prevent the fraud from continuing. The OSHA 10 and OSHA 30 cards do not expire so people do not have to come back and take courses to get new cards. We would like to tackle the problem moving forward and hope that in time it would correct itself.

Assemblywoman Carlton:
If the employer checks the list and it has only new people coming into the system and someone had a card from before and they were not on the list, would that employer hold that against them? If it were a choice between hiring them and hiring someone else, would they choose the one who is on the list? Would it be voluntary if I wanted to submit my card information?

Assemblywoman Jauregui:
The card information would not be submitted by the workers. It would be submitted by the trainers. As soon as the training is completed, they would submit to DIR a list of everyone who has taken the class.

Assemblywoman Carlton:
If an employer was looking to hire six people and only four were on the database and two had their cards predatabase, would they not want to hire those two because they are not in the database? We would not want people who are not on the database to be discriminated against. How much would it cost for DIR to do this?

Assemblywoman Jauregui:
We do not have a fiscal note on it yet, and we do not know how much it will cost.

Assemblyman Daly:
The trainers are registered with the U.S. Department of Labor (DOL). They submit the names to the DOL and the DOL will send completion cards. In section 1, it says, "A person who obtains a completion card," and I read that to mean the worker who gets the card has to register online, rather than the provider of the training. Are you trying to get the trainer to report to the local OSHA?

Assemblywoman Jauregui:
Section 1 applies to people who take their courses online and in another state because we do not have any way to track that. Section 1 is specifically for that. It says that within 15 days of being hired, they have to submit their card to DIR. Section 5 applies to people who take their courses live and in state with a trainer here. It would require the trainer in Nevada, in addition to submitting their list to DOL, to also submit a list to DIR.

Assemblyman Daly:
Then it becomes an enforcement situation. Currently the employer is supposed to verify that the employee has his or her OSHA 10 or OSHA 30 card within 15 days after hiring. If the employee does not provide the card, there is no penalty. There is not a process where OSHA can give a fine or write a citation to an employee. The employer does that. How do you plan on handling the enforcement?

Josh Griffin:
The mechanics can be testified to by OSHA; we are trying to take a first step. Everybody needs to be on the same page that the employee gets the training from a licensed and proper trainer. This is the start of a verification process for the safety of the employee and for his or her coworkers. Eventually we would have a process in place where they know that everybody has had the same training. How we enforce this will come later. If we start with a database and a registry where employers and employees can go to make sure that proper training has been done by a properly licensed trainer, that is a beginning.

Assemblywoman Neal:
In section 7, who is exempted when it says, "a single employer for a period of less than 15 consecutive days"? If it is less than 15 days and they are working, do we not have a need to train them?

Josh Griffin:
We are trying to align the definitions with other parts of statutes. *Nevada Revised Statutes* 608.0123 and 608.0126 have those same definitions. We are trying to align those definitions to have some consistency. We will work with OSHA to make sure we are saying that. We were trying to be consistent, not to exempt anything in particular.

Chair Spiegel:
It is interesting that people who complete a course out of state could provide a copy of their card to DIR to verify they have completed the class. If we are doing this on a going-forward basis, could we also have an opportunity for someone who has taken the class in the past to submit a copy of his or her completion records to DIR so they are in the database?

Assemblywoman Jauregui:
We envision the trainers submitting the verifications, and we hope other states would soon follow. It is something that has been asked for by other states and if they have registries, we can cross-verify as people come into the state.

Chair Spiegel:
I find it interesting that you are making allowances for people coming in from out of state, but I want to know if we can make allowances for people who already completed the class in Nevada to add their names to the list.

Josh Griffin:
We should absolutely explore that to make this a more robust database. We will work with the proper regulators to make sure that happens.

Chair Spiegel:
Is there anyone in support of A.B. 290?

Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO:
We are in support of A.B. 290. This program was to be implemented as a result of the deaths on the construction of the City Center project. It was to be required of all construction or industry workers. There needs to be a way we can tighten this up to make it so that the people who actually are trained have the cards and not the ones who are not. It makes for a safer workplace for them and all of the people around them.

Misty Grimmer, representing Nevada Resort Association:
We are also in support of this bill. This also applies to all of our entertainment and convention space workers. There is a bill coming from the Senate that is going to require the same training for convention workers. That may help with the 15-day limit.

Chair Spiegel:
Is there anyone else who wishes to testify in support?

Abraham Camejo, President, Camejo Safety Inc, Las Vegas, Nevada:
I am a trainer and I do the OSHA 10 and OSHA 30 trainings for construction workers, union workers, and other small business owners for whom I am proud to do safety inspections. I am here to support this bill because I teach these classes and am responsible for making sure they get the training which is a bare minimum of what should be required. It is a great start, but in the construction industry there are many accidents. Accidents happen within 30 seconds and it can be a life-changing event. This bill is good for Nevada. It gives us the opportunity to have a better and safer workplace environment in Nevada. It gives our employers a better working environment for Nevadans.

Chair Spiegel:
Is there anyone to testify from a neutral position?

Ray Fierro, Administrator, Division of Industrial Relations, Department of Business and Industry:
We are taking a neutral stance on this bill. We submitted a fiscal note. We thought it would require an Administrative Aide I position and approximately $30,000 for a database. We are looking at $76,971 for Year One and $61,061 in Year Two.

Chair Spiegel:
Do you know when we will see the actual fiscal note?

Ray Fierro:
I am surprised you do not already have the fiscal note. We submitted it last week.

Assemblyman Daly:
You already have a list of providers who can teach the classes. Do you have a separate list for online providers?

Ray Fierro:
We have a list of trainers on our website. The list is voluntary. If you want to go to the Safety Consultation and Training Section on our DIR website, you can find all of the trainers who have asked to have their name put on that list.

Assemblyman Daly:
With this bill, everyone would have to register with you, they would have to provide proof of training and when they submit it to the DOL, they could submit it to you as well. The DOL issues the cards.

Ray Fierro:
The trainer would put the information about who took the class into the database.

Chair Spiegel:
Is there any opposition? [There was none.]

Assemblywoman Jauregui:
Thank you for hearing A.B. 290.

Chair Spiegel:
I will close the hearing on Assembly Bill 290 and open our work session.

Assembly Bill 181: Revises provisions governing employment attendance practices. (BDR 53-833)

Patrick Ashton, Committee Policy Analyst:
[Read from the work session document (Exhibit C).] Assembly Bill 181 prohibits an employer from requiring an injured or sick employee to report in person at the workplace that he or she cannot work. This bill specifically permits an employer to require an injured or sick employee to notify the employer that he or she cannot work, and to provide a doctor's note when returning to work. Finally, the bill provides certain criminal penalties for a violation of its provisions, and authorizes the Labor Commissioner to impose an additional administrative penalty and allows a recovery thereof.

Assemblyman Assefa proposes the following conceptual amendment to Section 1 on page 2 of A.B. 181:

1. In subsection 1(a), line 6, replace the phrase "injured" with "has sustained a nonwork related injury";
2. Delete subsection 1(c) (lines 9 through 11);

Assemblyman Assefa now proposes an update to this conceptual amendment. He now proposes to delete the entire subsection 2, lines 12 through 14, in order to delete the misdemeanor penalty. The change to this amendment is reflected in the updated document of the proposed conceptual amendment (Exhibit D). In subsection 3, line 16, replace the phrase "each culpable party" with "any employer or agent or representative thereof."

Assemblyman Assefa proposes an additional amendment to say, "This bill is effective upon passage."

Chair Spiegel:
I will accept a motion to amend and do pass.

> ASSEMBLYWOMAN JAUREGUI MOVED TO AMEND AND DO PASS ASSEMBLY BILL 181.
>
> ASSEMBLYWOMAN NEAL SECONDED THE MOTION.

Is there any discussion?

Assemblywoman Carlton:
I want to clarify that the $5,000 administrative penalty is in, but the misdemeanor is out.

Chair Spiegel:
Yes.

Assemblywoman Carlton:
Under section 1, subsection 3, any employer, agent, or representative thereof does not include the employee who may be making the phone call?

Chair Spiegel:
That is correct. I will take the vote.

> THE MOTION PASSED. (ASSEMBLYMAN EDWARDS WAS ABSENT FOR THE VOTE.)

Assemblyman Assefa will take the floor statement.

I will open the hearing on Assembly Bill 348.

Assembly Bill 348: Makes various changes to prevent and track workplace violence at medical facilities. (BDR 53-843)

Assemblywoman Michelle Gorelow, Assembly District No. 35:
Assembly Bill 348 addresses a serious issue in our society—violence directed at workers in health care facilities such as hospitals, nursing homes, and rural clinics. These workers have a significantly higher risk of workplace violence. According to the Emergency Nurses Association, 67 percent of all nonfatal workplace violence injuries occur in health care, but health care only represents about 11.5 percent of the U.S. workforce. Research has also shown that health care workers have a 20 percent higher chance of being the victim of workplace violence than other workers—emergency department and psychiatric nurses are at the highest risk for patient violence. The most common type of violence in health care is patient or visitor to worker. In this context, workplace violence means any act of violence or threat of violence while being at work. This includes physical force used against a worker and any incident involving a firearm or other dangerous weapon.

Let me give you examples to illustrate the meaning of workplace violence: In June of 2017, a Massachusetts nurse was repeatedly stabbed while assessing a patient. In February of 2018, a patient tried to strangle a Boulder, Colorado, nurse with the nurse's stethoscope. She lost consciousness while security guards tackled the patient. Violence against health care workers is underreported, understudied, and undertreated. Data is not collected in a consistent manner, which contributes to difficulties in developing better strategies for prevention and risk management of workplace violence.

The National Institute for Occupational Safety and Health collected certain data about workplace violence from 2012 to 2014 in 114 health care facilities. The workplace violence injury incidence rate increased 65 percent for all health care personnel during this time frame. Just among nurses, workplace violence injuries increased by 55 percent in those two years. In fact, the Occupational Safety and Health Administration (OSHA) found out that injuries in the health care industry account for almost as many serious violent injuries as all other industries combined. Many more assaults or threats go unreported, though.

A recent 2018 survey conducted by the American College of Emergency Physicians shows that almost half of the surveyed physicians stated they had been assaulted, and more than 70 percent had witnessed an assault in their workplace. Nearly half of the emergency physicians also reported being hit or slapped. They also reported being bitten, kicked, punched, scratched, and spit on.

Workplace violence comes at a high cost for all stakeholders, but especially those working closest with patients—our nurses, nursing assistants, personal care assistants, and physicians, to name a few. Health care workers who experience violence can lose work time for recovery. They may also experience mental trauma and often have fear, anxiety, and loss of concentration at work. It goes without saying that this also has an adverse effect on patient care.

The question is, What can we do to prevent workplace violence in the first place and to improve protections for workers in health care facilities? One answer is having a plan in place for prevention and mitigation of risk factors. This is why I present A.B. 348 to you today.

Assembly Bill 348 aims to better protect workers in health care facilities. The bill requires certain hospitals and medical facilities to create a workplace violence prevention plan that assesses workplace hazards and potential risk factors for workplace violence. After this assessment, a facility must create a plan or system to correct those hazards through system, environmental, or work-practice controls. The workplace violence prevention plan shall be assessed and reassessed on an ongoing basis and includes input from workers.

Grace Vergara Mactal, Executive Director, Service Employees International Union Local 1107:
I am here with nurses, Jazee Rivera, from Sunrise Hospital and Medical Center, Teresa Dias from University Medical Center of Southern Nevada, and Melanie Sisson from Dignity Health. We are here in support of A.B. 348. I am a former health care worker for over nine years. This bill is absolutely necessary for our health care facilities across the state. Workplace violence in a health care setting is a growing problem. This bill would require employers to have comprehensive, unit-specific, workplace violence prevention plans in place. Service Employees International Union (SEIU) Local 1107 stands behind this bill. Workplace violence shall never be considered a part of the job.

Melanie Sisson, Private Citizen, Henderson, Nevada:
I have been a nurse in Nevada for over 40 years. I am a proud member of the National Nurses Organizing Committee and National Nurses United. I grew up in Las Vegas, Nevada, and I am here today in support of A.B. 348. In my 40 years as a nurse, I have seen violence escalate to the point of it being out of control. Violence in a health care setting can range from being verbally threatened by a patient, family member, or visitor to being seriously wounded or even killed on the job. Workplace violence is a daily problem in health care that impacts nurses and other health care workers as well as patients, their families, and visitors. My colleagues and I have been threatened on such a regular basis that violence often seems to be just a part of the job, something we have endured for far too long, but which should never be normalized or overlooked.

In one hospital where I worked, a patient threw his intravenous pole and pump through a glass partition in his room and shattering the glass after chasing the nurse down the hall. Even though no employees were injured in this incident, it was still an act of violence that impacted the staff and jeopardized our safety and the safety of other patients. I have been hit, kicked, spit at, and bitten many times throughout my career. It was always accepted because the patient did not seem to be in his or her right mind. When a patient or visitor makes a threat—which happens often—there is always a concern that that person may be waiting for you in the parking lot when you leave work to go home.

There is often so little respect for nurses and our safety. Sometimes hospitals have psychiatric patients lined up around the nurses' station in gurneys or placed in a room where there are objects that could be used as weapons. Assembly Bill 348 would change this paradigm where our employers do not plan ahead for our safety. This bill would require employees to consider the safety of our physical environment proactively. For example, placing patients who may be agitated or aggressive in a safe environment for them and the nursing staff who care for them would be the norm instead of the current practice. When employers are proactive in planning to improve safety and prevent workplace violence, they must get the input of the frontline employees. It is an unfortunate reality that nurses and other health care workers encounter violence daily. We understand what makes violence more likely to happen and can be a good resource for preventing violence from happening. Our input is key to effective workplace violence prevention plans. Assembly Bill 348 would require this.

Danger comes in many unsuspected ways. My longtime nursing friend shared her story with me this morning. Her worst encounter was when a little 88-year-old husband went home from his dying wife's bedside. He came back with a gun, but the gun jammed. You think a hospital is a safe place, but it really is not. Assembly Bill 348 would change that.

Marlene Lockard, representing Service Employees International Union Local 1107:
We want to thank the sponsor and we are pleased to be here in collaboration with the National Nurses Union.

Jane Thomason, representing National Nurses Organizing Committee:
I am the industrial hygienist for the National Nurses Organizing Committee/National Nurses United. We are the largest union and professional association for registered nurses in the country, and we represent 2,000 registered nurses in Nevada. Our members face workplace violence every shift in the hospital. National Nurses United submitted a letter in support of A.B. 348 (Exhibit E) and statistical information (Exhibit F).

I will highlight more information about workplace violence. Workplace violence happens at higher rates in health care facilities than in most other workplaces. The impacts of workplace violence go beyond the physical injuries that most people think about when they think about violent acts. Certainly those physical injuries are an issue and occur four times as often for registered nurses than for workers overall in the United States. The impact of repeated threats is serious as well. Nurses report long-lasting impacts from repeated threats of violence, including stress, anxiety, and difficulty in continuing to work in their current job or a place that reminds them of a past incident, and post-traumatic stress symptoms and disorders. A 2011 study of trauma and stress symptoms in emergency nurses found that 94 percent of nurses indicated the presence of at least one stress symptom after a violent event, 25 percent indicated symptoms that posed clinical concern, and 15 percent indicated symptoms high enough to suppress the immune system. The researchers also found that 37 percent of respondent nurses had negative total productivity scores. So workplace violence impacts a nurse's ability to do their job.

In a survey done by National Nurses United (NNU) to our membership, we found that nearly 20 percent of the respondents reported taking time off from work to recover from a workplace violence incident. I would like to highlight two studies and more information about their research upon which A.B. 348 is based. I have a quote from Dr. Jane Lipscomb, an expert on workplace violence who provided testimony before a U.S. congressional hearing on workplace violence prevention and health care and social systems industries last month. She confirmed very clearly in that hearing that there is a consensus among researchers, policymakers, industry, and the Occupational Safety and Health Administration that the workplace violence prevention standards that have been implemented in other states and are being considered on a federal level, and are also included in A.B. 348, are effective and are needed protections for health care workers now.

A 2017 study found that workplace violence prevention plans developed through unit-specific risk assessments and active involvement of direct-care health care workers resulted in significant decreases in workplace violence incidents and injury rates—rates of violence were 60 percent lower on units with such prevention plans implemented when compared to control units. A 2014 study similarly found a 50 percent decrease in assaults in emergency departments after implementation of prevention plans created with employees, managers, and administration. The authors of this study noted that the effectiveness of workplace violence prevention programs is predicated not only on strategies examining risk factors related to patients, employees, and the employer, but on programs with employee involvement and management commitment and endorsement.

I would like to walk through the sections of the bill. We have amendments which are proposed by NNU and SEIU. These are clarifying language changes (Exhibit G). Section 1 of the bill adds the contents of the bill to *Nevada Revised Statutes* (NRS) Chapter 618. This is in the occupational safety and health portion of the NRS. Sections 2 through 13 define the terms used in the bill. Section 3 defines the term "alarm" as "a mechanical or electronic device that does not rely on the vocalization of a person to alert others to an incident of workplace violence." Section 4 defines the term "dangerous weapon" as "an item capable of inflicting death or serious bodily injury, regardless of whether the item was designed for that purpose." You will remember Melanie Sisson's testimony about patients who improvised weapons from the workplace.

Section 5 defines the term "engineering control" as "an aspect of a building, other designed space or device that removes a hazard from a workplace or creates a barrier between an employee or independent contractor and the hazard." There are more details to this definition further in the section including some examples of engineering controls. Section 6 defines the term "medical facility" and establishes the scope for this bill. Section 7 defines the term "patient-specific risk factor" as "a factor specific to a patient that may increase the likelihood or severity of an incident of workplace violence" and describes specific risk factors that should be taken into account in a patient-specific risk assessment. Section 8 defines the term "public safety agency" as a fire fighter, law enforcement, or other emergency medical services agency. Section 9 defines the term "security guard" as ascribed in NRS 648.016. Section 10 defines the term "threat of violence" as a statement or conduct that causes a

person to fear for his or her safety because of the possibility of physical injury and of having no legitimate purpose.

Section 11 defines the term "unit" as "a component of a medical facility for providing patient care that is defined by the scope of service provided, the duties of its staff, the orientation process and methods for assessing the ability of the numbers of staff to fulfill their responsibilities." Section 12 defines "workplace control"; however, this should read "work practice control" as a procedure or rule that is used to reduce the risk of workplace violence and provides examples of work practice controls. Section 13 is the definition of "workplace violence" which means "any act of violence or threat of violence that occurs at a medical facility, except for a lawful act of self-defense or defense of another person." There is more detail in the bill on this definition. Section 14 outlines the requirements that employers need to include in their written workplace violence prevention plans. The plans importantly need to be in writing, they need to be available at all times, and they need to be available for employees to view while they are at work. The plans must be developed in collaboration with employees, and there are additional requirements for the written plan and what it needs to include. It needs to include training requirements and when training needs to be provided to employees. It also needs to include procedures around responding to and investigating workplace violence incidents, and procedures on conducting risk assessments and evaluating and implementing prevention measures in each unit and in all other areas of the facility including parking lots, lobbies, and stairwells.

Section 15 outlines the requirements for training and the content required for training for all employees and in-person training specifically for direct-care employees, who are any employees who have contact with patients. Section 16 includes requirements for responding to workplace violence incidents as well as conducting the risk assessment in each unit and implementing prevention measures in each unit, location, and other area of the facility. Section 17 requires the implementation of these written preparedness workplace violence prevention plans. This section also requires medical facilities to report certain workplace violence incidents to the Division of Industrial Relations (DIR). Section 17 also includes anti-retaliation protections to ensure that health care workers are able to report workplace violence incidents without fear of retaliation, and to ensure that they are able to seek assistance from local law enforcement and emergency services in the event of a workplace violence incident without fear of retaliation.

Section 18 includes the recordkeeping requirements including the violent incident log which requires each covered medical facility to keep a record of all workplace violence incidents in the facility. Section 19 requires the DIR to publish annually an aggregated nonidentifying report on its website containing certain statistics about workplace violence incidents in the state of Nevada. Section 20 provides that this bill has no unfunded mandate applied. Section 21 provides the effective dates of this bill which would be upon passage for rulemaking and administrative purposes and January 1, 2020, for all other purposes.

Chair Spiegel:
Are there any questions from the Committee?

Assemblywoman Carlton:
Section 20 says that the provisions of this do not apply to any additional expenses of a local government. The University Medical Center of Southern Nevada (UMC) is run by Clark County. Does this bill apply to UMC?

Assemblywoman Gorelow:
Yes, UMC would be covered by this bill.

Assemblywoman Carlton:
In section 17, subsection 1, paragraph (d), subparagraph (4), it says, "Maintenance at all times of a sufficient number of trained staff, including, without limitation, security guards, to prevent or immediately respond to incidents of workplace violence. Such staff must not have other job duties that hinder their ability to respond immediately to an incident." I am trying to understand this particular provision and how you would assess what that number would need to be.

Jane Thomason:
This is not a prescriptive bill. This bill lays out the necessary elements for a workplace violence prevention plan based on the consensus established by experts. It would be up to each hospital to determine what a sufficient number of security guards and other staff would be to effectively prevent and respond to workplace violence.

Assemblywoman Martinez:
Is there a reason why incidents are not reported?

Jane Thomason:
Nurses and other health care workers report a variety of reasons why they are not comfortable reporting workplace violence incidents. That includes pressure from their managers or supervisors or the administration at their place of employment not to report workplace violence incidents. It also includes blame or shame when they report. Nurses often are greeted with, What did you do to cause the situation or why did you not de-escalate the situation? The report gets turned back on them. Nurses also report that they make reports of workplace violence and their employer does nothing, so why report?

Assemblyman Kramer:
This would be a hard bill not to support. I do not see in the bill what happens when there is a plan and the plan is not followed. Is there a proposed consequence?

Jane Thomason:
This bill would create an OSHA standard and would therefore fall under the existing OSHA enforcement process. There are complaints and inspection procedures already existing that OSHA runs and there are administrative penalties associated with noncompliance.

Assemblyman Kramer:
So if a group got together and decided you needed a certain amount of security and something happened, would it be an OSHA violation?

Jane Thomason:
If the plan is found by OSHA to be noncompliant with the requirement of the standard or not effective, then it would be an OSHA citation.

Assemblyman Kramer:
Are you saying the hospital puts together a plan and it is approved by OSHA before it goes into effect, or do they wait until there is a problem before they review it?

Jane Thomason:
The way that OSHA works is that they receive complaints from workers about health and safety issues or concerns in their workplace. Then OSHA is able to send an inspector to the work site and conduct an onsite inspection. If they find a violation of an OSHA standard or a violation of the general duty clause, they are able to cite the employer.

Assemblywoman Jauregui:
In section 18, subsection 2, where it talks about who can access the records of the workplace violence incidents, will it contain patient information on whether they were under the influence? Are we violating any Health Insurance Portability and Accountability Act (HIPAA) laws because we are saying anyone can access these records—former employees, former independent contractors, former employees of a medical facility? I want to see how we are going to get around violating HIPAA.

Jane Thomason:
The way these standards work in other states is that there is no personally identifying information included in the violence incident log. We can have a discussion about this portion of A.B. 348.

Assemblywoman Jauregui:
Under section 14, subsection 1, paragraph (e), where it says, "Be developed in collaboration with employees and independent contractors," do you envision everyone working on this together? What if they do not want to be?

Jane Thomason:
If an employee chooses not to part of that process, they have that right. It is important for employers to obtain the expertise and the experience of workers in every unit and in other services in the covered facilities. Workplace violence happens differently in each different area so only having one, two, or three workers involved in creating the plan is only going to get you that many perspectives from the areas where they work. It is important to get a wide range of input.

Assemblywoman Neal:
In section 10, you described threat of violence, and in subsection 2 it says, "Has no legitimate purpose." What does that mean?

Jane Thomason:
We included that language because of conversations in other states around similar standards where there were concerns expressed that a disciplinary action might be under a less detailed definition of a threat of violence to be considered a threat of violence. This was the language developed to cover threats of violence that are a very real hazard, but to make clear what they do and do not cover.

Assemblywoman Neal:
"Independent contractor" is mentioned throughout the bill. In section 13, it says "employee or independent contractor," and in that conversation you also included UMC. What is the relationship between an independent contractor and the hospital? They are not employees of the hospital and they engage in different practices, but we are mandating a certain behavior from them. Where does that nexus come from? You are being very broad in section 13, subsection 2, with psychologically injured. You are mixing what could be a criminal offense with a tort offense. You mentioned in your presentation post-traumatic stress disorder, but when you say psychologically injured, that encompasses more than that. You can have intentional infliction of emotional distress. If a patient inflicts this distress, what is the remedy? It cannot just be a report of the incident.

Jane Thomason:
This definition of workplace violence does not include intent. In a health care setting, a substantial portion of the violence happens without intent. For example, a patient with dementia who is disoriented, agitated, and lashes out at his or her caregivers, there is no intent. It is still an act of violence which the employer needs to prepare for in order to prevent to the extent possible, but also have plans in place to respond to immediately help to de-escalate the situation and to protect the staff who are there providing care. The remedy is that after an incident happens, regardless of the intent, the employer needs to accept a report about the incident, but needs to do incident investigation with a goal of preventing the incident from happening again.

Assemblywoman Neal:
There is no intent and there is technically no remedy, but there is a need to classify and document all of the incidents that occur. In section 18, a lot of the information you are collecting seems to create a form of liability, and it also seems to create an actual document that can be used for someone to make a claim against the hospital. If you find out that there were a series of incidents that were so egregious that several people were harmed and there was a series of 20 incidents in a month, and 100 in a year, then we start getting into a safety issue. It all goes back to, what do we do with all of this? I understand we want to protect individuals and we want to prescribe what is going on in the workplace, and we want to make sure people are safe and this violence is not happening. If something continually happens to

you, there is some liability that someone is going to seek. I am trying to figure out who is on the hook for it. Is it the patient, the hospital, or who?

Jane Thomason:
Employers have a responsibility to provide a safe workplace; that is already existing law. This bill makes more explicit what they need to do to protect staff regarding workplace violence in medical facilities. How is the employer supposed to use the violence incident log? This log is very important for employers to see those patterns. If there is a pattern of violence that is happening over time, the employer needs to have addressed that and recorded that information, not only in the violence incident log but also in the records of the implementation of their plan. There needs to be a response from the employer to every workplace violence incident. If there is a pattern of something happening, that is an opportunity for prevention on which the employer needs to take action.

Assemblyman Edwards:
I am assuming that OSHA is approving plans now and something goes wrong, are you now citing the facility with some kind of monetary penalty? Is there also a corrective action that they may be able to take? If another incident happens, who is culpable? Surely, you would have to approve the first plan and any revised plan. Who gets cited the second time and are you citing them now?

Jane Thomason:
The way that OSHA works is that it receives complaints from workers about health and safety issues or concerns in their workplaces. When they receive complaints, they can send an inspector out to the work site to do an onsite inspection including looking at physical conditions at the work site as well as records and the written plans that would be included if A.B. 348 were passed. If the inspector finds that the employer has violated an OSHA standard or the general duty clause, the inspector is able to issue a citation to the employer. Attached to the citation is not only an administrative fee, but also a requirement to abate the issues identified by the inspector.

Assemblyman Edwards:
Before a facility like this opens, it has to meet OSHA requirements, so it has to be inspected and the inspection must be passed and approved. If something happens that is unforeseen, or the dementia patient who gets out of control, that is part of the hazards of working in that environment. If that happens, is OSHA just coming in to constantly penalize people for trying to deal with difficult situations and doing the best they can since they cannot foresee everything? It seems that even your approved plans are not always good enough. Who is really culpable when the approved plans do not work?

Jane Thomason:
I think there may be a misunderstanding here. Plans are not preemptively approved by OSHA. The way that OSHA knows there is a problem is when a worker calls with a complaint.

Assemblyman Edwards:
After the complaint, they do have a plan and that plan has to be approved by OSHA. If another violation or incident occurs, is it OSHA's fault for not including it in the plan?

Marlene Lockard:
This bill does not include that OSHA approves the hospital's plan. If OSHA is contacted because there is a violation or suspected violation, it would be of OSHA's standards that they already independently have developed within workplace sites. It would not be a matter of approval by OSHA at any stage of the hospital's plan.

Ray Fierro, Administrator, Division of Industrial Relations, Department of Business and Industry:
Jess Lankford will be able to address this issue.

Jess Lankford, Chief Administrative Officer, Nevada Occupational Safety and Health Administration, Division of Industrial Relations, Department of Business and Industry:
Please repeat your question, Assemblyman Edwards.

Assemblyman Edwards:
If you have standards for how facilities have to operate and meet your legal requirements and that facility is operating as best it can, but an unforeseen incident occurs with a dementia patient, do you cite the facility? If you cite the facility, do they have to abate the problem and plan for it? Do you have to approve the plan? If you approve the plan, and another incident occurs, who is culpable because you approved the abatement?

Jess Lankford:
If OSHA does an inspection and it is required to review a plan in regard to response of either state statute or statutes that are required under the *Code of Federal Regulations*, OSHA will see what the business has done to accommodate whatever hazards it recognized in the work field. We do not use the term approval; we look to make sure the plan accommodates some of the conditions that the employees were exposed to at that business. We look at the plan and if my staff finds that the plan addresses the conditions at the location appropriately and has in the past, then we would back out at that point, close the inspection, and say there is no violation of standards. If there is another complaint or self-notification, we would go back in and ensure that the plan covers the conditions in which the complaint or the hazardous condition came from. It is possible that they would be cited again because they were not supporting their own plan or failed to identify conditions in the work site that were not originally identified in the first iteration of the plan. It is an ongoing process for a business. They are to understand what conditions they are exposing their employees to. A bill like this, if it is brought into statute, identifies what structure the plan has to have, and OSHA would use that structure to identify whether the medical facility is accommodating the hazards they have present.

Assemblyman Edwards:
If the facility is trying to meet the standards and it is not a totally safe environment and if the plan seems to meet all of the standards and everyone seems happy with it, are you still going to cite them rather than work with them to simply abate the next unforeseen incident, or do they just keep getting hammered with citations? If they are trying to do their best, should the government be working with them to help them do better where they can without penalizing them for not being perfect?

Jess Lankford:
If a situation came to light after we inspected a location and we went back to look again, per that particular inspection, we would have to make sure that the conditions that were brought to our attention during the inspection were addressed properly. If at some point OSHA realized or identified that a business had not addressed conditions that they have at the work site even after an initial review of the plan, and they did not change their current plan to accommodate new hazards that are introduced into the workplace, it is possible that they would get cited again, either another serious citation or a repeat citation.

Assemblywoman Neal:
How would you determine workplace violence? We seem to be blending workplace safety with something that is criminal. How do you currently deal with criminal activity that happens in a workplace where an employee may be threatened or has a psychological injury?

Jess Lankford:
Currently, if we have conditions of workplace violence reported to us, we try to determine whether the Department of Public Safety should have been alerted. In some instances when the situation is so violent, we suggest they call the police because our authority remains in administrative law, not criminal law.

Assemblywoman Neal:
If this came under your jurisdiction, the only penalty available for repeated occurrences would be the $7,000 fine that could be assessed each day if they failed to correct this. There is also a $5,000 penalty or fee. It seems as if what is being described in the bill requires some other remedy than what is under the OSHA statute. How are you going to deal with documented incidents of physical force? Is that penalty the best remedy?

Jess Lankford:
To clarify, Nevada OSHA has the authority to investigate workplace violence. This bill reiterates some of the guidelines that came off the federal OSHA website on how to deal with workplace violence locations. In the event that we go out and look at an investigation like that, citations for workplace violence would usually come under the general duty clause and any violation or serious violation is available for a penalty up to $7,000 maximum.

Assemblywoman Tolles:
I witnessed two incidents of workplace violence in two days this summer while visiting a loved one in the hospital. I understand how important this issue is. I want to clarify who all

of this applies to. "Medical facility" is defined in NRS 449.0151 and also includes everything from an obstetric center, independent center for emergency medical care, anywhere an agency is providing nursing in the home, hospice care or facilities, psychiatric hospitals, and rural clinics. There is an exemption for a nursing pool, detox center, and so forth. Does this apply to all of those?

Jane Thomason:
That is the correct list of medical facilities that is required.

Assemblywoman Tolles:
How is this going to impact cost and the time frame for implementation? This involves numerous sections that outline training. In section 12 it says specifically that this would require placing staff, so that would be hiring potentially new staff members and possibly employing or contracting with security guards, and providing training, which I think is so critical. I was trying to get an understanding of the scope of what this bill is requiring. In section 16, it adds some physical improvements to the properties and those can include everything from alarms to providing counseling after any incidents. The training in section 12 is annual. In section 14, it specifically says a medical facility shall develop not just the plan, but also carry that out. I see that the implementation date is January 1, 2020. From a practical standpoint, will a small nursing home or hospice service be able to meet all of those requirements laid out in this bill—not only developing a plan, but also implementing alarm systems, security guards, and training of staff with all the costs—by January 1, 2020?

Jane Thomason:
This is a pressing issue. Our members are assaulted daily. It is important for you to consider the cost of workplace violence, especially considering the indication that workplace violence is increasing rapidly. Workplace violence results in injuries so workers' compensation claims increase when health care workers who have been injured need to take time off of work to recover. There is also the issue of decreased productivity and the impact on continuing to work after experiencing workplace violence. All of those are costs—there are analyses on the costs of workplace violence prevention. They indicate clearly that it is more cost-effective to prevent workplace violence and implement the measures in A.B. 348 than it is to continue as things are going currently.

Chair Spiegel:
I have questions about the definition of medical facility and the implementation. I did not see anything in the bill that was speaking about the size of the employer. Going back to the definition of medical facility in NRS 449.0151, it includes an agency that provides nursing in the home. That could be a small business with maybe one or two employees that could be operated out of a person's house. If you have one or two employees in a home-based nursing agency, do you need to bring in someone to sit in your house and protect you? How would something like that work?

Jane Thomason:
This bill as written would require each covered employer to assess its particular workplace and the needs and hazards of that place. Obviously, a nursing home that only has a few employees, its workplace violence prevention would look very different from a hospital that has thousands of employees. Even if you are a health care worker and you only have one or two colleagues and you work in someone's home, you deserve to be safe at work just as much as a nurse who works in a large hospital. All health care workers have the right to go to work, provide care for their patients, be safe at work, not fear for their lives, and to take care of us. This bill highlights prevention before workplace violence happens.

Assemblywoman Martinez:
Have any of the nurses lost their jobs because of incidents involving an act of violence against them? Are they more inclined to cover up the violence in lieu of losing their job?

Jane Thomason:
Nurses who have been physically injured have been no longer able to work. Nurses who have been psychologically injured have been no longer able to continue working. I am aware of cases where nurses have been retaliated against or fired for the situation surrounding the workplace violence incident. I think that could be a consideration in many health care workers' decisions on whether to report a workplace violence incident.

Assemblywoman Tolles:
I doubt there is any disagreement that this is incredibly important. I want to make sure my question was not misinterpreted in terms of working out how it is feasible in a six-month time frame after the legislative session to implement by January 1, 2020. I was asking for practical implementation steps.

Chair Spiegel:
Are there any additional questions from the Committee? Seeing none, we will hear testimony in support.

Katherine Lohmeyer, Private Citizen, Las Vegas, Nevada:
My name is Katie Lohmeyer. I am currently a registered nurse working in Las Vegas, Nevada. I have been in practice for five years, working for the largest, most comprehensive neonatal intensive care units in our state. We care for over 900 babies each year. I am also a proud member of SEIU Local 1107. I am here to share my strong support of Assembly Bill 348. My colleagues and I face workplace violence on a daily basis. Even when I was working with adult patients as a student nurse, I can reflect upon memories of being sexually harassed, kicked at, spat on, and I remember threats of greater physical violence. My colleagues who work with adult patients are exposed to this behavior every shift, every day they show up to work. Luckily, working with tiny patients, I am not at risk for violence from them.

A visit to my unit can simultaneously be the best and worst day of a parent's life. Sometimes they displace their anger toward me and my coworkers. While my patients are my top

priority, instead I must often worry about how my patients' family members will respond to the medical interventions required to save their loved ones' lives. I have been nearly physically assaulted, while attempting to respond to a patient alarm, because the baby's father did not agree with my method of intervention. Once I was trying to start an IV on a patient and his father threatened to kill me if I touched his son. When I pushed the code grey button [code for threat of violence], I was chastised for my overreacting and they proceeded to placate him in every way possible. They told me I should have called my charge nurse first. The father who threatened me faced no repercussions for his behavior whatsoever. The hospital management was not held accountable for my safety. When management downplays events such as this, we are sending a message to families and patients. We are sending the message that as a company, profit and patient satisfaction scores are more important than staff safety. I am the one down in the trenches doing everything I can to prioritize the health of my patients. This should not be part of my job. Daily violence has a great impact on all of us. It is an impact that may be invisible to you, but it is an impact that I carry home with me every day.

On our unit we talk about an incident in which one of our physicians was beaten and raped in our own employee parking garage, a place where we are supposed to be safe and that has a security guard. Nurses down in the emergency room are punched, kicked, spit on, and bitten by their patients. We have been stalked, and there have been times when family members come back to the facility looking for us. My employer, despite being named one of the world's most ethical companies, does not have plans or procedures in place to respond to such situations.

This is exactly why we so desperately need A.B. 348. We are asking for some accountability from our employers. It should not be part of my job to be exposed to violence on a daily basis. It is like saying that you should not have to wear a hard hat because a head injury on a construction site is just part of the job. There is the responsibility for the employer to protect their employees. [Katherine Lohmeyer submitted her written testimony (Exhibit H).]

Christy Tolotti, Private Citizen, Reno, Nevada:
I am a registered nurse in an emergency department in Reno, Nevada. I have been a nurse for 18 years and am a proud member of the National Nurses Organizing Committee and National Nurses United. I am here today in support of A.B. 348. Workplace violence affects me personally as a registered nurse, and we need to come up with effective solutions so that hospitals and other medical facilities can be safe for our patients and all hospital staff. Assembly Bill 348 is such a solution. My hospital has actually implemented many of the elements in the bill through alarm systems, security staffing, improving the safety of the physical environment, and lockdown procedures. But these safety measures have only happened after a serious workplace violence incident happened with me.

About a year ago, one of my coworkers was stabbed while doing his job. I was at work that day and responded to the incident. This is what happened to me. In the lobby of our emergency department there is a registration desk where patients sign in. The staff at the registration desk are protected by thick glass. On the other side of the lobby, however, our

technicians sit at an unprotected desk with no security guard. One day a patient came in with his caregiver and went to get registered. The patient then stepped outside to smoke right by the door. Our hospital has a policy that you cannot smoke close to any door. The technician stepped into the doorway and informed the patient of the no smoking policy. As the technician turned around to return to the lobby, the patient pulled out a knife and stabbed him. The technician ran outside away from the patient who began chasing him with the knife. He ran into the ambulance bay. We have a camera in the ambulance bay, and I saw from the camera that the tech was running around the ambulance bay. I did not know what was going on. The technician ran back inside and was stabbed a second time in the process. I heard yelling coming from the lobby. I went out and saw trails of blood. I found the technician, and he was pale and going into shock. He was on the phone calling his own code grey as he was applying pressure to his own stab wounds. He told me that he had been stabbed. I asked him where the person was who had stabbed him. The patient was right behind me, yelling and screaming and waving the knife at the staff behind the registration desk who were protected by the glass barrier. The patient's caregiver was trying to get the patient to drop the knife as security finally showed up and apprehended the patient. Our technician survived and is okay, but this incident could have turned out very ugly and he could be dead today.

Our hospital was not ready for such an incident. Even though there have been improvements in safety since the incident, it has all been reactionary. This is unacceptable. This is why we need A.B. 348—it would require our employers to proactively address safety in our workplaces and to have security outside our emergency room doors.

One of the things that our hospital has implemented in the past year since the stabbing is personal alarms. Personal alarms can be really important in responding to workplace violence. I use mine all the time. It is just a little button on my shirt that I push if I need security. The story I just told might have gone differently if the tech had a personal alarm with him during the incident. However, our hospital does not have a policy to test the alarms and that continues to put us at risk.

In fact, just a few months ago, a really large patient started coming at one of our technicians. The technician pressed and pressed her alarm, but it did not work. We told the supervisor that the alarm did not work, but the supervisor claimed it was working. I asked our manager when the hospital would start regularly testing the alarms, and I was told that we can test them on our own whenever we want. It should not be up to us to test the alarms. We need to make sure our alarms are tested on a monthly or biweekly basis to make sure they work when we need help. Our hospital needs to have a clear plan to ensure the alarms are always functional so that we can call for help to prevent violence as it is escalating. Assembly Bill 348 would require our employers to plan ahead for safety. It would also require our employers to improve the safety of the physical environment. One way this could be done is that we have garage doors for psychiatric patients who are dangerous. They are doors we close to prevent the patients from strangling themselves or grabbing objects to throw at us.

I am asking for this bill to pass because there is so much workplace violence in our hospitals. I love my hospital, but I hate to see my coworkers constantly being hurt and not having the incidents reported in the right way. I think that going to work every shift and being assaulted or threatened is something no one should ever have to experience. It is past time to stop workplace violence in hospitals and other medical facilities. [Christy Tolotti submitted her written testimony (Exhibit I).]

Brenda Marzan, President, Service Employees International Union Local 1107:
I am here to support A.B. 348. We are the largest health care union in the state, and we represent over 8,300 health care workers in Nevada's hospitals and home health care. I am accompanied today by members from Clark County, UMC, Las Vegas Convention Center, Southern Nevada Regional Housing Authority, Sunrise Hospital, Southern Hills Hospital and Medical Center, and Dignity Health, and we all support the bill.

Kent M. Ervin, Legislative Liaison, Nevada Faculty Alliance:
We support the goals of this bill because we want our nursing and social workers and allied health students to have a safe environment when they go out in the workforce.

Chair Spiegel:
Is there anyone else to testify in support? Seeing none, is there anyone in opposition?

Jesse Wadhams, representing Nevada Hospital Association:
Even one incident of workplace violence is far too many, but I appreciate the opportunity to put our concerns on the record. We have worked with the sponsors, and we look forward to continuing to work with them on this bill. Currently hospitals report workplace violence incidents to the Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services. Most Nevada hospitals currently do have in-house security personnel, and many of our hospitals are trying to do workplace training and education. Nevada OSHA gets the reports of the incidents so DIR could investigate at this point. We have concerns with the bill as drafted. We are concerned about costly physical plant upgrades and changes. Many of our rural hospitals do not have in-house security personnel so that could become a cost factor, and there are some potential privacy issues with regard to HIPAA information. These are drafting concerns, and there are concerns with some of the language and some of the implementation. There are certain differences between definitions used in this particular bill which would be codified in NRS Chapter 618, but we have different definitions in NRS Chapter 449 for components of the health care industry. We are opposed to the bill as written, but we are happy to sit down with the sponsors and the proponents. We want to get to our common goal of employee safety.

Assemblyman Yeager:
It seems to me that some of the violence we are talking about is probably the result of individuals who have serious mental illnesses. Our hospitals are the frontline when law enforcement is in the community and encounters someone who is a danger to themselves or others. Do the hospitals that receive those patients get some kind of notice from law

enforcement that they are bringing somebody to the hospital who is suffering from mental illness? If there is some kind of notice, is there a plan in place or some kind of protocol? It seems to me that the different situations we are talking about probably run the gamut. Could you get that information for us?

Jesse Wadhams:
I do not know the technical answers to that. Let me get the answers for you.

Assemblywoman Carlton:
Have you shared with the sponsor of the bill and the proponents of the bill the current workplace violence provisions that might be in policy at the different hospitals?

Jesse Wadhams:
I do not believe that has occurred at this point. We have surveyed our members, and we are collecting that information.

Assemblywoman Carlton:
When will that happen?

Jesse Wadhams:
As soon as we get the information.

Assemblywoman Carlton:
Has workplace violence been an issue of negotiation with the hospitals you represent, and how have those negotiations gone? I am beginning to think that this is not the first time that these nurses have had these conversations with the hospitals because I hear the frustration in their voices that they feel they are not being heard. If you cannot share that information with us, please share it with the bill sponsors. It seems that they are here because nobody is listening to them at the workplace.

Jesse Wadhams:
I do not have that answer for you, but we will get it.

Assemblywoman Carlton:
Could we get some numbers on some of the incidents over the last year or so, so we can have an idea of what the hospitals are aware of on their own properties?

Assemblyman McCurdy:
I would like to have information from further back than a year ago on how many incidents have taken place. I think it would be helpful for the entire Committee. Will you walk the Committee through the current process that is in place when there is a workplace violence incident in a facility?

Jesse Wadhams:
I am not a technical expert on how sentinel events are reported.

Marissa Brown, Workforce and Clinical Services Director, Nevada Hospital Association:
Currently if there is a sentinel event in a hospital, it gets reported by the nurse. The patient safety officer at the facility gets involved. They document the incident and go through a root cause analysis with those who were involved in the sentinel event. They have to report to the Division of Public and Behavioral Health within two days. They report it and they come up with a plan to correct it, they submit it to the Division, the Division surveys the plan, and it gets posted on the Division website. They can come back and survey at a later date to see if it has been corrected.

Assemblyman McCurdy:
It will be very helpful for you to provide that to the Committee. It will help us have a picture of what is going on inside the facilities to prompt this legislation.

Assemblywoman Tolles:
I would also like to see more information about what is already being done. I would also like to know when it is appropriate to bring in the cooperation with law enforcement. I would like to know how the hospitals are collaborating with law enforcement in terms of training. I would like to know how they could be partners in this in terms of prevention and emergency response. In regard to the other medical facilities that I asked about earlier, do we have other stakeholders who could give us information regarding the other medical facilities to help us understand implementation steps?

Jesse Wadhams:
The Nevada Hospital Association just represents the acute care hospitals, behavioral, and critical access.

Assemblywoman Neal:
It was also alluded to in the testimony around retaliation for an employee reporting an incident of workplace violence or seeking assistance or being punished. Do you have data around that, and do you have specific instances where any hospital has actually retaliated against an employee for seeking assistance when there was workplace violence?

Jesse Wadhams:
I am unaware of any of that, but we will try to find that information.

Assemblywoman Neal:
I seriously doubt that they made it up. It would be good to understand what they have determined to be retaliation from the nurses' point of view.

Jesse Wadhams:
We all share the same goals.

Assemblywoman Carlton:
Having been in the discussions of a sentinel event, I was always under the impression that they were patient-centric, not worker-centric. How does the discussion around sentinel events overlay with workplace violence? I had not put the two together.

Marissa Brown:
The sentinel events guidelines are from the National Quality Forum. The sentinel event that we think workplace violence would qualify for is under the potential criminal events category. It is death or serious injury of a patient or staff member resulting from a physical assault that occurs within or on the grounds of a health care setting.

Assemblywoman Carlton:
Does that go to the criminal side?

Marissa Brown:
It is just a category under the National Quality Forum guidelines for sentinel event reporting for Nevada.

Assemblywoman Carlton:
I think there is a lot more information we are going to need to understand this and to make sure that we mesh these two together.

Chair Spiegel:
Is there anyone else to testify in opposition? [There was no one.] Is there anyone to testify in the neutral position?

Ray Fierro:
We are neutral on this bill. We will be happy to work with the sponsor.

Chair Spiegel:
Is there anyone else to testify? [There was no one.]

Assemblywoman Gorelow:
Thank you for hearing Assembly Bill 348. I look forward to working with the stakeholders.

[Rusty McAllister submitted a letter of support for A.B. 348 (Exhibit J).]

Chair Spiegel:
I will close the hearing on A.B. 348. We have received another bill draft request (BDR). I would like to introduce BDR 8-935.

BDR 8-935 — Enacts provisions governing the accrual of interest in certain consumer form contracts. (Later introduced as Assembly Bill 477.)

Chair Spiegel:
Is there a motion to introduce BDR 8-935?

> ASSEMBLYWOMAN CARLTON MOVED TO INTRODUCE BILL DRAFT REQUEST 8-935.
>
> ASSEMBLYMAN YEAGER SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN McCURDY WAS ABSENT FOR THE VOTE.)

Is there any public comment? [There was none.]

The meeting is recessed [at 3:39 p.m.].

The meeting is adjourned on the Assembly floor [at 6:50 p.m.].

RESPECTFULLY SUBMITTED:

_____
Earlene Miller
Committee Secretary

APPROVED BY:

_____
Assemblywoman Ellen B. Spiegel, Chair

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is the Work Session Document for Assembly Bill 181 dated March 25, 2019, presented by Patrick Ashton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit D is a proposed amendment to Assembly Bill 181 dated March 25, 2019, submitted by Assemblyman Alex Assefa, presented by Patrick Ashton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit E is a letter dated March 25, 2019, in support of Assembly Bill 348 to Chairwoman Spiegel and members of the Assembly Commerce and Labor Committee, authored by Bonnie Castillo, Executive Director, National Nurses Organizing Committee/National Nurses United, referenced by Jane Thomason, representing National Nurses Organizing Committee.

Exhibit F is a document titled "RATES AND IMPACTS OF WORKPLACE VIOLENCE ON RNS: Survey by National Nurses United," submitted by Jane Thomason, representing National Nurses Organizing Committee.

Exhibit G is a proposed amendment to Assembly Bill 348 proposed by National Nurses Organizing/National Nurses United and Service Employees International Union (SEIU) Local 1107, submitted by Marlene Lockard, representing SEIU Local 1107.

Exhibit H is written testimony submitted by Katherine Lohmeyer, Private Citizen, Las Vegas, Nevada.

Exhibit I is written testimony submitted by Christy Tolotti, Private Citizen, Reno, Nevada.

Exhibit J is a letter of support for Assembly Bill 348 dated March 22, 2019, submitted by Rusty McAllister, Executive Secretary-Treasurer, Nevada State AFL-CIO.