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

Eightieth Session
May 1, 2019

The Committee on Health and Human Services was called to order by Chairwoman Lesley E. Cohen at 12:52 p.m. on Wednesday, May 1, 2019, in Room 3138 of the Legislative Building, 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 Lesley E. Cohen, Chairwoman
Assemblyman Richard Carrillo, Vice Chairman
Assemblyman Alex Assefa
Assemblywoman Bea Duran
Assemblyman Gregory T. Hafen II
Assemblywoman Lisa Krasner
Assemblywoman Connie Munk
Assemblywoman Rochelle T. Nguyen
Assemblyman Tyrone Thompson
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS ABSENT:

Assemblywoman Michelle Gorelow (excused)
Assemblyman John Hambrick (excused)

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Senate District No. 16
Senator Julia Ratti, Senate District No. 13
Senator Scott Hammond, Senate District No. 18

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Committee Policy Analyst
Karly O'Krent, Committee Counsel
Terry Horgan, Committee Secretary
Alejandra Medina, Committee Assistant

OTHERS PRESENT:

Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County; and representing University Medical Center
Mason Van Houweling, Chief Executive Officer, University Medical Center
Joan Hall, President, Nevada Rural Hospital Partners
Dan Musgrove, representing Nevada Donor Network
Warren B. Hardy II, representing Life Science Anatomical
Connor Cain, representing Touro University Nevada
Jennifer Kandt, Executive Director, Nevada Funeral and Cemetery Services Board
Jessica Ferrato, representing Sierra Donor Services
Tyre L. Gray, Private Citizen, Las Vegas, Nevada
Margot Chappel, Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services
Helen Foley, representing Nevada Center for Assisted Living
Trey Delap, Director, Group Six Partners LLC, Las Vegas, Nevada

Chairwoman Cohen:
[Roll was taken. Committee rules and protocol were explained.] We will open the hearing on Senate Bill 77.

Senate Bill 77: Revises provisions governing purchasing by a county hospital and a hospital in a county hospital district. (BDR 40-488)

Alex Ortiz, Assistant Director, Department of Administrative Services, Clark County; and representing University Medical Center:
This is one of Clark County's four pieces of legislation proposed for this legislative session. I want to thank you for giving me and several University Medical Center (UMC) staff members an opportunity to meet with each of you and talk about our bill previous to this hearing.

With me today to provide more details of this legislation is the Chief Executive Officer of University Medical Center; so if it is all right, I would like to defer to Mr. Van Houweling to provide the testimony.

Mason Van Houweling, Chief Executive Officer, University Medical Center:
I am here to present Senate Bill 77. University Medical Center is the only county-owned large urban acute care facility in the state. Since 1999, with the passage of Assembly Bill 251 of the 70th Session, University Medical Center has been able to avail itself of membership in a group purchasing organization (GPO). This has allowed us to use the collective purchasing power of all the members to acquire significant savings when purchasing supplies, materials, and equipment. As a county hospital, these savings help us minimize taxpayer support.

University Medical Center is a member of a GPO that supports 1,500 hospitals nationwide and 31,000 other health care facilities such as physician practices, surgical centers, nursing homes, and other health care facilities. Group purchasing organizations really have evolved over the last 20 years and have added many more offerings for members including a large variety of services. Senate Bill 77 adds services to the items a county hospital is able to acquire through group purchasing. This bill would enable UMC to achieve an estimated 7 to 15 percent savings each year. Some examples of savings through UMC's GPO would include items such as blood services—obviously very critical to operating a major hospital—and moving that particular contract to the GPO could reduce our expense by 6 percent, or $780,000 on an annual basis. Linen laundry services for the thousands of patients whom we treat on an annual basis could be reduced about 12 percent, or $264,000 annually. Savings for document management, both physical documents and record management storage, would be between $210,000 to upwards of $450,000. The expense for courier services—UPS [United Parcel Service], FedEx, or Cardinal Health for shipping pharmaceutical drugs—could be reduced 10 percent or $117,000 annually. Telecommunications services expenses, both voice and data, could be reduced by $112,000 to $240,000 annually. Expenses for human resource background services including criminal background checks could be reduced by $28,000 to $60,000 annually. Annual savings for elevator repair and maintenance—parts, repair, maintenance, and installation—could be anywhere from $65,000 to $138,000. Allowing us to add services through this process would also have a major operational benefit to UMC and other hospitals and allow more timely acquisition of service contracts—particularly those having an impact on hospital quality and patient safety.

The bill additionally requires the governing board of a county hospital or hospital district to ensure if services to be purchased are for projects that qualify for public works, prevailing wages will be paid for those services. As a publically operated hospital, UMC has always followed established controls and delegations of authority for contracting, including approval of required contracts in an open meeting with proper governing board approval, and it will continue to do so. Again, I would like to stress that any additional operational cost savings for UMC would have a positive impact on taxpayers. On behalf of UMC and Clark County, I ask that you support our bill. Thank you for your time this afternoon.

Chairwoman Cohen:
Committee, do we have any questions? [There was no reply.] Thank you for going through the services, because that was my question. Are there other medical facilities that will benefit from this such as quick-cares and things like that?

Mason Van Houweling:
Yes. For us at UMC, we have 11 clinics that operate in the community both on a primary-care and on a quick-care standpoint, and that benefit would apply to those facilities. This will have an impact not only on UMC, but also on some very critical hospitals in our communities and on some rural hospitals for whom cost savings are everything to their bottom line.

Joan Hall, President, Nevada Rural Hospital Partners:
I would like to thank Clark County and UMC for bringing this bill. We have 7 district hospitals in our membership—Battle Mountain, Winnemucca, Lovelock, Yerington, Hawthorne, Caliente, and Ely—with 11 associated rural health clinics. This bill would have a very positive impact on those hospitals. We do not use all the services Mr. Van Houweling talked about, but we would benefit from lab services, peer review services, linen services, document destruction, and billing services. It would make a huge difference to us. We also belong to a GPO that is comprised of mostly smaller hospitals, so we do not get quite the discount. Our volumes are not as big either, but it would make a huge impact on these district hospitals. We also have the same process Mr. Van Houweling talked about: The district board, an elected body, has to go through a process and approve things in an open meeting. We urge your support for this bill.

Chairwoman Cohen:
We will move to support for S.B. 77. [There was no response.] With no one in support, is there anyone in opposition? [There was no response.] Seeing no one in opposition, will anyone in neutral please come forward? [There was no response.] Do you want to make any closing remarks? The record will reflect you waived that opportunity. With that, we will close the hearing on S.B. 77, and open the hearing on Senate 387 (1st Reprint).

Senate Bill 387 (1st Reprint): Revises provisions relating to anatomical gifts. (BDR 40-882)

Senator Ben Kieckhefer, Senate District No. 16:
I am proud to be here today to present Senate Bill 387 (1st Reprint). This is my fifth legislative session and the fourth session in which I am a sponsor of legislation relating to organ donation. Organ donation is something we all know saves lives. The purpose of this legislation is to ensure that when people decide to give the gift of life to others, those people will be comfortable believing that their donation is going to be treated respectfully and with the integrity that it deserves.

Senate Bill 387 (1st Reprint) creates a regulatory structure around non-transplant anatomical donation for the first time. This is an industry that is currently unregulated, but this bill would require the Division of Public and Behavioral Health within the Department of Health and Human Services to create regulations over the procurement and disbursement of organs and tissues as well as whole bodies that are going to be donated—but not for transplant purposes. Transplant organizations are very strictly regulated, and this bill does not touch those regulations at all, but instead puts in place regulations surrounding non-transplant anatomical gifts.

A couple of changes are going to be presented today that are friendly. The first will be presented to you by Warren Hardy (Exhibit C), and it takes out specific references to organizations such as the American Association of Tissue Banks and the Eye Bank Association of America in section 1, subsection 2, of the bill. The reason those specific organizations are being proposed for removal from the legislation is that there is concern by

some organizations that they would then be forced to become actual members of those organizations, which can become quite expensive. The idea was to ensure that there were high standards in place, and we are going to rely on the regulatory agency to establish those standards rather than referencing those organizations specifically.

The second change (Exhibit D) makes the State Board of Health the intended regulatory agency. That information was not captured when the bill was drafted nor when it was amended in the Senate. Ms. Margot Chappel is here from the Department of Health and Human Services and she will talk about that and the reason for the change under neutral testimony. The desire is to have the State Board of Health be the regulatory agency for this and remove those two specific entities from reference in the statute.

Chairwoman Cohen:
We do not have the separate second amendment. Will that be coming?

Senator Kieckhefer:
I will provide you with that supplemental amendment (Exhibit D). The intent is to have the state Board of Health be the regulatory agency that oversees this.

Dan Musgrove, representing Nevada Donor Network:
[Dan Musgrove spoke from prepared text (Exhibit E).] I want to thank Senator Kieckhefer as well as our cosponsor Senator Ratti for introducing this legislation. As Senator Kieckhefer said, we are going after a business, an industry, that is absolutely unregulated both at the federal and at the State of Nevada levels. There are probably only about ten states that have attempted to try to regulate what we call non-transplant body donation organizations.

Let me set the stage for you and explain why they need to be regulated. Let me stress that there are good actors, and we have one in our audience today, but there are obviously bad actors, too. In Las Vegas in October 2015—and it made national and worldwide news—folks who worked around a commercial building noticed some weird smells and found bloody boxes in trash cans. They notified the health department. The health department arrived and just happened upon a man out in the driveway hosing off a cadaver to unfreeze it so it could be cut up and the body parts sold. Obviously, that is something we certainly do not want to have happen in our state or anywhere else in the country.

There are organ procurement organizations—and Nevada Donor Network is a member—and these are highly federally regulated. However, there is a whole business involving people who donate a loved one for use in medical science where there is a crucial need. Our medical schools need cadavers, companies that work on lifesaving techniques need cadavers, but we want our loved ones' bodies treated with dignity and respect, and there are regulations that need to be put in place to ensure that. We do not want anything to happen that might chill organ donation. When someone hears a story like this one, they may decide that they do not want their loved ones' bodies donated to science or they do not want to become an organ donor.

Again, there are 114,000 Americans waiting for organ transplants today, and a new person is added to that list every 10 seconds. We have 600 Nevadans waiting for organ transplant and 22 people die each day waiting for a lifesaving transplant. This bill sets up a regulatory framework to ensure that someone who is operating a business like that in Nevada is doing it properly and treating our loved ones with respect.

Senator Julia Ratti, Senate District No. 13:
I want to emphasize the importance of keeping our organ donation system intact. It is a personal issue for me. I worked with Senator Kieckhefer in the last session and I commend him for the work he has done in prior sessions to make sure that this very important and lifesaving system keeps the highest level of integrity—which is what this bill is about. I just had the incredible experience of supporting a friend who had a liver transplant. I have another friend who is waiting for a lung transplant, and anything we can do to make sure that the integrity of the system stays intact is important.

Chairwoman Cohen:
Are there any questions? [There was no reply.] I do not want to sensationalize this, but we have heard testimony this session about international procurement. Is that an issue? Is this about bodies being used as crash test dummies without their loved ones' knowledge or bodies that may be sold to other countries where there is not as much regulation?

Dan Musgrove:
You are familiar with Assemblywoman Miller's Assembly Joint Resolution 4 which targets those folks who are actually selling organs for transplant. This is a different niche. These are non-transplant organs from people who have already passed. These would not necessarily be for transplanting to a living recipient. Assemblywoman Miller's A.J.R. 4 is focused on folks who are selling an organ such as a kidney. United States' laws do not allow that to be done at a profit, and it certainly should not be done outside our borders.

Chairwoman Cohen:
Anyone in support, please come forward.

Warren B. Hardy II, representing Life Science Anatomical:
We very much appreciate Senators Kieckhefer and Ratti for bringing this bill forward. I also appreciate Mr. Musgrove's walking through how this works. It really is problematic that we do not have regulations dealing with the whole-body donation process the same way we deal with the transplant process.

The transplant process is an immediate process where time is of the essence and the organ is being transplanted into a live body. The other part of the equation is the whole-body donation that goes to science, medical research, et cetera. It defies explanation and logic that we should not have a regulatory scheme that protects and guarantees the same level of care, respect, and responsibility.

My client, Life Science Anatomical, is in full support of this bill and thinks it is well overdue. We appreciate the sponsors and other proponents accepting our amendment (Exhibit C). It will make things clearer and provide a level of comfort for some of the folks who use these services. We are in full support of this and appreciate this bill coming forward.

Connor Cain, representing Touro University Nevada:
We would also like to thank the sponsors and Mr. Hardy for contacting us about this proposed amendment. We are one of the medical schools that uses cadavers and anatomical donations as part of our curriculum. We are in support of this bill and in support of the conceptual amendment and we would hope to be a part of conversations as regulations are promulgated.

Chairwoman Cohen:
Mr. Cain, which district is Touro University in?

Connor Cain:
Madam Chairwoman, your district [Assembly District No. 29].

Jennifer Kandt, Executive Director, Nevada Funeral and Cemetery Services Board:
In the case referenced earlier by Mr. Musgrove, that body brokerage business was operating within a crematory and funeral home in Las Vegas. We went into that crematory and ultimately revoked their license and the license for the funeral establishment as well. It quickly became clear to us that no one was regulating the body brokerage business operating there. The individual was also a used car salesman in Reno.

I would like to go on record and say we are in 100 percent support of the regulation of this industry. That case was very eye-opening. I would also like to state on record that I hope the regulations that ultimately are promulgated might address a few things, the first being sanitation. As was referenced, they were using a hose to wash off a severed torso out back because they did not have a sink at the location. There was a freezer that was not plugged in and there were moldy body parts within that freezer. There were unlabeled body parts and a torso lying on the floor that was unidentified. There were unidentified cremated remains at the location.

I also hope these regulations will address disclosures to families. These families are offered a free cremation in exchange for donating their loved ones' bodies. Some of the locations—in fact, Life Science Anatomical is a good example—fully disclose what is being done with the remains. This location was not as forthcoming with their disclosures. Sometimes they will say that any tissue not used in research will be cremated and be given to the family; however, the family does not understand that it typically means they might take a hand or foot and cremate that, and then the rest of the body is disarticulated and sent to various places. I want to go on record that we are fully supportive and that this is definitely a huge issue.

Jessica Ferrato, representing Sierra Donor Services:
Sierra Donor Services is a nonprofit recovery organization that has served northern Nevada for over 40 years. Their procurement organization has already been highlighted. They are heavily regulated at the federal and multiple other levels. We are here in support of the bill. We think this is a really great step in the right direction.

As a side note, I am a donor and a recipient. I am really proud of our state and want to thank Senator Kieckhefer and Senator Ratti for their ongoing efforts to promote organ donation in the state. There are a lot of people waiting in the country. Pieces of legislation like this one that make sure we are doing this appropriately, while highly regulated, are critical to the success of transplant patients.

Tyre L. Gray, Private Citizen, Las Vegas, Nevada:
Today I am not representing a client; I am representing myself. I want to testify in a personal capacity as an organ recipient. At a fine establishment called UMC [University Medical Center], I received a kidney transplant in September 2012. I really support any type of legislation that encourages people to become organ donors and encourages research. I encourage you to pass this bill.

Chairwoman Cohen:
Thank you. We are glad that both you and Ms. Ferrato are doing well and had good experiences. Seeing no one else in support, we will move to opposition. Anyone in opposition, please come forward. [There was no response.] Seeing none, anyone in neutral, please come forward.

Margot Chappel, Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services:
We will be responsible for implementing this, and I appreciate the Senators' amenability to the request for a friendly amendment to section 1, subsection 2, of the bill by changing the adoption of regulations from the Division of Public and Behavioral Health to the State Board of Health (Exhibit D). I know that is a technicality, but in practicality if we did not make that change, the Division administrator would have to hold the hearing rather than the State Board of Health; so we appreciate that amendment.

Chairwoman Cohen:
Seeing no one else in neutral, I will invite the presenters to make final remarks.

Senator Kieckhefer:
Thank you for scheduling the hearing. I will be sure to get you the amendment (Exhibit D) in due fashion, and I appreciate your consideration.

Chairwoman Cohen:
With that, I will close the hearing on S.B. 387 (R1) and open the hearing on Senate Bill 457 (1st Reprint).

Senate Bill 457 (1st Reprint): Revises provisions relating to health care facilities. (BDR 40-1143)

Senator Julia Ratti, Senate District No. 13:
We are here today to talk to you about a serious subject. I am going to present the original bill first. I have been working with Senator Hammond on the amendment, and he will be presenting that (Exhibit F). Senate Bill 457 (1st Reprint) enhances reporting requirements for certain facilities and requires certain information concerning the license status of facilities that provide drug and alcohol abuse treatment to be posted online by the Division of Public and Behavioral Health (DPBH) within the Department of Health and Human Services (DHHS).

According to the National Survey on Drug Use and Health, 3 percent of Nevadans 12 years of age and older reported having an illicit drug use disorder in 2016. The same year, just over 5 percent of Nevadans 12 years of age and older reported having an alcohol use disorder. While the portion of the population reporting an alcohol use disorder has decreased in recent years, the portion of the population reporting a drug use disorder has increased.

Substance use disorders are preventable and treatable, and while there are benefits to treatment, recent research shows that many people do not receive treatment and it is treatment that they need. In 2014, according to the federal Substance Abuse and Mental Health Services Administration, 1 percent of the total adult population nationwide, or 7.5 percent of adults who reported having a substance use disorder in the past year, received treatment. There is a significant need, and there is urgency around that need. When you have that many people in need, sometimes there can be a rush to treatment. We need to make sure that the treatment facilities are high-quality, appropriate, well-regulated, and can meet the needs of patients.

In Nevada, there have been a recent series of news articles that exposed numerous deaths at drug and alcohol treatment facilities in the state. These facilities are licensed by the state, but when the media and others came to DHHS and asked what they were doing to investigate the deaths, the Department was put in the position of saying it was not doing anything because substance abuse treatment facilities are not required to report "sentinel events." The main concept of S.B. 457 (R1) is that these licensed facilities, and a handful of others, should be required to report sentinel events just as medical facilities do. If we do not know what is happening, how can we investigate to know whether something is going on in a particular facility?

I believe deaths in such facilities should be reported and that this information should be available to the public. I also believe that we need to go beyond that. While it is great if we report these sentinel events and we investigate when things have gone terribly wrong, families should also have access to online information about the licensure status and quality of that facility. This bill goes one step further, moving beyond just reporting sentinel events, to also having a place on a website where people can go to learn about the licensing status of these facilities.

Once we started looking into this, we felt that there were several kinds of facilities that should be treated as medical facilities which have to report sentinel events. We came to the issue of hospice care and some other facilities where the number of deaths and the likelihood of death would be significantly higher, so there are some exemptions in the bill for those types of facilities. If it is a hospice care facility, and the death is from natural causes, there is no need to report a sentinel event. Hopefully, that is just common sense and practical. However, we did not want to completely exempt those facilities, so if the death is not from natural causes, or if there are too many sentinel events—sentinel events include deaths and other significant events—there is still a reporting mechanism. We tried to strike that balance.

That is the body of S.B. 457 (R1), and I will turn this over to Margot Chappel who will talk about how reporting of sentinel events works today and how a website with transparency could be implemented.

Margot Chappel, Deputy Administrator, Regulatory and Planning Services, Division of Public and Behavioral Health, Department of Health and Human Services:
The Sentinel Event Registry Program tracks reportable sentinel events in medical facilities, which currently include hospitals, surgical centers for ambulatory patients, independent centers for emergency medical care, and obstetric centers. Senate Bill 457 (1st Reprint) expands this responsibility to all licensed health facilities if a death is not of natural causes. The Sentinel Events Registry is a database used to collect, compile, analyze, and evaluate such adverse events. The intent is that the reporting of these sentinel events will reveal systemic issues across facilities so they may be addressed through quality improvement and educational activities at a systems and work culture level. Expanding this reporting requirement to all health facilities will allow DHHS to better track when and where people are experiencing sentinel events and how health facilities take action and change policies and procedures to prevent future sentinel events. Should it pass, this bill will expand the agency's ability to protect people.

After an investigation is completed, the results will be made available to the public by posting them in a statement of deficiencies at findahealthfacility.nv.gov. The webpage includes all health facility types licensed by the Bureau of Health Care Quality and Compliance. The Sentinel Event Registry Toolkit located on the DPBH website provides guidance regarding when and how sentinel events should be reported. For the convenience of medical facilities, the Nevada Sentinel Event Registry has created data collection forms that cover all the data required to be collected according to current *Nevada Revised Statutes* (NRS). The program will update these forms to meet the new requirements if this bill passes. The Sentinel Event Summary Report is also released annually and will highlight trends and systemic issues that need to be addressed.

Senator Ratti:
I will go through the mechanics of the bill quickly. Section 18 of the bill lists the facilities we would be adding to this process. The rest of the bill is primarily the already existing language in statute about sentinel events and changes the term "medical facility" to "health facility" which allows us to bring in these newly licensed groups. Finally, in section 7,

beginning at the bottom of page 3 and onto page 4, are some of the exemptions for hospice care.

Senate Bill 288, sponsored by Senator Hammond, had some really good aspects but did not get past the deadline. I think it strengthens our protections for making sure families are getting good information about substance abuse treatment facilities and referrals. I asked Senator Hammond to help me move forward with an amendment that would bring forward some of the best aspects of S.B. 288 into this bill. He is going to present the amendment you should have in front of you.

Senator Scott Hammond, Senate District No. 18:
I appreciate Senator Ratti and her willingness in allowing me to put this into what is already a really good bill. The crux of the opioid crisis is how we get treatment to the folks who need it. Senate Bill 288 addressed how to get the right person into a facility at the right time, because that seems to be the problem we are having. When a person is ready to change or accept and is in the right facility, it could very well change that person's life.

I discovered a predatory practice currently going on where recruiters find patients—on the street and in hospitals and other locations. They ask a couple questions to determine if the patient is eligible for Medicaid or is a member of a preferred provider organization—in other words, has a source of payment. The patient is recruited and sent off to a facility. In some cases the families and/or friends do not know where these folks have gone. They are just whisked off the streets, put into these facilities, and kept until the money runs out. Then they are sent back to the streets. In many cases they are not given the right treatment or they were not ready for the treatment. Therefore, the treatment did not take or last long enough, and the patient went back out. Unfortunately—and this is where it ties into the sentinel events—in many cases, the individual got enough treatment and was clean for a little bit. If that patient goes back on the street and starts to reuse, they think they can reuse at the levels they were using before. They cannot, and that is usually when an overdose will happen. We are trying to eliminate the ability of these folks to "patient broker." Our proposed amendment (Exhibit F) would do the following:

1. Add the provisions of Senate Bill 288 to Chapter 458 of NRS. These provisions prohibit certain entities that provide treatment for the abuse of alcohol or drugs or a person that provides advertising or marketing for such an entity from:

   (a) Providing false or misleading information about the products, goods, services, or locations of the entity in marketing or advertising materials or on the Internet.
   (b) Including on the Internet website of the entity false information, an electronic link to false information, or an electronic link that surreptitiously directs the reader to another Internet website.
   (c) Soliciting or receiving a commission, benefit, bonus, rebate, kickback or bribe, or engaging in a split-fee arrangement in return for a referral or an acceptance or acknowledgement of treatment from the entity.

Many times, they are not trying to find the right place for the patient. They are just trying to get that patient into a facility that will provide a kickback. They will get money for every person they bring in, so we are trying to eliminate that.

> (d) Entering into a contract with a provider of marketing services that agrees to generate referrals or leads for the placement of patients with the entity over the phone or the Internet, unless the entity discloses the arrangement to the patient and provides the patient with instructions for accessing a list of entities that provide treatment for alcohol and drug abuse that is maintained by the Division of Public and Behavioral Health of the Department of Health and Human Services.

We want to make sure we have a list telling patients which places they can go to.

2. Make it a misdemeanor to engage in activity prohibited by item 1. Additionally, amend NRS 449.160 to allow the Division to take disciplinary action against a licensed facility, including a residential alcohol and drug treatment program, a halfway house for recovering alcohol and drug abusers, a facility for modified medical detoxification, a psychiatric hospital or a mobile unit, that engages in an activity prohibited by item 1.

3. Exempt from paragraph (d) of item 1 a state agency or entity that receives financial support from the State which refers a person to drug and alcohol treatment that is operated by or receives financial support from the State.

Assemblywoman Krasner:
A sentinel event is defined as "an unexpected occurrence involving death or serious physical or psychological injury." Section 7, subsection 1, reads, "Except as otherwise provided in subsections 2 and 3, a health facility shall, upon reporting a sentinel event . . . or cause an investigation to be conducted concerning the causes or contributing factors, or both . . . and implement a plan to remedy . . . ." However, section 7, subsection 2, reads, "A health facility is not required to take the actions described in subsection 1 concerning a death confirmed to have resulted from natural causes." But in section 7, subsection 3, it reads, "A residential facility for groups, home for individual residential care or facility for hospice care is not required to take the actions described in subsection 1 concerning a death that appears to have resulted from natural causes." If someone wants to knock off billionaire grandpa and goes in and puts a pillow over his face and it appears to be natural causes, that could be a problem. I wonder why you would not also have that death investigated to confirm that it was from natural causes. Typically, the coroner goes out if the death occurs outside a hospital.

Senator Ratti:
The types of facilities being talked about here are hospice care and senior care facilities. They experience a significant number of deaths, and death is a normal part and process of both facilities. They do not necessarily have the medical staff on site to certify the deaths. They already have some reporting requirements; they have strong licensure, and there are

a lot of other safeguards in place. When we were going after substance abuse treatment facilities and other places where you should not expect a high number of deaths, from a practical, commonsense standpoint, we did not want to sweep in residential care and hospice facilities where death is a daily and normal part of the operation. From talking to the professionals who license these facilities and talking to the associations that run these facilities, I believe there are adequate protections in place in other parts of the law and in the licensure process. They have far more ongoing reviews, so it was not felt to be appropriate that there should be an investigation every time someone died in a care facility where, by all accounts, the death was due to natural causes.

Assemblywoman Krasner:
The death "appears" to have resulted from natural causes in the group home. Appears to whom? To a doctor? To staff? That is my first question. Would you consider amending the language to "confirmed" to have resulted from natural causes?

Helen Foley, representing Nevada Center for Assisted Living:
The majority of individuals who live in these facilities are those who are very aged and vulnerable and cannot live on their own any longer because they are in the latter part of their lives. Dying, unfortunately, seems to be one of the natural things that happens to us all, and especially to those who live within assisted living facilities or in the small group homes for the aged. We do not have doctors or nurses within our facilities, so they do not declare the time of death the way a hospital would. Many of the individuals within our facilities are offered hospice care when we can tell that they are in the waning days of their lives. Some of them choose to do that, but they are not obligated to do that in any way.

If someone has taken a fall, or if there are any suspected abuse situations, we are mandated to fill out a form. We would certainly be happy to do that every time someone dies and we have a reason to believe it was not due to natural causes. In that case, we would immediately fill out that form and identify the deceased person to the state—DHHS—so they would know. One way the state learned about some of the drug and alcohol abuse facilities was by noticing that several people died at the same address, but no one was telling the state it was happening. There needs to be a much closer look at those situations, but with hospice care and facilities for the aged—assisted living—they die of natural causes almost all the time. If they do not, we would certainly notify the state, and we have that opportunity through that form.

Assemblywoman Krasner:
But this bill does not just say hospice facilities: it says health facilities, residential facilities for groups, and individual residential care—it does not just limit it to hospice. In addition, my understanding is that anyone could go into these group homes. It does not have to be confirmed that a person has two weeks to live or something like that. While I appreciate your telling me that, if it appeared that the death was not from natural causes, I think a medical doctor or coroner should make that diagnosis.

Helen Foley:
We would not conduct the investigation. Someone else could come in and investigate if someone died and it was not from natural causes. The coroner receives these bodies and if they believe there has been something suspicious, they certainly have every right to investigate. People do not just die in these facilities. There are some residents who have dementia and could be there for many years; they simply cannot live on their own, so they go to residential facilities for groups.

Senator Ratti:
I understand what you are saying, but this is a bill that is a step forward. We have an existing sentinel events process but it is only limited to medical facilities. Medical facilities by their nature have medical personnel who are able to make that determination. In extending the "sentinel events" language, my concern would be if we extend it too far and there are too many organizations reporting all deaths, that we are going to water down the sentinel events process in such a way that we will miss some of the ones that are important.

The original bill swept in hospice care facilities, residential facilities for groups, and homes for individual residential care, which are all certain types of licensed facilities in our regulations. When representatives of that industry came to me and told me this is something that happens in their facilities all the time and that they do not have medical professionals—that is what made this distinct. Even alcohol and substance abuse treatment facilities are going to have medical professionals coming in and out, but these facilities do not. They just do not have medical professionals, so we would be adding another layer of regulation and process to facilities where we have no indication that there has been any problem. To me, that was a solution in search of a problem and not a necessity. Here I am, a pro-regulation Democrat—but I did not think there was a need for another level of regulation.

Yes, you are correct; we are exempting them from that requirement. However, we are adding that if the death was not from natural causes or they have a reason to believe it was not from natural causes, we want them to report. But we were not putting what I felt was an unnecessary layer of regulatory burden on facilities where we have seen no indication that there are problems. At the end of the day, I did not see the problem that we were solving by sweeping these folks into this bill. This bill was originally intended to target drug abuse treatment facilities with which there has been an identified problem. I am keeping it relatively narrow, but opening that window a little bit so that there will be some obligation for facilities to report when there is something to report, but not trying to sweep in every death that happens in facilities that deal with death every day. That is the compromise I chose and the bill I will stand behind.

Assemblywoman Krasner:
I appreciate that and I understand what you are trying to do with the majority of the bill. I guess it is that one word in section 7, subsection 3—instead of saying "concerning a death that appears to have resulted" it could read "a death confirmed to have resulted." Could you think about changing that one word to read as it does in subsection 2?

Senator Ratti:
We did think about it; however, the moment we use the word "confirmed," it requires a qualified professional to confirm that death. A qualified medical professional would have to come to that facility and evaluate that death which is not something they are required to do today and that is why "appeared" was part of the conversation. We are using the word "appeared" because I did not feel it was appropriate to require a medical professional to come to these facilities every time there is a death.

Chairwoman Cohen:
Ms. Foley made a comment about the coroner being called when there is a death at these facilities. It would be helpful if you could describe what happens when a death occurs at one of these facilities. Is the coroner always called?

Helen Foley:
Yes, the body will be taken from the facility by the coroner. One of the other issues here is that in section 7, subsection 1, we added "conduct an investigation or cause an investigation to be conducted," because we cannot conduct the investigation ourselves. But then the bill gives us some leeway in section 7, subsection 3, by saying, "is not required to take the actions described in subsection 1 concerning a death that appears to have resulted from natural causes." If the death appears not to have been from natural causes, we must have an investigation conducted, but we do not have to do it ourselves because we do not have the medical staff to do it. It does give us that safeguard and gives the general public the safeguard that if something very suspicious happened, an investigation does still need to occur unless the death appears to everyone that it was due to natural causes.

Chairwoman Cohen:
Right. If the coroner finds that there is something suspicious and that there is a reason to be concerned, the coroner will trigger the investigation?

Helen Foley:
Yes.

Assemblywoman Titus:
Thank you for bringing this bill forward. I believe there definitely needed to be some clarification and improved reporting. Perhaps our legal counsel can answer this question. The bill is striking out "medical" facilities and changing it to "health" facilities. Under that umbrella, what kinds of facilities are we looking at? Are hospitals considered to be health facilities? Does this apply to any facility offering medical care, urgent care systems, anywhere patients reside, assuming "reside" means the patient would be staying for more than 24 hours? How does that work?

Karly O'Krent, Committee Counsel:
"Health facility" is defined in section 1, subsection 1, of the bill as: "Any facility that is licensed by the Division pursuant to chapter 449 of NRS." *Nevada Revised Statutes* 449.0151 lists a number of different types of facilities that would be licensed pursuant to those provisions. It would include those and also expand to include these additional entities.

Assemblywoman Titus:
What is listed in that section? It is not hospitals, correct?

Karly O'Krent:
There are about 16 different entities listed, including surgical center for ambulatory patients, et cetera.

Assemblywoman Titus:
Under that chapter they are already regulated as to reporting requirements and the bill is just adding this group—community-based living, et cetera—to something that is already regulated and mandated. We will be adding this subgroup of community-based living arrangement services, and that is what this bill is doing, correct?

Karly O'Krent:
For the purposes of reporting these sentinel events, that is correct.

Assemblywoman Titus:
For clarification, if there is an end-of-life diagnosis, I encourage folks to sign up for hospice. Once you sign up for hospice, then you are not a reportable case—a coroner's case. Hospice can sign off on the death certificate and it really does help a lot. For folks who die at home or die in a facility—long-term care facility or not—if you have signed up for hospice and your health care provider has signed the documents that you are a hospice candidate, then the coroner does not have to be notified. This bill will not change that, will it?

Karly O'Krent:
I do not believe this bill will change that.

Assemblywoman Titus:
To answer Assemblywoman Krasner's concerns, reporting of sentinel events is in current statute and it is what physicians and health care facilities already do. However, there was a group of community-based living facilities that did not fall under this reporting requirement. This entire system has already been vetted and it works. If someone comes into the emergency room in the hospital and dies in less than 24 hours, we have to call the coroner—there are already strict regulations concerning this process. Not everyone gets an autopsy; you can observe whether something looks natural or not. I think this is a very good bill and needs to happen—it is a lot simpler than what we are reading into it. These are tried-and-true regulations we all follow, but there was just a subset of facilities in which people were dying and those deaths were not being reported.

I do have a question about section 18, subsection 1, paragraph (d), where it reads, "To the extent that such information is available, unlicensed programs of treatment for the abuse of alcohol or drugs . . . ." If they are unlicensed, how would you be able to find them and make them report? Where do you expect to find that information? How will we find those facilities?

Senator Ratti:
Thank you for sharing your personal experience with sentinel events and how that process works. You are exactly right. When we determined that there was a group of facilities that probably could benefit from this kind of reporting, we did not want to recreate the wheel. We just picked up the sentinel events process that is already working and tried to apply it narrowly to the group we thought needed to have that same sort of process.

With respect to unlicensed facilities, we hope to locate them the same way all unlicensed facilities are located—by complaint. If there is a complaint, it would come to the attention of our regulators and they would have the opportunity to initiate a request for information and conduct the investigation. If they got a complaint, they would be in the same position they would be in with licensed facilities.

Chairwoman Cohen:
Seeing no other questions, we will invite up those who are in support.

Trey Delap, Director, Group Six Partners LLC, Las Vegas, Nevada:
One of our objectives this session has been to address issues and barriers dealing with addiction and addiction recovery. This bill is perfectly in line with that, and we are in full support of it. The piece of the bill we wanted to talk about was the amendment regarding deceptive trade practices. In essence, the intent relates to when a facility is more focused on making money and turning a profit rather than providing good recovery support, treatment, and care—that is when these deceptive practices happen. Other states have experienced severe problems with patient brokering.

Earlier this year, for the first time, Florida sentenced a person to a period of imprisonment for patient brokering. As Senator Hammond described, it was selling patients to facilities—putting heads in beds. The public needs to know that a particularly vulnerable population—those who are seeking treatment for addiction—are not in the best frame of mind to navigate the bureaucracy and the process—which is different from a medical process. If you understand your insurance benefits as they relate to mental and behavioral health that is great, because those are different from other types of medical care. This really protects the public by ensuring that there is a mechanism to protect individuals and families who may be the subject or target of deceptive trade practices in providing treatment services for addiction and recovery. That was the gist of the amendment and that is why we support it.

Chairwoman Cohen:
Mr. Delap, you mentioned the case in Florida and you mentioned that the defendant went to prison. Were you saying that generically or is this action a felony in Florida?

Trey Delap:
It was a different experience in Florida than what occurred in Nevada. It is a real case and I can cite it for you. There was such an epidemic of this type of behavior that Florida set up a task force that created a law, and the first time someone was prosecuted, the individual was convicted. One of the challenges is that it was the first conviction under the patient brokering law, so it is not court-tested. That was the Florida experience, but there are other states—New York, California, Arizona, and Indiana—that have all enacted laws making this type of practice illegal. There is also some language concerning this problem at the federal level that was enacted in October as part of the SUPPORT for Patients and Communities Act, which was an omnibus federal act that included a lot of different things. Regarding the Florida case, I can get you the citation for that.

Chairwoman Cohen:
Thank you. I am interested in whether other states are considering it a felony or a misdemeanor. If you would not mind getting me that information, I would appreciate it.

Trey Delap:
It would be my pleasure.

Chairwoman Cohen:
Seeing no one else in support, we will move to opposition. [There was no response.] Seeing no one in opposition, is there anyone in neutral? [There was no response.] Ms. Foley, do you want to be listed as neutral for the testimony you already provided?

Helen Foley:
I would prefer to be in support of the legislation.

Chairwoman Cohen:
Seeing no one in opposition, I will invite the sponsors back up for closing remarks.

Senator Ratti:
Thank you for hearing the bill. I want to thank my colleague, Senator Hammond, for cooperating on making sure the amended version of the bill is the best bill it can be.

Senator Hammond:
I am so appreciative to Senator Ratti for adding the amendment language into her bill. After looking at the crisis over the last few sessions here, I felt as though we should all be doing something in response to what is happening to our children in this nation.

Chairwoman Cohen:
Thank you both very much. With that, we will close the hearing on S.B. 457 (R1).

We will now open for public comment. [There was no response.] Seeing no one for public comment, that will bring our hearing to a close. On Friday we will meet again at either 12:30 p.m. or after the floor session, so please stay in contact.

With that, we are adjourned [at 2:01 p.m.].

RESPECTFULLY SUBMITTED:

_____
Terry Horgan
Committee Secretary

APPROVED BY:

_____
Assemblywoman Lesley E. Cohen, Chairwoman

DATE: _____

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a proposed amendment to Senate Bill 387 (1st Reprint), presented by Warren B. Hardy II, representing Life Science Anatomical.

Exhibit D is a proposed amendment to Senate Bill 387 (1st Reprint), dated May 1, 2019, presented by Dan Musgrove, representing Nevada Donor Network.

Exhibit E is written testimony, authored by Joe Ferreira, President/CEO, Nevada Donor Network, presented by Dan Musgrove, representing Nevada Donor Network, in support of Senate Bill 387 (1st Reprint).

Exhibit F is a conceptual amendment to Senate Bill 457 (1st Reprint) proposed by Senator Julia Ratti, Senate District No. 13, and presented by Senator Scott Hammond, Senate District No. 18.