

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON JUDICIARY**

**Eighty-Second Session  
May 9, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8:02 a.m. on Tuesday, May 9, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/App/NELIS/REL/82nd2023](http://www.leg.state.nv.us/App/NELIS/REL/82nd2023).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Brittney Miller, Chair  
Assemblywoman Elaine Marzola, Vice Chair  
Assemblywoman Shannon Bilbray-Axelrod  
Assemblywoman Lesley E. Cohen  
Assemblywoman Venicia Considine  
Assemblywoman Danielle Gallant  
Assemblyman Ken Gray  
Assemblywoman Alexis Hansen  
Assemblywoman Melissa Hardy  
Assemblywoman Selena La Rue Hatch  
Assemblywoman Erica Mosca  
Assemblywoman Sabra Newby  
Assemblyman David Orentlicher  
Assemblywoman Shondra Summers-Armstrong  
Assemblyman Toby Yurek

**COMMITTEE MEMBERS ABSENT:**

None

**GUEST LEGISLATORS PRESENT:**

Senator Jeff Stone, Senate District No. 20

Minutes ID: 1033



**STAFF MEMBERS PRESENT:**

Diane C. Thornton, Committee Policy Analyst  
Bradley A. Wilkinson, Committee Counsel  
Devon Kajatt, Committee Manager  
Connor Schmitz, Committee Secretary  
Traci Dory, Committee Secretary  
Ashley Torres, Committee Assistant

**OTHERS PRESENT:**

Justin Watkins, representing Nevada Justice Association  
Dylan Shaver, representing Empower Nevadans Now  
Tessyn Opferman, representing Nevada Women's Lobby  
Will Pregman, Director of Communications, Battle Born Progress  
Matthew Wilkie, Private Citizen, Carson City, Nevada  
Jennifer Parks, President, Empower Nevadans Now  
Aiden Gould, Private Citizen, Reno, Nevada  
Sowjanya Reganti, President-Elect, Nevada State Medical Association  
Paul J. Hauptman, Dean, School of Medicine, University of Nevada, Reno; and  
representing Kirk Kerkorian School of Medicine, University of Nevada,  
Las Vegas  
Patrick D. Kelly, President and CEO, Nevada Hospital Association  
Iolanda Edsall, Private Citizen, Reno, Nevada  
Lindsey Harmon, Executive Director, Planned Parenthood Votes Nevada  
Deborah Kuhls, Private Citizen, Las Vegas, Nevada  
Claudette Rhoades, President, Nevada Advanced Practice Nurses Association  
Katherine L. Turpen, Private Citizen, Las Vegas, Nevada  
Irena Vitkovitsky, Private Citizen, Las Vegas, Nevada  
Nick Spirtos, Medical Director, Women's Cancer Center of Nevada  
Tom Clark, representing Nevada Society for Dermatology and Dermatologic Surgery;  
and Reno + Sparks Chamber of Commerce  
Greta Seidman, representing Vegas Chamber  
Howard Baron, Private Citizen, Las Vegas, Nevada  
Rachael Rizzi, representing Nevada Independent Insurance Agents  
Laura Vandien Drucker, South Region President, Nevada Psychological Association  
Jason Patchett, Private Citizen, Henderson, Nevada  
Mike Cathcart, Business Operations Manager, Finance Department, City of  
Henderson  
John Abel, Director, Governmental Affairs, Las Vegas Police Protective Association  
Kandice Townsend, Government Affairs Specialist, City of North Las Vegas  
John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County  
District Attorney's Office; and representing Nevada District Attorneys  
Association  
Christopher M. Ries, Detective, Las Vegas Metropolitan Police Department

Pamela Del Porto, Executive Director, Nevada Sheriffs' and Chiefs' Association  
Jason Walker, Sergeant, Administrative Division, Legislative Liaison, Washoe County Sheriff's Office  
Jeffrey S. Rogan, representing Clark County  
Patricia Haddad, Director, Government Relations, Clark County School District  
Sandy Heverly, Executive Director and Co-Founder, Stop DUI  
Christopher Findlay, Private Citizen, Henderson, Nevada  
Haley Gilek, Private Citizen, Henderson, Nevada  
Chelsea Jensen, Private Citizen, Henderson, Nevada  
Derek Sutherland, Private Citizen, Henderson, Nevada  
Matthew DeFalco, Private Citizen, Henderson, Nevada  
Denise Hafen Palmer, Private Citizen, Henderson, Nevada  
Brandy Taylor, Private Citizen  
Erin Breen, Director, Road Equity Alliance Program, Transportation Research Center, College of Engineering, University of Nevada, Las Vegas

**Chair Miller:**

[Roll was called and Committee rules and protocol explained.] Good morning, everyone. We have two bills today, and we are going to take the agenda out of order. The first bill we will hear today is Assembly Bill 404, which revises provisions governing civil actions against a provider of health care for professional negligence.

**Assembly Bill 404: Revises provisions governing civil actions against a provider of health care for professional negligence. (BDR 3-709)**

**Justin Watkins, representing Nevada Justice Association:**

It is my pleasure to present Assembly Bill 404. I would like to begin by acknowledging the time and effort made by the Committee and the presenters, those in favor, opposition, and neutral. I will make my best effort to not rehash the arguments made therein but try to draw contrast between Assembly Bill 209 and A.B. 404, and specifically to try to explain how the concerns that were addressed not only by the Committee but by the testimony are incorporated into this bill. While I do feel a full repeal is the best policy decision for Nevadans, having sat in the seats you are in today, I understand legislation often has to balance between policy, politics, and practicality.

In short, A.B. 404 differs from A.B. 209 in two main areas. First, it does not require providers of health care to have or maintain a minimum amount of liability insurance. Second, instead of repealing the cap on noneconomic damages, it raises it to \$2.5 million. How did we get to \$2.5 million? About a year ago, we started focus grouping and public polling in regard to the various aspects of medical malpractice statutes. We found there is wide-ranging support for a full repeal across political and demographic lines. We found the most popular changes to the statutes as they are currently written is a modernization of the 20-year-old law, one in which caps on noneconomic damages are raised, statutes of limitations are lengthened, and access to justice and attorneys are equalized.

We took this information and looked around the country to see if there are any states that have addressed raising medical malpractice caps in the last ten years. We were able to find four states. Last year, California raised their noneconomic damages from \$250,000 to \$1 million over the course of a ten-year period. That same year, Iowa raised their caps immediately from \$250,000 to a bifurcated cap of \$1 million for doctors and \$2 million for hospitals. The year before that, New Mexico raised their caps immediately from noneconomic damages of \$600,000 to \$6 million. Approximately ten years before that, Nebraska raised their caps from \$1.725 million to \$2.25 million.

What is interesting about these states is they cross political and demographic lines. Two of those legislatures, California and New Mexico, were governed entirely by Democrats, and two of those legislatures, Iowa and Nebraska, were governed by Republicans. With the exception of California, each of the caps were increased immediately. With the exception of New Mexico, which required a special session to make some changes to the immediacy of the implementation of their caps, there were no issues with implementation—that is, no significant increase to insurance premiums and no mass exodus of physicians or insurance companies.

In looking at these states and the increase of caps, we believe an increase of \$350,000 to \$2.5 million is reasonable and is in line with the changes throughout the country. Despite some of the opposition that is in the public realm, \$2.5 million would not be the highest cap in the country. In fact, it would be half of the highest cap in the country or less than half. New Mexico is currently the highest. I will note there are 24 states without caps at all.

I anticipate you will hear in the opposition that an increase from \$350,000 to \$2.5 million would be unreasonable and would have a dire impact on the health care industry, specifically in regard to premiums and the retention and recruitment of doctors. However, there is no data to support this supposition. While you may hear testimony, I would urge you to recognize the plural of anecdotal evidence is not data. We do have data in regard to the impact that medical malpractice noneconomic damages caps have on the retention and recruitment of doctors. That data is this: four of the five top jurisdictions in the United States for retention and recruitment of doctors are noncap states, noncap jurisdictions, and they include Washington, D.C. Nine of the bottom ten of the lowest for retention and recruitment of doctors per capita are capped states. I do not believe there is an actual correlation between tort caps and the recruitment and retention of doctors. I do not believe that. If the argument is being made, then we must look at that data.

The reality is this is a multifaceted problem that must be addressed in many ways. What this bill attempts to do is address the one piece about accountability for poor health care. There are other pieces that need to be addressed, I will acknowledge, but they are not germane to this issue, and that includes things like Medicare reimbursement rates and the level of our education system and how that affects the recruitment of doctors and other professionals across all industries.

I anticipate you will also hear in opposition that any changes that are made to the medical malpractice caps should be in line with what inflation dictates. I believe, depending on the index you use, that number would be somewhere between \$550,000 and \$600,000. I do not believe that is a fair or just solution to the problem we have. If we continue to do what we have always done, we will continue to get what we always got. Raising the caps in line with inflation is an endorsement of failed policies from 2004. As a result of the caps in 2004, we have the lowest standard of care in the United States; we have among the fewest doctors per capita in the United States; and we have an insurance industry that is averaging profit margins across the last 15 years of in excess of 40 percent. They have privatized profits and socialized losses. If we agree that good policy is to improve access to quality health care, then we cannot continue to sacrifice the rights of those who have been irreparably harmed or killed in exchange for a system that does not achieve the policy goals that were originally stated.

I would now like to walk you through the bill. Section 1, subsection 2 of the bill addresses definitions for a provider of health care. It is meant to clarify some rulings that have existed throughout the state in which nursing homes, skilled nursing facilities, places of intermediate care, and hospices have attempted to obtain dual licensure as a hospital and a skilled nursing facility in order to have these caps apply to them. In order to clarify that the 2004 laws were never intended to provide these noneconomic caps to skilled nursing facilities and the like, they are specifically now excluded under section 1, subsection 2.

Section 2 of the bill changes the \$350,000 cap on noneconomic damages in exchange for \$2.5 million beginning January 1, 2025. Section 3 of the bill removes the changes to the statute of limitations that were part of the 2004 laws, which changed from two years to bring a claim no longer than four years after any malpractice occurred, and it changed it down to one year and three years. This moves it back to the old rule, which means if malpractice has been committed against you, you have two years to file an action. If you could not have discovered that malpractice had occurred, you have up to four years to discover and bring that action.

Lastly, on the last page there are several sections that are fully being repealed. *Nevada Revised Statutes* (NRS) 7.095 are the limitations on contingency fees that attorneys can charge and the costs being taken as part of that fee. *Nevada Revised Statutes* 41.503 is a section that limits the liability damages for malpractice and negligence that occurs in trauma centers for emergency care at \$50,000. That would be repealed, meaning the \$2.5 million cap would apply there. *Nevada Revised Statutes* 41A.045 takes several liability, which exists as part of the changes to the medical malpractice statutes of 2004 and takes us back to the default joint and several liability provision that exists in all other areas of the law in Nevada. *Nevada Revised Statutes* 42.021 makes corrections to collateral source rules that exist currently in statute, although they have been largely ruled unconstitutional and overtaken by federal law; and it also removes the ability for a judgment to be paid in periodic payments by a defendant who is found negligent. Again, that provision only exists in Nevada law for this special protected class. I am happy to answer any questions.

**Chair Miller:**

We do have some questions.

**Assemblywoman Bilbray-Axelrod:**

I want to thank you for recognizing that sometimes we do have to say, Well, we would love to do this, but we have to do this because we are a policy committee, and we do not want to change policy overnight, and who knows what the outcome could be. You sounded like you were about to say why you came upon the \$2.5 million. Then, you started to say, if it was based on cost-of-living index or something, it would have been, I believe what you were saying was \$500,000 to \$600,000, but then you ended up at \$2.5 million. Help me get there, because that seems like a big difference. I do appreciate your talking about the other states and where they are at. We are Nevada, so we do it our own way.

**Justin Watkins:**

The reason we went to \$2.5 million is we wanted to get to a number we believed and found evidence there were no issues with implementation. There were no issues with implementation in Iowa at the bifurcated \$1.2 million; and there were no issues with implementation at \$2.25 million in Nebraska ten years ago. That number adjusted for inflation would clearly exceed \$2.5 million. The only state that had issues with implementation was \$6 million in New Mexico. We did not believe going above \$2.5 million could we safely say there would be no issue with implementation.

**Assemblyman Gray:**

I am sorry, Mr. Watkins, I had hoped to talk to you yesterday. That did not happen obviously. This state, especially this legislative session, we have had a very concerted bipartisan effort to stabilize and increase health care and the access to health care. Have you done any kind of study and analysis pertinent to Nevada of what effect this would have on us, on our health care providers, and our insurance industry? I am very worried this could undo and make a slide back to 2004 again.

**Justin Watkins:**

To answer it bluntly, no, we do not have any data points to say exactly what that implementation would look like, nor are there any data points to the opposite. In fact, the reliance we see in the opposition that this health care crisis was created by tort in medical malpractice is a fallacy. There is no data to say that is the case. What happened in 2002 was a single carrier who happened to write the most policies for medical malpractice decided to leave the state. They left the state for commercial policies, for automobile policies, for legal malpractice policies, and for medical malpractice policies. They left, and there is no evidence it was based on some big verdict that happened or that the premiums they were trying to charge to their members could not be charged. Nor is there any evidence there was a mass exodus of any kind amongst the medical providers. We took the statements in 2004 to be the truth, and those statements have not proven to actually have any data support. We have to look, I believe, outside of Nevada to find whether or not there is any correlation between these tort caps and the recruitment and retention of doctors. If there is any correlation, the evidence is in the opposite.

**Assemblywoman Hansen:**

Thank you for coming by to see me. I am trying to understand a little bit more about the repealed sections where there is that limitation on contingent fees for representation of persons in certain actions against providers of health care. I want to understand the reasoning. Why the removal of the contingency fee? Are those additional dollars going to go to the plaintiff? You did mention when you were talking about this repeal, you said cost being taken as part of that fee. Could you also explain that?

**Justin Watkins:**

This provision that exists as part of, specifically, claims in medical malpractice is limited in Nevada law only to such claims. There is no provision anywhere else in Nevada that says an attorney is limited in what they can charge their client in order to represent them. This is a special provision that only exists in these types of cases. That provision limits the contingency fee that can be charged, and that contingency fee includes the cost of the case. For instance, if we were to move forward with a case that had no economic damages—so the person is unemployable or unemployed—and all we have is a pain and suffering claim to bring, the case is only going to be worth \$350,000 if we were to win and I am unable to achieve a settlement and I am going to move forward with trial. I have to retain a number of different experts to move forward with that trial, likely at a cost of somewhere in between \$30,000 and \$60,000 per expert. It is not uncommon for there to be three or four different experts in on the case. The cost of that case, by the time we get to trial, is very likely to be somewhere between \$150,000 and \$250,000, which means there is virtually nothing left for the injured person, and there is virtually nothing left to pay the attorney, which means no attorney is going to take that case.

A case in which there are only noneconomic damages is very unlikely to be able to achieve any representation largely in regard to that provision. What does that mean? That means we create two classes of citizens in the state of Nevada: people who work and are employable, and people who cannot work or are unemployable or choose to not be employed, including stay-at-home moms. They do not have the same access to justice as the people who are employed.

If somebody commits malpractice against me, it is very likely I will be able to find an attorney to represent me because I am a wage earner. My wife, up until six months ago, stayed at home with our kids. They are a little older now, so she does not find it as rewarding as it once was. If somebody had committed malpractice to her, it is unlikely that, if she were not my wife, she would be able to find an attorney to take that case.

**Assemblywoman Hansen:**

The other part of the question was by removing that, does that money end up going to the plaintiff? It sounded like it goes to pay for these experts. Did I get that wrong?

**Justin Watkins:**

It can. It depends on the situation. The attorney's fees and the cost associated with that, if it is removed in this statute, then it can become a cost on a case that is recoverable. The attorney might be able to move forward financially in the representation. Make no mistake, under the current structure, if the cap is \$350,000 and it is a noneconomic damages case, it is very unlikely that person is going to achieve any more money in regard to this repealed section. I do not want to mince words there. That is correct. They probably will not find representation at all, frankly.

**Assemblywoman Newby:**

My question is on joint and several liability. Could you explain how that works currently? How would it work with the elimination of that portion of NRS should this bill pass?

**Justin Watkins:**

To truly explain joint and several liability to everybody, I think it would take beyond 30 minutes. I will do my best to keep it succinct. In all areas of the law, if there are what are called "joint tort fees"—that means you were harmed by more than one person—you can make a claim against one or all of the people who have harmed you. Even if the jury were to find that that one person you chose to move forward against is not 100 percent liable—but let us say 70 percent liable—and another joint tortfeasor was 30 percent liable, I, as the injured party, can collect 100 percent of the judgment against you, even though you have 70 percent of the liability. It is then incumbent upon you as a joint tortfeasor to go against the other joint tortfeasor and get reimbursed for your 30 percent, not incumbent upon the injured party.

Again, this special law provides protection of several liability that does not exist in any other area of law in Nevada. What that means is, if you are 70 percent liable, you only have to pay 70 percent. If you are 30 percent liable, you only have to pay 30 percent of the judgment. The net effect that has on me as a practitioner is that I have to sue everybody, because if the jury finds 1 percent and I did not name you as a party, then I have committed malpractice and I am going to get sued.

Several liability means every time there is malpractice—let us say in the hospital—I have to name the hospital, I have to name the doctors, and I have to name the nurses. I have to, otherwise I have committed malpractice. Joint and several liability as the default rule can allow me to go after who I believe to be the most liable. If that most liable party believes somebody else is partially or wholly responsible, they can bring them in. I hope that answers your question.

**Assemblywoman Newby:**

It does sort of, but that last phrase, that you can bring them in, does that mean that person is brought in, in the current case, or there is essentially then cascading lawsuits after the fact from that one person?



**Justin Watkins:**

It depends. Let us take an example. If I sue the hospital under a joint and several liability structure and I do not sue the doctor and the hospital believes, We do not think we were the one at fault; we think it is the independent contractor doctor who was working at our hospital, they can bring them into the lawsuit right then and there. That is typically what would happen. They would be on the jury forum, and the jury would get to hear who is responsible, what percentages, and all the parties are there. The only reason I say it depends is because if that hospital and that doctor had a contract that provided for indemnity and contribution—which they likely would—the hospital could in theory wait until after the case is done. I have a judgment against them, and then they could sue the doctor on a breach of contract claim for not contributing towards the loss. That is a rarity, but I want to be thorough in my answer.

**Assemblywoman La Rue Hatch:**

Thank you for answering all of our many questions today. As you were talking about the noneconomic versus economic damages, that got me thinking—because I am a teacher and you are a lawyer—under this current system, would my life be valued less than yours and my daughter who is five be valued even less than mine?

**Justin Watkins:**

Yes. Our parents, the elderly, the retired, and our children, under this structure, their cases are worth less. The value of their life is worth less.

**Assemblywoman Hardy:**

Thank you for stopping by and having an in-depth discussion about all of this. I appreciate it. I just want to follow along what we are talking about here, economic versus noneconomic damages. Could you explain so everybody understands what that totally means? In addition, it is my understanding that it is not just loss of wages or medical bills, but there are other things that could be included, such as transportation, rent, childcare, and things like that. Could you give us an overview of the two different kinds and then what can be claimed under economic?

**Justin Watkins:**

Obviously, I will not be able to give you an exhaustive list, but economic damages are compensatory damages that can be calculable to a dollar amount, meaning lost wages—because malpractice was committed against me, I was not able to perform my job for X number of days; my wage is this; and we can calculate that number out. Medical expenses: because of the malpractice, I had additional medical expenses in the amount of X, and I can claim that amount. Other examples would be future medical expenses. The travel one is interesting. I do not know if we would be able to get there, but let us say in theory, as a result of the medical malpractice, I had to go out of state in order to get some unique, specialized care, and that included travel and hotel to an X dollar amount. Could I claim that as compensatory damages? I believe you could.

Noneconomic damages are damages that cannot be calculable to a stated amount, as in money actually paid, but are what we refer to as general damages where a jury can appoint an amount in order to make you whole. That means pain and suffering, grief and sorrow, loss of companionship, and items that go towards the impact the malpractice had on you as a person, not how it went to you in your pocketbook, is the best way I can make that distinction.

**Assemblywoman Mosca:**

I also want to thank the insurance commissioner whom I had an in-depth discussion with to understand both sides. With that in mind, I want to know what work has been done towards a compromise, or if there have been suggestions from both sides when it comes to this bill.

**Justin Watkins:**

As I gave my intro, I think this bill was intended to promote a conversation. Unfortunately, I do not believe that conversation has happened. I do not believe I have had any sort of feedback along the lines of, if this change were to be made, we could be in support of this bill. Now, I have certainly heard criticisms of the bill, but criticisms without a change of position does not move the ball forward in my mind. Again, because I do believe the best policy decision is a repeal, I understand the practicalities and politics play into this. I am happy to have a conversation about any of the sections of this bill or any of the repealed sections. I think we all understand those conversations have to come with a change of position.

**Assemblyman Orentlicher:**

I was glad to see you looked at other states. I have questions about two things in other states. One you mentioned, and one you did not. The one you mentioned was the bifurcation and caps between doctors and hospitals. You obviously thought about it, and we appreciate hearing why you decided not to include that. The second one you did not mention—but I am sure you came across—was the two-tier cap, the lower cap for the provider that they are individually responsible for, so could be half a million; and then a second cap where you have another million or so that is picked up by the patient compensation fund that the state runs funded by providers. My sense is it is lower cost because you have a bigger pool, you do not have insurance company profits, et cetera. I am sure you looked at both of those. What did you think about it?

**Justin Watkins:**

In looking at the other states, I reduced my analysis to states that had made changes to their caps, had raised their caps in the last ten years. There are a number of different ways in which this issue has been addressed in other states. There are bifurcated caps that you have mentioned that have a lower cap for doctors or providers of health care and a higher cap for hospitals. There are bifurcated caps that exist in other states for malpractice that do not involve death or permanent disfigurement, and then a higher cap that involves death and permanent disfigurement. There are caps that exist and a common fund that has been implemented that I do not believe would be practical here from a fiscal standpoint. I will say this, because of the medical malpractice caps and because of the lack of access to justice for victims in this situation, we as taxpayers are paying that burden. When there is no financial

recovery as a result of medical malpractice, the likelihood that somebody goes on to state-supported health insurance, Medicaid, in order to cover the increasing costs as a result of this malpractice and the maybe lifetime of future medical care, we are paying that. To some extent, not only did the 2004 law socialize the risk of the health care industry and privatize their profits, it socialized the cost of health care to all of us.

**Assemblyman Orentlicher:**

It sounded like you said to have the patient state compensation fund, you did not think that you saw fiscal problems. I would like you to elaborate because as I understand it, say Indiana, they just put a surcharge on liability premiums. So yes, the providers are paying for it. It does not have to come out of the general taxpayer, but they are paying less than they would if they had to have their own \$2.5 million policies as you are suggesting. It seems more sound fiscally and then gives the protection for patients that you want.

**Justin Watkins:**

If I stated it that way, that was mistaken. What I mean is, I do not think that was politically feasible to get through with a fiscal note. If you want to ask the doctors who get up here in opposition to this whether or not they want a surcharge on their premiums and whether they would agree to that, I would certainly be receptive to such a conversation. If we think we can get a two-thirds vote on something like that, I am certainly receptive to that conversation as well.

**Assemblywoman Considine:**

I was hoping to ask someone from the insurance companies or a doctor my question.

**Assemblywoman Cohen:**

I would like to go back to joint and several liability. Can you tell us what other states are doing with joint and several liability in this situation?

**Justin Watkins:**

The four states I referenced did not have several liability.

**Assemblywoman Cohen:**

Can you tell us somewhat about the process? Even before a case is filed, I am assuming there is some negotiation. Who do you bring to the table for the negotiation with that change, depending on whether or not this portion of the bill passes?

**Justin Watkins:**

There is no table. There are no negotiations. It does not happen in practice that we settle these cases prior to litigation. I am not going to say never, but it is far and away the exception that we actually get somebody to a table to settle a case before. It is likely in a situation in which the compensatory damages are enormous. In cases in which we are dealing with just a caps case, there is no incentive on the other side of the aisle to even entertain a settlement negotiation.

To answer your question in regard to what happens prior to filing a lawsuit, and I have had some questions about this from some of your colleagues as well, prior to 2004, there were panels that would review a case, and they would assess whether or not they believe there was a likelihood of malpractice and give you the authority to move forward. They were the medical screening panels. The 2004 laws actually did away with that. It was not the trial lawyer lobby that did away with that. It was the changes made in 2004. Since 2004, what is required is a consultation with an expert in the field—which is not always easy to find depending on the specialty—who is willing to author an affidavit that says the actions of the doctor in that specialty fell below the standard of care. I must have that affidavit as a part of any filing—I will try not to belabor the point, as I am aware that you heard this in A.B. 209. I saw the hearing. The affidavit of merit does exist. I think I saw a public notice to doctors that was out there that said this bill would do away with that. It does not. The affidavit of merit would still be in place if A.B. 404 passes.

**Assemblywoman Gallant:**

I would like to take a look at the states that surround Nevada. What is their cap compared to what you are asking for Nevada? This might be a little bit of a deep dive, but also what the Medicare billing reimbursement rate is and how Nevada compares with those states as well.

**Justin Watkins:**

I am not quite an encyclopedia where I can just name all those off the top of my head, and I do not happen to have them pulled up on the computer here. I know from memory some of these. New Mexico is at \$6 million; California is at \$1 million; Oregon and Washington have ruled caps to be unconstitutional and are uncapped; North Dakota is uncapped; South Dakota is \$500,000; Utah is capped; Colorado is capped, and Colorado's cap is indexed, so it changes yearly on January 1. It is somewhere between \$500,000 and \$1 million. I do not recall exactly. I believe Utah is \$500,000 or under, off the top of my head. I do not recall Arizona off the top of my head.

Our Medicaid reimbursement rates are the worst in the country. We reimburse at the lowest rates, and that has absolutely nothing to do with tort reform caps. If you want to work with me in the interim for me to get up at this table and support increasing Medicaid reimbursement rates, you will get me at this table. I am about trying to have solutions to the health care, or lack thereof, of quality health care in this state. I believe that is an important piece to the puzzle, and I am happy to work on it.

**Assemblyman Gray:**

I am going to touch on something that my colleague, Assemblywoman Mosca, touched on, as well as a couple other folks. One of the reasons I was disappointed when you did not show up yesterday at 3:30 p.m. is I wanted to talk about possible amendments. I am one of those folks who maybe could possibly have gotten on board if the bill was amended right to not go anywhere near what you are asking now, but something much more reasonable and appropriate for our times. Has anybody brought you any amendments or anything to make this a more palatable bill?

**Justin Watkins:**

Because you indicated it, I will respond and say it was a scheduling error. We had it at 3:45 p.m., and I was at your office at 3:45 p.m. I apologize for that error on our part for miscalendararng it. Nobody has come to me with an amendment to this bill of any kind, of any provision.

**Assemblywoman La Rue Hatch:**

When we are going through heavy policies or really any policy, my guiding star is, will this improve lives? I want to take this back a little bit, and I want to talk about outcomes because we talk about staffing ratios, shortages, insurance not covering treatment doctors want, and all kinds of issues. I know you cannot tackle all of them, but I want to know how this bill could help improve outcomes for people.

**Justin Watkins:**

I think it could improve the lives of people in a number of different ways. Number one, simply providing access to justice for people who have been irreparably harmed and their lives will never be the same. Again, we talk about personal responsibility all the time—holding teachers personally responsible for the achievement of their students—but we provide this section of the law that provides no accountability for neglectful acts that are catastrophic in their results.

This is a question that was addressed in A.B. 209 that I do not know if it ever got answered adequately. Let us talk about the young doctors we are now producing at our medical schools in Nevada, and we are trying to recruit from surrounding states and medical schools. The question was: What do we tell them? We are going to raise these liability caps. My answer is, we owe them a duty to raise these caps because the hospitals do not answer to the patient, and they do not have to go in and meet with them like the doctors do. They answer to the bottom line.

It is my belief in this state they are understaffed and they do not have adequate systems in place to provide for these doctors to succeed. On top of it, we create this area of several liability that makes me sue the doctor. It makes me do it when a joint and several liability approach would significantly limit the number of claims that are made against doctors, as we could start the claim at the facility level.

If the opposition is truly about solving the retention and recruitment of doctors in the state of Nevada, then their amendment, I believe, would look something like this. Let us bifurcate the cap, something along the lines of Iowa. Let us do \$1 million to \$2 million, with \$1 million for doctors—which by the way, all the hospitals require them to have a million dollars of insurance in order to practice—let us bifurcate it at \$1 million to \$2 million, with \$2 million for the hospitals. Instead of having several liability, why do we not have a vicarious liability? That means the hospital is responsible for the doctors and nurses that practice in their facility. If we had vicarious liability, guess what, I never have to sue the doctor. The numbers of claims against doctors, and what that impact would have on their

insurance premiums, would be significant. I suspect you will not hear anybody get up here and say we should bifurcate and have vicarious liability because, politically, the doctors, the hospitals, and insurance companies all have one voice here.

**Assemblywoman Hansen:**

I have a quick statement. Some of this we talked about a little bit, and then I have a question. When we talk about quality health care in Nevada, I would argue we do have quality health care. We have limited access for many reasons. When things go wrong, to me the solution is not to increase insurance rates and have litigation, but to go back to screening panels, to catch the problem before it goes over the cliff, to have the peers, the doctors, the hospitals have oversight over their own. We did have that before. We need to hear from the medical licensing board. Why are there some of these doctors we are aware of who are continuing to practice and cause harm? To me, that is some of the solution, and not necessarily increasing insurance premiums and more lawsuits.

My concern in particular, and this is the question, is rural access. We chatted about that. We know when we do things in this building, it has a chilling effect on insurance and all kinds of other industries, whether it is real or perceived. Looking at the input I have had from the advanced practice registered nurses, there is one in particular where she has an urban practice, but she goes out into the rurals. This legislation could cause her to give up her rural side because her insurance rates are already increasing. I know in the private sector, our insurance rates are already increasing in the medical health insurance world, let alone for doctors and nurses. If that is already increasing, this is going to send a chilling message. Insurance should be at the table. You and I talked about that as well. Insurance needs to be at the table in this discussion when we talk about medical malpractice. Can you give me some assurances that my rural access, which is already so tremendously impacted, will not be affected?

That is one of our number one concerns in the rurals right now. I have attended hospital board meetings. I represent six counties, and this will have an absolutely chilling effect. I know there are hospitals that are immune from this, but there are nurse practitioners that are not and other hospitals that are not. What assurance can you give me that my rural counties are not going to have an even harder time getting doctors into the rural communities?

**Justin Watkins:**

I will begin by saying I understand your position that you believe we have quality health care in the state of Nevada. The federal government would disagree. We have failing grades across the board. We have a choice to make here of access to below standard of care or what we are being told would be no care. I do not think that is accurate. We have to make evidence-based decisions here. The evidence does not show a correlation of the chilling effect that is being said will happen. It has not happened—in every state that has made these changes, in the uncapped states, with the exception of New Mexico. New Mexico raised it to \$6 million, and there was an impact they did not foresee and had to call a special session to fix it. They did not change it from \$6 million. They changed its implementation over time.

What assurances can I give you? The evidence, the actual data. We had a conversation—and maybe this is part of where you were going with the question—about rural hospitals in context of, if there were bifurcated caps and how would that look. I am happy to continue that conversation, but I said I would give you some response to that. I will do it right here on the record. There already exists a definition in the NRS for critical access hospitals in rural areas. They are already treated differently. I do not see why they could not be treated differently in regard to this issue, so long as that is part of a compromise solution that works towards moving this bill forward.

Absent that, the only assurance I can give you is the evidence that exists in all the surrounding states and the non-cap states. The fact of the matter, this is fact, the states without caps are doing better than the states with caps. The states with caps have the hardest time retaining and recruiting doctors. Nine of the bottom ten states in the country are capped states.

**Assemblywoman Gallant:**

I wanted to follow up on an earlier question. You had stated California was at \$1 million, but I have read several articles stating otherwise. I wanted some clarity on that.

**Justin Watkins:**

It is not \$1 million today because it is a ten-year step-up. It goes from \$250,000 to \$750,000 with exceptions that apply for significant bodily injury that can elicit \$1 million. There are situations in ten years in which you can get \$1 million, but it is stepped up over time. For clarity purposes, if you were to file an action in California today, the cap is not \$1 million. They just passed that ten-year step-up last year, so it is going to be a while.

**Assemblywoman Gallant:**

Looking at the surrounding states, other than Arizona, with California at about \$250,000; Oregon at \$500,000; Idaho at \$350,000; Utah \$450,000, how can you justify asking for us to be at \$2.5 million?

**Justin Watkins:**

You have excluded non-cap states that surround us. You have excluded states that are one border state away that are in the two millions already and had raised into the two millions ten years ago, Nebraska and Iowa. I do not know why we would cherry-pick the states that have the low caps. By the way, all those states you named are in the bottom ten of recruitment and retention also.

**Assemblywoman Considine:**

I am going to ask you my question because I do not know if I will be able to ask the folks I wanted to ask originally. I want to jump off a question my colleague had asked. I had a meeting yesterday with someone in opposition to this bill. One of the main reasons they were saying they were in opposition of this bill is because their malpractice rates will go up. While explaining this, they mentioned their rates have gone up more than 15 percent in just the last three years.

One of the questions I wanted to ask was—if there was a doctor or someone I could ask, if their rates have gone up—if an insurance company was at the table, if they could explain to me why it is okay to raise the rates, the medical malpractice rates, on all of this industry. If there is a cap, and the cap is supposed to stop rates from going up or ostensibly stop that, is it okay for those rates to go up? If the caps have not gone up, what is the purpose of that? In appearance, it seems like it is profit. If it is because of inflation, costs, and everything, how then do you not make an equitable argument that the cost for the people who are harmed by medical malpractice do not deserve that same increase as well? If you can explain any of that to me, I would really appreciate that.

**Justin Watkins:**

The only thing that has been accomplished by the 2004 changes to the medical malpractice statutes is that doctor premiums have gone up, access to justice has gone down, and the profits of the insurance industry have gone through the roof. This is not opinion. You can get this information from the Division of Insurance. Over the course of the last 15 years, the profit margin that exists in the insurance industry for medical malpractice policies is in excess of 40 percent. In some years, it is over 90 percent.

By contrast, if these insurance companies were writing health care policies under federal law for Obamacare for groups of 50 or more, they would be mandated a direct loss ratio of 85 percent. What does that mean? For every dollar of premium that is paid, they must pay 85 cents on that dollar to actual coverage, meaning medical care. In the other 15 cents on that dollar, they must find their overhead and profit. We have medical malpractice carriers in this state getting, over the course of 15 years, over 40 percent profit, and in some years, 90 percent profit. That is after their overhead. That is not even a direct loss ratio. That is what has happened here. We have socialized their losses and privatized their gains with no mandate they pass on those savings to the doctors.

Again, if the solution really is that we are worried about doctors' premiums, there is a fix for that, and you are not going to hear from the opposition.

**Assemblywoman Considine:**

Looking at the opposite, if this bill were to not pass, that does not mean caps would not be raised. Looking back over the 20 years of the cap being there and the insurance rates going up, probability-wise, rates are going to go up no matter what.

**Justin Watkins:**

To my knowledge, since these caps have been in existence, the premiums for doctors have never gone down.

**Chair Miller:**

Thank you, Mr. Watkins, for your presentation and for answering all of the questions. Again, this is a very important issue. Of course, we want to make sure everyone's questions are answered on the record.



With that, before I will open testimony, I want to remind everyone how this is going to function. We will have 30 minutes allowed for support, 30 minutes for opposition, and 30 minutes for anyone in neutral. Again, neutral is a true neutral position. For each 30-minute slot, that means we will start here in Carson for 10 minutes, then go to Las Vegas for 10 minutes, and then open the phone lines for 10 minutes. I urge everyone to keep their comments brief. I know we usually set a goal for two minutes per testimony, but remember for each person that is taking two minutes or more, that limits the ability for someone else to be heard. This issue has been discussed in this Committee before. If someone is saying what you have already said, or if the same sentiment is already articulated, you are more than welcome to say ditto. You are also more than welcome to say, My name is, and I support or I oppose to get as many people on the record as possible.

With that, I will open it up for support testimony. So everyone knows, I am starting my timer for ten minutes here in Carson City.

**Dylan Shaver, representing Empower Nevadans Now:**

Empower Nevadans Now is no stranger to this Committee, and hopefully you are no stranger to them. We are a victims' advocacy organization; the organization that coordinated the victim testimony for A.B. 209. Thank you so much for your respectful handling of that hearing and the victims we brought here that day. Because it takes so much out of them to do this, we decided there was no need to put you or them through that today.

I did want to remind everybody about the victims here. We say victims because these are people in a situation where the courts have already determined the system has failed them in a way that is below the standard of care. When we talk about the noneconomic damages in some of these cases, I wanted to remind the Committee of some of the stories you heard a couple of weeks ago.

I want to be clear, if a doctor's negligent care renders you infertile and you wanted to have children, that is a noneconomic damage. If because of a doctor's subpar care, you fall through the cracks at a hospital and you lose your child because of it, that is a noneconomic damage. I know this is a touchy subject in Committee, but that is exactly why I am going to bring it up; if something happens, and you have a rogue doctor who performs an unnecessary procedure that makes sexual contact untenable for you for the rest of your life, that is a noneconomic damage.

Empower Nevada Now is here on behalf of all of the victims in exactly those situations. I know firsthand you have met with some of these people one-on-one. There are a lot of important health care conversations happening in this building. We would like to ask the Committee to respectfully divorce this conversation from a talk about doctors and lawyers and focus on the victims who are here.

**Tessyn Opferman, representing Nevada Women's Lobby:**

We spoke in support of A.B. 209, so I am going to diverge from that testimony somewhat. I agree with everything I said for A.B. 209. To echo what Mr. Shaver said about the fact we have so many victims, we did not want to bring all of the victims forward for today's hearing.

Yesterday, I was just talking with my neighbor. She lives directly below me in my condo. I was talking to her about some of the things I am working on here at the Legislature and some of the bills that are particularly interesting. I happened to bring up medical malpractice. Now, this woman had breast cancer, osteoporosis because of her breast cancer, lost her car, and a number of things. She is a really nice lady. I get to garden with her and she shares her plants with me, which is wonderful. In talking to her, she said many of her health issues had started because of medical malpractice.

She had never mentioned medical malpractice because I do not think that is part of her story anymore, but she said when she was first diagnosed with cancer, she had a tumor in her intestine. She went to the doctor, and they needed to perform surgery. They took out a very large section of her intestine, and she thought she was fine. A couple of years later, she went back to the doctor, and had some sort of scan. It turns out they had not removed the tumor. She had quite a few health issues because of the removal of her intestines, but more importantly, because they had not removed the tumor, that ended up metastasizing and turning into other forms of cancer—some I had known about, but I had never known about the medical malpractice. She also started to tell me about her search for a lawyer when she found out the medical malpractice had happened. It was past some of the statute of limitations, and she could not find anyone who was willing to even look at the case.

I highlight all of this because we have had a lot of conversation about noneconomic damages versus economic damages. Even though there are, in theory, a lot of economic damages for her case, she was not able to bring it forward because of the laws we currently have in practice. With that, we are in full support.

**Will Pregman, Director of Communications, Battle Born Progress:**

We are in support today of A.B. 404. We think patients should have the right to pursue claims of medical negligence, especially those in nursing and hospice care. The fact is, often patients and their families are left without access to justice while insurance companies and the health care industry make incredibly high profits. This bill is specifically about getting justice for victims of negligent care in noneconomic outcomes, such as permanent health conditions caused by medical malpractice.

We advocate for the highest quality of health care in this state, and we hold health care practitioners to the highest standard as well. We must also seek justice for the patients who utilize our health care system. I will ditto the testimony from the two previous speakers. We ask you to support this bill.

**Matthew Wilkie, Private Citizen, Carson City, Nevada:**

I fully support A.B. 404 as it would allow for more fair and just civil actions against health care providers for professional negligence. While I acknowledge that nothing will bring my mother back from the care she received at Carson Tahoe Regional Medical Center or lack thereof, I fully believe this bill also increasing noneconomic damages for plaintiffs to recover will provide greater compensation for those who have suffered as a result of this professional negligence. I urge you to support this bill.

**Jennifer Parks, President, Empower Nevadans Now:**

I also spoke in support of A.B. 209. I want to remind the Committee that I have been a nurse in Nevada for 20 years. I did my nurse's training here, and I spent my whole career in Nevada. I am here speaking in support of A.B. 404 because it helps give patients a path to justice. When patients have been a victim of professional negligence, they deserve restitution, including those for noneconomic damages. These patients deserve time to gather the facts and bring forward a claim, and they deserve a chance to hold facilities and providers accountable. This is the only path forward to increase patient safety.

**Chair Miller:**

Is there anyone else wishing to testify in support? [There was no one.] I will open it up for opposition testimony. Is there anyone wishing to testify in opposition to A.B. 404?

**Aiden Gould, Private Citizen, Reno, Nevada:**

I am here to respectfully urge you to oppose A.B. 404. Nevada is already in a crisis. We do not have enough doctors to take care of our growing population. Allowing A.B. 404 to pass will increase the number of sick and frustrated people coming through the doors of the emergency room because fewer doctors will choose to practice in this area. Some doctors may leave Nevada to serve a community that is more supportive, and some may quit medicine entirely.

In my role as an emergency physician, I take care of any issue that comes through the doors. I see traumas, cardiac arrests, acute medical patients, and my share of the worried well. So many of these patients are there because they cannot find another way to get help. Many have been unable to see their primary care provider for weeks. Many have waited months to see specialists. While the time passes, they become sicker and more frustrated with a system that is failing them.

Raising caps on noneconomic damages is what the lawyers want, not what the patients want. It will not encourage better medicine. Patients want a pediatric neurosurgeon to see their child with newly diagnosed brain cancer immediately without having to drive to another state to get care. Patients want to see an oncologist or surgeon quickly after being diagnosed with a mass that needs a biopsy or chemotherapy. I could go on with so many other examples. These are just the tip of the iceberg.

Please do not tell me that weeks or months do not matter to these patients and their families. I spend a lot of time with doctors, and I can tell you with certainty, I have never heard a colleague suggest the quality of their care is driven by the financial cap on pain and suffering. We give quality care, not because we need to be frightened or threatened into it; we do it because it is why we went to medical school in the first place.

Please help us in recruiting and retaining quality physicians in the area so we can continue to take care of this community. Please oppose A.B. 404.

**Sowjanya Reganti, President-Elect, Nevada State Medical Association:**

I am a medical oncologist and Nevada State Medical Association president-elect. I am strongly here to oppose A.B. 404. There is fundamentally no difference between the failed bill, A.B. 209, and the current bill, A.B. 404. The only change is the amount of malpractice liabilities that are capped out. As you know, Nevada is ranked forty-eighth in the nation for health care. This bill is so important for me, all the physicians of Nevada, and also to our patients.

My first concern is my cancer patients not receiving care in a timely fashion. This is between life and death for them. By passing this bill, there will be a shortage of physicians that will be decreasing the workforce and can cause burnout to our current physicians. Again, like I mentioned before, my second concern is that currently the young physicians in training are going to choose nonclinical work, going to pharmaceutical companies that will, again, decrease the workforce. Please oppose A.B. 404 to help our health care system in Nevada.

**Paul J. Hauptman, Dean, School of Medicine, University of Nevada, Reno; and representing Kirk Kerkorian School of Medicine, University of Nevada, Las Vegas:**

As you may recall, I provided testimony last month as this Committee considered A.B. 209. I argued that removing the cap will have a negative impact on the physician supply in Nevada, which is already unacceptably low. Data from the Office of Statewide Initiatives at the University of Nevada, Reno, shows that Nevada ranks between forty-fifth and fiftieth in every category. Will raising the cap on noneconomic damages to \$2.5 million negatively impact the physician supply in Nevada? We can look to actual, published data from well-designed studies for our answer.

Contrary to what Mr. Watkins has said, Michael Pesko et al., [the *International Review of Law and Economics*] in 2017, using real-world figures from federal databases, showed that noneconomic damage caps increase the supply of young physicians who practice in higher risk fields such as general surgery, obstetrics and gynecology (OB/GYN), and anesthesiology by 2.1 physicians per 100,000 people. Encinosa and Hellinger, in a paper in *Health Affairs* showed that counties and states with a cap had more physicians per capita in effect that was greater in rural counties. In fact, rural counties and states with a \$250,000 cap had 5.4 percent more OB/GYNs and surgical subspecialists per capita than did rural counties and states with a cap above that figure.

Finally, a 2020 systematic review in the prestigious journal, *Journal of the American Medical Association*, demonstrated no association between measures of malpractice liability risk and health care quality. In other words, the threat of increased malpractice damages will not change physician behavior for the good, rather health care costs may increase as defensive medicine is practiced.

In conclusion, the Legislature has taken a major step forward during the current session by considering, in bipartisan fashion, legislation that is designed to address the physician shortage here, specifically bills supporting funding of new graduate medical education programs and multiple loan repayment options. The deans of the two public medical schools in Nevada are deeply appreciative of these efforts. At the same time, we continue to oppose increasing caps on noneconomic damages, which risks negating the work we are trying to do to train the next generation of physicians.

**Patrick D. Kelly, President and CEO, Nevada Hospital Association:**

[Submitted letter, [Exhibit C](#).] I want to address three issues. First, the increase in the cap on noneconomic damages from \$350,000 to \$2.5 million is extreme. That is a 614 percent increase. Over the last 20 years, Medicaid reimbursement for physicians and hospitals has barely increased at all. For hospitals, Medicaid rates have only increased 5 percent over the last 20 years. This fact needs to be considered by the Committee.

Second, while we are speaking of reimbursement, let us look at the elimination of the cap on lawyer fees. If the cap on noneconomic damages goes to \$2.5 million, lawyer fees will go from the current range of approximately \$87,500 to \$1 million dollars on a 40 percent contingency fee. Keep in mind, that is just on noneconomic damages. Lawyers will get 40 percent or more on everything else, which is usually a larger amount. Lawyers win, and injured people in the health care system lose.

Third, the bill proposes to eliminate the trauma cap. That cap was put into place because trauma services were in jeopardy and trauma surgeons and specialty surgeons could not obtain affordable insurance. Governor Guinn addressed the Legislature and noted that physicians in OB/GYN, emergency trauma, radiology surgery, and ophthalmology could not obtain affordable insurance. These are the same medical specialties where the initial problems will appear if A.B. 404 is passed. Governor Guinn recommended the trauma cap to provide additional protection for those physicians who work in difficult environments, performing high-risk procedures. Remember, the trauma cap only applies when health care providers are trying to stabilize the patient. It does not apply once the patient is stabilized. It is a narrow window.

Before you pass or amend A.B. 404, please study and understand the negative impacts on health care providers and the windfall for lawyers.

**Iolanda Edsall, Private Citizen, Reno, Nevada:**

I am here to discuss how A.B. 404 will adversely affect the available care for women in northern Nevada. I am a partner in a private practice group of 15 OB/GYNs. We have been serving northern Nevada since 1974. We are actually the only private group in Washoe County that has more than two physicians. Nearly half of my partners plan retirement in the next decade. We have to recruit ten providers or more to be able to sustain our business.

As you may be aware, medical malpractice premiums are largely set up by two factors: your specialty and your geographic location. The higher the risk of the specialty, the higher the cost; the higher the volume of claims and severity of claims in your geographic location, the higher the cost. Assembly Bill 404 will undoubtedly increase the frequency of medical malpractice lawsuits and the cost per lawsuit.

What is this going to do for my capability to bring in ten new doctors? If we use historical medical malpractice insurance rates and do a little bit of math, this is going to reduce their starting pay by as much as 30 percent. Right away, you see how this is going to severely compromise my ability to bring in new people to take care of northern Nevada. We also have to consider how this may impact who we take care of. If it puts us in a position where we have to give up lower-reimbursement insurance plans, that puts the most vulnerable women in northern Nevada at even more risk.

I understand the ethical principles behind A.B. 404 and A.B. 209. I do. It is justice but not necessarily for all parties involved. When someone brings a case against us, we are faced with the very difficult dilemma of, do we settle or do we go to trial? We may feel we practice standard of care. We may feel we have a strong case. We also feel settling is an admission of error and fault, but we have to weigh that against the risk of going to trial and getting a judgment against us that exceeds our policy limits and puts all of our personal assets at risk. Attorneys know this, and they leverage this information.

I strongly oppose A.B. 404. It threatens long-term practice by ability and places 50 percent of our population at risk.

**Lindsey Harmon, Executive Director, Planned Parenthood Votes Nevada:**

We are here today in opposition to A.B. 404. This bill would drastically and unreasonably increase the cap on noneconomic damages to a dangerous and unsustainable level. We believe patients who suffer adverse outcomes from the care they receive should be treated with compassion and provided financial compensation. However, today we are here to highlight the serious concerns we have with moving the limitation on noneconomic damages from its current rate to \$2.5 million, placing Nevada well outside the national norm on this issue.

Just like all other health care providers in our state, Planned Parenthood's physicians and advanced practice clinicians cannot see our patients without professional liability insurance. Just like our colleagues here today, providing that coverage is one of our most significant

operating costs. The increases we would see in our insurance premiums should A.B. 404 pass would make it that much more difficult for us to see everyone who seeks our services, regardless of their ability to pay.

Apart from Planned Parenthood, OB/GYNs are a critical part of the safety of care in Nevada. The increases in insurance costs A.B. 404 will no doubt impose will surely make it more difficult for hospitals and health care practices across our state to recruit and retain providers in a highly competitive national environment, especially with OB/GYNs.

We are not unfamiliar with the health care crisis of 2002, which caused the University Medical Center's trauma unit to close and led to the need for a special session addressing this very issue. We do not need that to happen again. For these reasons, Planned Parenthood urges you to oppose A.B. 404 today.

**Deborah Kuhls, Private Citizen, Las Vegas, Nevada:**

I am a professor of surgery at the Kirk Kerkorian School of Medicine at University of Nevada, Las Vegas (UNLV), and I am a trauma surgeon and current trauma medical director at University Medical Center, which is Nevada's only level 1 adult trauma center and Nevada's only pediatric trauma center. I have practiced here for 23 years. I was here in Nevada in 2002 during the malpractice crisis. I was only one of two trauma surgeons in southern Nevada willing to be on trauma call during that crisis. I alternated 24-hour call for 10 days with our former trauma director. We had to transfer patients out of state who required surgeries we were otherwise previously able to offer in Nevada, including orthopedic surgery. We had many specialists who left our state. Injured patients died because all hospitals became trauma centers at that time, regardless of the training of their professionals.

I will also attest that for years it was difficult to attract physicians to come to Nevada. I served on multiple search committees, and that was a common question. In the past two decades though, we have made a lot of progress in terms of creating our own physicians. We started our own allopathic medical school here in southern Nevada. We have grown our graduate medical education programs to 11 residency programs, including 1 rural and 11 fellowships at the Kirk Kerkorian School of Medicine at UNLV. We currently train 333 residents. Other institutions in Nevada have also followed suit, and in 2022 our total residents in training rose to over 800. Nevada ranks eighth because we can retain 80 percent of the people we educate here. If malpractice protections are removed, our own providers will not be able to stay to practice.

**Claudette Rhoades, President, Nevada Advanced Practice Nurses Association:**

[Read from written testimony, [Exhibit D](#).] I am here to speak against A.B. 404. As you decide on this bill, please keep into consideration that this bill not only affects physicians but reaches to the entire health care community.

As an advanced practice provider, my goal is to work in harmony with our patient care team. We are the frontline providers for physical and mental health in our communities in Nevada. As advanced practice providers, we are fully accountable for our independent licenses, and we have our practices as small businesses, making our providers vulnerable to this regulatory proposal.

How will this affect our advanced practice providers? The monetary effect of this increase of more than six times the current cap, the extension of the statute of limitations, and the joint and several liability will greatly impact the working of the small businesses of advanced practice providers. The impact will be felt statewide as practitioners leave the state.

Since my area of work is in emergency services, I follow those statistics related to emergency medicine. Current projection shows a 48 percent shortfall of physicians in emergency medicine by 2035. This is just in emergency medicine. Passing this bill with current increased rates will further deplete the availability of our physicians to practice in Nevada. The effects of the physician shortage in other fields are staggering. In Las Vegas, there are four ear, nose, and throat doctors to service this vast population. This bill would decrease that access. Please consider a relook at the impact of this bill. I do not support A.B. 404.

**Katherine L. Turpen, Private Citizen, Las Vegas, Nevada:**

I am a lawyer and partner with John H. Cotton and Associates. My law practice is dedicated to representing and defending Nevada's doctors and other providers of health care in professional negligence and medical malpractice lawsuits. I would like to bring attention to the Committee the importance of maintaining NRS 41A.045, which provides several liability for defendant providers of health care and abrogates joint and several liability.

Practically speaking, this provision creates fairness. That means the provider, if found negligent by a jury, is only liable for their own percentage of fault for both economic and noneconomic damages. By extension, this means the defendant cannot be held liable for damages caused by a codefendant or even damages caused by a provider who may have injured the patient, but for some reason was not named by the plaintiff as a defendant or even a defendant who is no longer a party to the case; for example, a dismissed or a settled defendant. Repealing NRS 41A.045 strips providers of this fairness inherent in several liability. Doing so would result in these otherwise complicated and nuanced cases being treated in the courts the same as a car accident case or slip and fall case.

Professional negligence cases are not like all other areas of the law. These are the only cases which concern licensed medical providers who are being tried on a medical standard of care, which does not apply in all other areas of the law. These cases should not be treated like car accidents and slip and fall cases. Maintaining several liability requires plaintiffs and their lawyers to more thoroughly work up their cases and reasonably identify and pursue all tortfeasors who may have injured their clients, as opposed to allowing them to sue just one doctor who then they expect to sue other providers in turn. This is an unfair burden shifting,



placing the burden on the defendant providers, which would result in a cascade of subsequent lawsuits. The emergency room doctor should not be liable for the surgeon. The surgeon should not be liable for the nurses on the medical surgery floor. The hospital should not be liable for what happens in the subspecialist's office after a patient is discharged from care.

**Irena Vitkovitsky, Private Citizen, Las Vegas, Nevada:**

I am in opposition. I am a board-certified emergency medicine physician who practices with 70 partners in the Las Vegas area. We are all board-certified physicians and come to oppose A.B. 404. If this bill passes, we will have a shortage of doctors, and it will worsen the crisis of access to care here.

**Nick Spirtos, Medical Director, Women's Cancer Center of Nevada:**

I want to make sure it is understood this bill is much more than regarding the raising of the caps for physicians but also as previously said for mid-level providers, who under supervision of physicians, currently provide a great deal of services to rural and underserved areas. This bill also eliminates the need for the attorneys who get an expert to provide an opinion that indeed malpractice has even taken place. It also eliminates by raising the cap to \$2.5 million or 7 times the current rate without investigation, except for it is most likely to be tolerated.

I would be much more supportive of a raise that went along with the consumer price index of 2.5 percent, which would put it in the range of \$500,000 to \$550,000. Even though physician fees started at \$36 a unit in 1998 and currently is \$33 a unit in the state of Nevada. We do have physician shortages regardless of what Mr. Watkins says. We have dearth of anesthesiologists. University Medical Center (UMC) does not have cardiac surgeons working full time at their trauma center. We have to have *locum tenens* come in and work at UMC in cardiac surgery.

The \$2.5 million apparently would be attached to every position named. Unlike what Mr. Watkins says, that would lead to having more physicians named in the suit because the current law says \$350,000 regardless of the number of names named. That has been eliminated in the current bill, and as a result, every person could be liable up to \$2.5 million, despite the fact our insurance policy is only up to \$1 million. Therefore, it is a severe disincentive to recruiting and keeping positions in Nevada.

**Tom Clark, representing Nevada Society for Dermatology and Dermatologic Surgery; and Reno + Sparks Chamber of Commerce:**

Over the years, this Legislature has passed many bills intended to attract doctors and medical officials to our state, especially in rural Nevada. A lot of data was presented in support of passage of this bill, but we all know the most important statistic. We have a doctor shortage in this great state. Passage of A.B. 404 will devastate the work that has been done by this body, and we strongly oppose the passage of this legislation.

**Greta Seidman, representing Vegas Chamber:**

I serve on the Vegas Chamber's Government Affairs committee. The Chamber believes this legislation will exacerbate existing doctor shortages and is opposed to this bill. It will also result in doctors leaving Nevada and will be more challenging to recruit doctors to the state, causing a crisis in the state's health care system. This bill will not help Nevadans and their families but instead will reduce health care access and care in our state. We urge this Committee to not support A.B. 404 and stand in opposition.

**Howard Baron, Private Citizen, Las Vegas, Nevada:**

I am a pediatric gastroenterologist practicing here in Las Vegas since 1993. However, in 2002 our practice nearly closed due to the inability to find medical liability insurance coverage. I am testifying in opposition today against A.B. 404.

In early 2002, our three-doctor group was the only pediatric gastroenterology practice in the entire state of Nevada. I was actually traveling up to Reno to see patients at Washoe County Medical Center twice per month while providing hospital care and outpatient care, along with my two partners in southern Nevada. Our insurance, the St. Paul Companies, Inc., had previously underwritten up to 60 percent of the positions in the state of Nevada. They decided to leave their book of business in Nevada, citing out-of-control lawsuits and settlements in medical malpractice cases. Most of the other companies underwriting policies for doctors stopped providing the coverage, leaving only a few companies to cover all physicians in our state. This caused an exponential rise in premiums, restricted doctors from practicing fully, and in many cases, there was no company that would cover certain doctors in our group.

The result of this was that my senior partner left the practice of medicine completely at age 43, and my junior partner sought a position out of state, as did I. My wife and I were looking for homes in our new location and negotiating fine details of my new position there, when finally on the last day we had left for finding medical liability coverage in Nevada, we finally got a fax from Nevada Mutual offering coverage, which was triple the cost of what we were paying previously. My partner and I discussed whether to close our practice and leave or to stay open, and we chose to stay open. Our premium rose another 40 percent the following year. I was thankful to Governor Guinn, at that time, for creating a co-op called Independent Nevada Doctors in response to this crisis, which allowed us to bring our premiums down. With the passage of Question 3 in 2004 on the Nevada ballot, we were able to get back to what our premiums were in our neighboring states. I would like to say I am in opposition, and I hope our elected leaders in the Assembly and Senate see the chaos this bill would create and vote to preserve access to care for vulnerable citizens.

**Rachael Rizzi, representing Nevada Independent Insurance Agents:**

I am a licensed independent agent who actively places medical malpractice insurance in Nevada as well as several other states throughout the country. While I echo several of the comments already made, I would like to address the question about rate increases for medical

malpractice. The rating structures are complex, and the biggest driver of these rate increases is frequency, not always severity. Frequent claims are being driven by the lack of staff and the same business stressors that other sectors are experiencing.

According to the National Association of Insurance Commissioners, the combined industry loss ratio for medical malpractice for 2019 was 79.94 percent. That means for every dollar in insurance premium the carrier charges, they are spending nearly 80 percent of that on claims costs, most of which is spent on defense and settlement. Further, the facilities are experiencing not only an increase in premiums but also an increase in their self-insured retention, which leaves less available capital to hire staff, to implement preventative protocols, and other proactive patient care measures.

To say hospitals are not being held accountable is untrue. To say carriers are making 90 percent profit is incorrect. To say there are no facts that back up how this legislation will negatively impact Nevada based on our history is categorically false. I encourage the members of this Committee to reach out to the Nevada Independent Insurance Agents for the insurance perspective and facts as they consider this bill. We are opposed to passage as it is currently written.

**Laura Vandien Drucker, South Region President, Nevada Psychological Association:**

We are in opposition to A.B. 404 as it applies to behavioral health care providers including licensed psychologists. There are approximately 600 psychologists in Nevada, and we rank at the bottom in the nation for the number of providers per capita. By increasing penalties, time periods for legal action, and incentives for legal action, the cost for psychologists doing business in the state of Nevada is likely to increase. It is already difficult to recruit and retain providers in Nevada. We do not need more barriers to providing mental health services. We need fewer.

[[Exhibit E](#), [Exhibit F](#), [Exhibit G](#), [Exhibit H](#), [Exhibit I](#), [Exhibit J](#), [Exhibit K](#), and [Exhibit L](#) were submitted in opposition to Assembly Bill 404 but not discussed and will become part of the record.]

**Chair Miller:**

We will open up testimony in neutral. Is there anyone wishing to testify in neutral? [There was no one.] We all appreciate when people understand what neutral means. With that, I will close testimony on A.B. 404 and welcome Mr. Watkins back up for any final remarks.

**Justin Watkins:**

Thank you, Chair and members of the Committee for your thoughtful consideration and questions. I want to make a few quick points on some inaccuracies that were made in opposition. I will try to do them quickly and in order. First, the testimony that this bill would change the current construct of the caps of being \$350,000 against the case in total and make it \$2.5 million per plaintiff, per defendant is inaccurate. That was ruled on by the Supreme Court in *Tam v. Eighth Judicial District Court*. This does not change that characteristic in any way. It is \$2.5 million in the case in total.

I would also like to address the testimony in regard to the statement that in 2019 the insurance industry had a 93 percent direct loss ratio. The testimony was, that means that every dollar premium they got, 93 cents on the dollar went out to pay for losses. That is inaccurate. In that year of 2019, the 93 percent was direct loss plus overhead and expenses; meaning, it is the inverse of the profit for that year. The insurance industry made a 7 percent profit that year. That is the one year in the entire time since this law went into effect that their profit margin was a single digit. That caller kept out the year of 2012, in which the direct loss plus overhead ratio was 8 percent, meaning the profit margin was 92 percent. On average, since this law went into effect, the direct loss plus overhead ratio is around 54 percent, meaning the average profit margin is 46 percent.

I also want to make some clarifying remarks into my own testimony, as I was speaking off the top of my head in regard to the caps of our surrounding states and the uncapped, and some clarification in regard to questions. Arizona is an uncapped state. Washington is an uncapped state. Wyoming is an uncapped state. Oregon, despite the question, is an uncapped state in regard to medical malpractice. They do have a cap on all wrongful death actions of any kind, whether a car accident or medical malpractice of the amount of \$500,000. By comparison, in regard to the recruitment and retention of doctors, if we look at specialties, the ranking of Oregon is 26; the ranking of Washington is 27; and the ranking of Arizona is 31.

The capped states of Idaho, Nevada, and Utah are: 51 for Idaho; 49 for Nevada; and 45 for Utah. If we were to then look at primary care, the capped states of Idaho, Nevada, and Utah are last, second to last, and third to last. Oregon and Washington are twenty-third and twenty-fifth, and Arizona is forty-first.

Third, in regard to the testimony of several liability and how that is appropriate for professional negligence claims because there is a different standard than, say, car accidents, while that is true and there is a different standard for professional negligence, several liability does not apply for all professional negligence: lawyer professional negligence, certified public accountant professional negligence, financial professional negligence. None of them have several liability and have the increased standard of care that you must prove, so it is truly a unique situation that is created in protections for the industry.

I also want to quickly address the testimony about what the lawyers' fees would mean. The limitation on one party being limited on what they can pay attorneys, but the other side not having a similar limitation seems extremely inequitable. No bill, no opposition proposed that we limit what doctors, hospitals, or insurance companies can pay to lawyers, so they have access to the best and brightest, but the limitation to the plaintiffs limits their access to justice through the number of lawyers willing to accept these types of cases.

Last, and most important, let us remember we are dealing with real people whose rights were taken away; their constitutional rights were taken away; the Seventh Amendment right to a jury trial to determine what their damages are—what the value of their life is—was taken away in order to standardize and make stable an insurance market. What did that insurance

market do with that stabilization? They put the money in their pocket and did not pass it down to the doctors. That is what happened, and it is time we restore those constitutional rights back to those victims.

[[Exhibit M](#) and [Exhibit N](#) were submitted but not discussed and will become part of the record.]

**Chair Miller:**

Thank you so much, Mr. Watkins. With that, I will close the hearing on [A.B. 404](#). We are going to take a six-minute recess, meaning we will begin promptly at 10 a.m. for our next hearing. [Meeting recessed at 9:55 a.m.]

[Meeting reconvened at 10:01 a.m.] Before we begin this bill hearing, I want to thank the family for coming and waiting patiently. I know that is a lot to sit through, so thank you so much for that. We do have our second hearing for the day. We have [Senate Bill 322 \(1st Reprint\)](#), which revises provisions relating to reckless driving. This bill is sponsored by Senator Stone and will be copresented with Assemblyman Yurek and Mr. Jason Patchett.

**[Senate Bill 322 \(1st Reprint\):](#) Revises provisions relating to reckless driving.  
(BDR 43-934)**

**Assemblyman Toby Yurek, Assembly District No. 19:**

I hate to add to the weight and gravity of what was already a difficult morning with another emotional, difficult, and weighty bill, but we are ready to proceed with [Senate Bill 322 \(1st Reprint\)](#). I have the privilege of representing Assembly District 19, which is the unfortunate location of the tragic incident that has us here today presenting [S.B. 322 \(R1\)](#). By way of background, we are here to address a growing concern in our community, and that is the rise of reckless driving and its heartbreaking consequences.

Many of you know I served as a law enforcement officer with the City of Henderson for two decades. During that time, I had the unfortunate experience of responding to far too many traffic incidents where the thoughtless and negligent behavior of one led to the ultimate fate of another. I watched too many families struggle to put the pieces of their lives back together long after the perpetrator who caused such devastation was set free to resume their life as normal.

I want to begin and acknowledge the distinction between the inherent risk of accidents that can occur in the normal course of driving and those that occur when an individual intentionally chooses to engage in reckless and criminal behavior. This is not unlike when someone chooses to drink and drive and there is an increased risk of substantial bodily harm and death because of a conscious choice to engage in dangerous conduct that brings harm to another. It is this type of behavior we are addressing today.

We have all heard the statistics, and you will certainly hear some more today in the testimony. Unfortunately, I want to point out these are not just numbers; they represent real people who have real loved ones who are left to grieve their devastating loss. One such tragedy is the story of 13-year-old Rex Patchett, who was struck and killed by a reckless driver as he rode his scooter in front of his school. The driver—who had been going more than 90 miles per hour at the time of the collision—was recently sentenced to the maximum of six years in prison but could serve as few as two years before being eligible for parole. This is unacceptable. It is painful to the victim's family who deserve equitable justice for their loss. We must take action to prevent such tragedies and to deter intentional, reckless driving by increasing the penalties for this irresponsible behavior. This is the purpose of S.B. 322 (R1). Chair, with your permission, I am going to hand it over to my colleague, Senator Stone, who will have some brief remarks, then we will let Mr. Patchett share his story, and then Senator Stone will walk us through the bill.

**Senator Jeff Stone, Senate District No. 20:**

This bill was written in response to a horrific incident in my district in the city of Henderson, where 13-year-old Rex Patchett was innocently walking in a school zone, when an irresponsible, reckless driver—who was driving almost 100 miles an hour—lost control of his car, striking Rex Patchett and killing him instantly. Rex's father, Jason Patchett, who is here with us today with his lovely wife, Mrs. Patchett, reached out to me immediately after I got elected. In fact, he was my first correspondence with anyone in the district. He painfully gave me the details of this horrific accident.

When I found out the perpetrator was sentenced to 1 to 6 years and may only serve 1 year in prison, we all concluded that the punishment does not match the crime. This bill increases the penalty to 1 to 10 years if a person is driving over 50 miles an hour above the speed limit posted or if it occurs in a school zone or a pedestrian zone. I would now like to introduce Mr. Jason Patchett. After he concludes his presentation, I will briefly go over what the bill contends to do.

**Jason Patchett, Private Citizen, Henderson, Nevada:**

Thank you for allowing me to testify before you today and present this bill as well as allowing us to introduce you to our son, Rex. I have a picture of Rex here. This is Rex Patchett, and I would like to introduce you to our son. I testify before you this morning as a father of a child who was violently killed by a reckless driver 14 months ago. I speak to you today as a victim of reckless driving. Words cannot begin to adequately describe the horror my family and I are plagued with day in and day out. We have forever been deeply and painfully hurt by the senseless killing of our precious son and brother Rex. It has completely and utterly uprooted our lives in ways unimaginable.

Our plea to you today is that you see it within your hearts to fully consider why Rex's Law matters to your constituents and all Nevadans. Justice requires holding those who commit heinous criminal acts within our community accountable for their atrocities, especially when

the victims of these heinous crimes are our children. It is time to send a strong effective message to those who decide to wreak mayhem on our roadways and drive criminally reckless.

It seems each time you turn on the news, there is yet another report of an innocent pedestrian senselessly killed at the hands of someone behind the wheel of a vehicle. Vehicle violence in our community is sadly an epidemic and, frankly, has become disgusting. This egregious and criminal behavior must not be tolerated. Handing down strong sentences to criminals will, first and foremost, bring some sense of justice to the victims, their family, their friends, and the community members. It will also send a strong, clear message that the citizens of the state, the state of Nevada, have zero tolerance for the vehicle violence perpetrated on our roadways, especially on the roadways within our neighborhoods and near our children's schools.

On March 7, 2022, our 13-year-old son, Rex Patchett—while on the sidewalk in front of his middle school and on his way home for dinner—was violently struck and killed by a reckless driver. In the days following the senseless killing of our son, we learned of the egregious facts and circumstances surrounding the events of March 7; facts and circumstances that have occupied our minds daily; facts and circumstances that terrorize us each second of our lives; facts and circumstances that have truly shaken us to the core.

Around 5 p.m. on March 7, a 21-year-old driver—who I will refer to as the defendant—while driving his Ford Mustang sports car, had been observed by bystanders driving recklessly along the roadway in front of Mannion Middle School in Henderson, Nevada, for several minutes prior to the collision. One bystander stated he witnessed the Mustang enter the roundabout between the middle school and the elementary school at a high rate of speed, do a full 360 while fishtailing around the roundabout, almost strike the bystander and another car in the area, then proceed west on Paradise Hills, which is the road in front of Mannion Middle School, at a high rate of speed while continuing to swerve and fishtail up the road. Seconds before Rex was killed, the defendant began driving at an excessive speed eastbound along Paradise Hills Road in the number one travel lane directly towards a well-known and significant bump in the roadway, which for years provided extremely reckless thrill seekers an opportunity to launch their vehicles into the air. Once the defendant's sports car struck the bump in the roadway, the defendant lost control of his vehicle, struck the curb, rotated approximately 90 degrees counterclockwise, slid along the curb and the sidewalk, violently struck Rex—who was on that sidewalk—causing him to become airborne and land in the landscaped area on the middle school grounds where he succumbed instantly to his injuries.

Police determined that upon losing control of his vehicle, the defendant was operating his vehicle at an approximate speed of 97.42 miles per hour. Yes, 97.42 miles an hour in front of the middle school and an elementary school at the time of day where the likelihood of children present along the sidewalks is an almost absolute—in an exclusively residential neighborhood and in an area with the posted speed limit of 35 miles an hour. It was almost three times the posted speed limit in the area.

Our feelings and knowledge of these egregious facts and circumstances concerning that horrendous evening on March 7, haunt us every second of every day. They haunt me as I testify before you. This is our painful reality and one we have been forced into with no way to escape. On March 7, my family and I were sentenced to life in the prison of all prisons, the prison of lifelong pain, grief, fear, uncertainty, loss, anger, sorrow, heartache, despair, hopelessness, and sadness. We were given no leniency, no plea deal, no suspended sentence, no probation. No, we were given absolutely nothing to save or pardon us from the hellish consequences of the defendant's actions on March 7. We are forced—through someone else's selfish and criminal choices—to suffer our entire lives with the brutally painful reality that our beautiful, precious, 13-year-old son and brother Rex is gone, dead, violently killed at the hands of a reckless driver.

Currently, the sentence for a conviction of reckless driving resulting in death is a minimum of 1 year to a maximum of 6 years in prison. The sentence can be suspended, or probation may be granted. As a comparison, the sentence for a conviction of driving under the influence (DUI) resulting in death is a minimum of 2 years to a maximum of 20 years in prison, and the sentence cannot be suspended and probation cannot be granted. The only difference in most DUI cases that result in death and reckless driving cases that result in death is the element of impairment. If the person who killed my son had been under the influence, the penalty would have been substantially different. The choice to drive while impaired must be punished, and currently, Nevada law does just that. The choice to drive 97 miles per hour in a 35-mile-an-hour zone, in front of the school, in an exclusively residential neighborhood, and at a time of day where the children are present, all while a hundred percent stone-cold sober and in complete control of one's decision-making and physical capabilities must also be, if not equally, punished. However, under Nevada law currently, it is not. The potential sentence of 1 to 6 years in prison does not provide equitable justice for such an egregious case of reckless driving. Simply put, the punishment does not fit the crime.

Madam Chair and members of the Judiciary Committee, if the facts of a reckless driving case as egregious and extreme as the one where my son was killed, if those facts do not warrant a prison sentence of more than 6 years, then I cannot even begin to imagine—nor would I even want to imagine—a set of facts more egregious or more extreme that would. We must do better. We must enable our judges with the legal means necessary to hand down appropriate sentences in cases of felony reckless driving that are so egregious and so reckless. Rex's Law does just that.

Now, the passage of Rex's Law will not bring our son back, nor will it increase the penalty for the reckless driver who killed Rex. So, why are my wife and I here today? Why am I testifying before you this morning? The reason is simple. We are here today because of the way my son Rex chose to live his 13 years of life. I would like to share something with each of you that my wife and I have learned about Rex over the past 14 months since his death. Shortly after his death, a friend of mine contacted me and shared something his son had shared with him. In the words of my friend's son, he wrote:



On Tuesday, the day after Rex's death, I was walking into P.E. at Mannion Middle School. I noticed that one of my friends who has a disability was crying. When I asked what was wrong, he said only two words to me: the crash. It immediately hit me. He was one of Rex's many good friends. As we continued to walk into the locker room, I told him how Rex was an amazing kid. He turned to me and said, He was my only friend when I came to Mannion. He then told me how Rex had become one of his best friends he had at school and how bad he missed him. Anyways, the main idea I am trying to get across is Rex is a great person and friend who has impacted the lives of many people.

About a month ago, I received a direct message on social media from someone I do not know personally, but whose daughter happened to know my son Rex. This individual shared with me the following quote:

My oldest daughter was in the same grade as Rex, and she was going through some puberty-related awkwardness in the eighth grade. A ton of the other kids would call her names and make fun of her. Most of those kids were in Rex's circle of friends, but she would tell me how each time Rex would always jump on them and tell them to leave her alone and that stuff was not cool or right. That would always make me smile knowing someone was helping to protect her at school.

You see, Rex lived his life helping those around him, whether it was being a friend to those that needed one or standing up and defending someone because it was the right thing to do. Rex was selfless and truly lived to help other people. Rex's Law is our family's effort to continue Rex's legacy to help other people. This bill is about mitigating an existential threat that plagues our communities by stiffening the penalties for extremely reckless driving. This bill is about standing up for the countless victims of reckless driving and providing equitable justice for them. It is about helping the next family who will unfortunately find themselves in our shoes. This bill is about our families, our friends, our neighbors, and all our fellow Nevadans. Let us continue Rex's legacy and pass S.B. 322 (R1): Rex's Law. Let us do it for Rex.

**Senator Stone:**

Thank you, Mr. Patchett, for your testimony, and we really appreciate you and your lovely wife being here today to talk about Rex and ensuring hopefully no other family has to go through what you have experienced, which is a nightmare.

Madam Chair, if I may, I am going to briefly talk about the mechanics of the bill. We struck sections 1 and 2 from the bill. In section 3, subsection 9, paragraph (a), we retain the current 1 to 6 year penalty for all cases except those covered by section 3, subsection 9, paragraph (b). In section 3, subsection 9, paragraph (b), we have a new penalty of 1 to 10 years for those offenses that involve a speed of 50 miles an hour over the speed limit or those that occur in a school or pedestrian safety zone.

The remainder of the language in section 3 was struck. In section 3, subsection 9, paragraph (b), the modification allows for people convicted under this section to continue to be eligible for probation at the discretion of the judge. With us today, we also have Erin Breen, director of the Road Equity Alliance Project, which is part of the Transportation Research Center at UNLV, who will testify in neutral from the Grant Sawyer Building. To keep things tight, we are going to allow her and us to answer any questions you may have at this time. Thank you, again, for the opportunity to present Rex's Law.

**Chair Miller:**

Thank you so much for the presentation. Mr. and Mrs. Patchett, thank you so much for—I do not know if courage or bravery is the right word—for turning something so horrific into activism, justice, and hopefully prevention for others. What I do know is 14 months is extremely raw and new in a wound that never truly closes. I want you to know we all appreciate that. For Rex's entire community, school community, and for the fine young man that you were raising, thank you so much. With that, we will start questions.

**Assemblywoman Bilbray-Axelrod:**

I, too, had Mr. Patchett reach out to me when I got into the building, and I was struck by, as the Chair said, your courage and ability to take grief and turn it into activism and changing the world. As someone who lost my brother when I was nine years old, I will tell you this is going to mean the world to your other children to see what you have done in Rex's name.

You make the distinction about being in a school zone. I was curious, if it was during the school day, we already have more severe penalties, is that correct? You are adding this to an area where we are expecting kids will be around. That is the pedestrian idea. Am I right to assume that if it was actually during the school day, the penalties are already increased?

**Assemblyman Yurek:**

Yes, it is true there are enhanced penalties for violations that occurred just in the normal course of speeding or whatever in a school zone. It is typically double the fine and then the associated administrative fee. This particular bill—in dealing with reckless driving and the enhancement we are looking for—the intent is to include 50 miles per hour or more regardless of where you are at, even in circumstances or situations, recognizing the inherent danger of school zones at a time the school would be open and active or, for example, pedestrian safety zones—which we might commonly refer to as a construction zone or something like that—where there is evidence that there is a need to be attentive and careful because of the increased risk of danger there. Regardless of the actual speed over the posted limit, if it occurs in that zone, this enhancement would apply.

**Assemblyman Gray:**

I was struggling for the word also, and the word I came up with was thank you for your strength. How you endure, I do not get it. Again, thank you for bringing this forward with enhanced penalties and whatnot. One thing I would like to see, and one thing I have been struggling with in my own district, we had a case similar in some ways. It was actually a DUI with multiple convictions. This person killed a young lady and horribly changed her

sister's life in a lot of ways. Like I said, he was drunk, and it was not his first time. He got more years, but the thing that struck me is he went directly to camp. He is out in beautiful eastern Nevada at a work camp, never knowing what it is to be a prisoner behind bars. Even being a prisoner behind bars, he will never understand what it is to be a parent and lose your child, or something like that.

One thing I would like to see in all of these cases is some kind of mandatory minimum behind bars. I do not have a problem with the work camp, but the work camp should be a reward for good behavior, moving out, and getting you to transition back to the community. I did not see that in your bill. I do not know if it is too late at this point to add that in there, but I think they need to know what it is to be an inmate, not just somebody who is out at the camp. I do not mean for the camp to sound like it is a summer camp, but it is nowhere the same as being in general population in a prison.

**Senator Stone:**

Thank you, Assemblyman Gray, for those comments. Let me say that we wanted to see some punitive time, and we also know we have to get this through the Legislature. I really appreciate Mr. Piro and Mr. Jones, who I think is here today. We brought them all into a room and said, Okay, we have this problem. How can we get to a punishment that is more than what is typically on the books? They all came to the conclusion that they felt we could get this passed through the Legislature with 1 to 10 years but understanding there is what is called the 40 percent rule that is going to address the minimum sentence. Let us assume the judge gives a maximum sentence of 10 years; the minimum would be 4 years, so it is 4 years and 10 years. You are looking at a 66 percent increase in the punishment, which can come down should Rex's Law come into law. I felt that was comforting to the Patchett family and is why we came up with this punishment.

**Assemblywoman La Rue Hatch:**

As a fellow parent, this is hard for us to even sit through. I cannot even imagine what you have lived through. I, too, thank you for continuing to advocate. I am going to ask a policy question. My question is similar to my colleague's. It was mentioned that DUI is 2 to 20 years with no potential for parole. I think you touched on the compromises that went into that. I was going to ask if there was a consideration of making it the same, and if that is where you started and then you got to this, or what that process was?

**Senator Stone:**

Again, we wanted to shoot for the sky. What is a life worth? We sat down with the Public Defender Association and the Nevada District Attorneys Association, and we said, What can we accomplish and make it through the Legislature? These were the punishments they said the public defender would not come up and oppose; they believed they would be neutral and the district attorneys could get behind. That is how we find ourselves here today. Do I wish we could have made it more? Absolutely, I do, but I also want to ensure we have Rex's Law,

and we memorialize Rex and that his life had, of course, tremendous meaning, but it is going to be symbolic now in the *Nevada Revised Statutes* (NRS). It was Rex that made it possible so hopefully other families will not have to endure the pain and suffering this family is going to have to endure for many years to come.

**Assemblywoman Hardy:**

Thank you for being here and for sharing this incredibly sad and horrific story. I did not know you prior to this, but I have a very good friend who lives in your neighborhood who knew you. I saw her shortly after this incident, and she told me some information and shared some things that she knew. I felt through my good friend, I had a personal connection with you. I, too, share how incredibly brave you are being there in the community and our state, sharing your faith and how you are able to get through something that is unspeakable and anyone with a child cannot even imagine, losing one in such a horrific way as this. It was an honor to meet you both today.

I believe we wish it could go further because in your opening, Assemblyman Yurek, you mention people who drive recklessly like this are making a conscious choice. They are given a privilege to drive, and they make these decisions—these intentional decisions—to go out into their communities and drive this way. Yes, I think it should have gone further, but again, whatever we can do to honor Rex in our statutes and hopefully prevent other families from going through what you have gone through is the least we can do. Regarding the 50 miles per hour or more, how did you arrive at that? In my mind, if you are in a 25-mile-per-hour zone, and you are going 45 or 50 in a neighborhood, that is excessive. If the speed limit is 55, and you are driving 85 or 90, I am just wondering how you arrived at the 50 miles per hour.

**Assemblyman Yurek:**

What we tried to do was truly delineate the difference between what I alluded to in my opening remarks. People speed. We know it is a big issue. There is probably nothing more frustrating than getting behind somebody on the freeway who is doing the speed limit because people are flying. At what level can you apply this that would show and demonstrate egregious, intentional, and reckless conduct? I do not know, Senator Stone, if you have more on that specific number, but that was the intent. It was to clearly delineate that intentional, reckless behavior from what we know occurs on a pretty frequent basis with speeding, even at higher levels.

**Senator Stone:**

I was consulting back and forth with the Legislative Counsel Bureau (LCB), and we wanted to have that important delineation, and it was the recommendation of the LCB attorney that we use 50 miles over the speed limit to, without question, show that was exhibition of speed in a school zone or pedestrian zone.

**Assemblywoman Cohen:**

I hope you will share with your other children how impressed the whole Committee was with you, and I appreciate your coming up and meeting with us. I was going to ask about the 50 miles an hour, but since my colleague already asked about that, I have another question. Assemblyman Yurek, I am guessing you have the answer to this, and if not, I will ask Legal counsel or get it another way. Although it is not part of the bill, in a situation where someone has this egregious speeding in a school zone or a safety zone, and there is not an accident, but thankfully they are stopped by an officer and ticketed, what are those penalties like?

**Assemblyman Yurek:**

I have been retired for eight years now, so I do not know because they are constantly adjusted over the years. Our committee counsel might be able to advise what that current schedule is for reckless driving.

**Bradley A. Wilkinson, Committee Counsel:**

I am sorry, could you repeat that question for me?

**Assemblywoman Cohen:**

Yes, so the same situation as in the bill; what is the current penalty with the over 50 miles an hour in the school zone or safety zone but no accident and stopped by an officer and receiving a ticket?

**Bradley Wilkinson:**

The penalties are typically doubled, although there is a cap on the penalty of \$1,000, 6 months of imprisonment, or 120 hours of community service. Typically, it is a doubling of the fine.

**Assemblywoman Hansen:**

I appreciated having a couple of quiet moments with you. I think what is difficult is yes, we would like this to be more, but we have to be pragmatic in getting through this legislative body. The unfortunate thing is Rex did not get that due process that we are now offering to those who commit these heinous crimes. That stings, but we move forward. Thank you for modeling such gracious behavior and coming before us today.

On page 5, in section 3, subsection 9, paragraph (b), where we get to the minimum term of not less than 1 year, but then going down to subparagraph (1), "The violation involves operating a vehicle at a rate of speed that is 50 miles per hour or more over the posted speed limit; or," and now we get to the part that reads, in subparagraph (2), "The violation is committed in an area designated as a pedestrian safety zone or school zone or a school crossing zone." I am making sure I am understanding it right. This occurred after school hours, but in a school zone. If somebody is going less than 50 miles over, say it is 45, it is 7 p.m., and is right by the school, then it applies. I am trying to distinguish because

sometimes when we say school zone, we think when the lights are flashing. We know children and even adults are around schools even on the weekends, playing on the lawn or doing other things. I am trying to understand how that applies, and I apologize if you clarified it, and I, in my emotion, did not capture it.

**Assemblyman Yurek:**

We could get clarification from Legal on it. It was my understanding that, for example, the scenario you talked about, if this was at 7 p.m. where there are still people around, this would have applied in this case specifically because the individual is going in excess of 50 miles an hour over the speed limit. It would have applied to this specific case. However, if that driver had been doing 30 miles an hour over the speed limit at that time of night in a school zone that was not active, it would not apply; it would revert back to, I believe, regular reckless driving in the enhancements or the sanctions that are available for reckless. We can get clarification from Legal, if we would like.

**Bradley Wilkinson:**

So I understand you are talking about a reckless driving violation that occurred in a school zone, but not during school hours, and it did not involve speeding 50 miles over the speed limit.

**Assemblywoman Hansen:**

Yes, but now that I am hearing it back, let me rephrase it. If it is the 50 over in a school zone, regardless of what time of the day it is—let us say 7 p.m.—this applies. I get it now. We have existing statute to capture under 50, but if it is 50 or over even outside school hours, such as 7 p.m., 5 p.m., or whenever, that is what this is going to handle. It does not mean when school is in, when we say school zone. Does that help?

**Bradley Wilkinson:**

That is correct. Either 50 miles over the speed limit or a school zone or pedestrian safety zone.

**Assemblywoman Hansen:**

Outside of school hours.

**Bradley Wilkinson:**

Outside of school hours or inside school hours. It does not differentiate between the time the violation occurs.

**Chair Miller:**

Assemblywoman Hansen, are you still asking for that follow-up?

**Assemblywoman Hansen:**

No, and I apologize. It probably was clear, but I think in the heat of the emotion, I was getting caught on school zone and thinking we sometimes only think about a school zone when the lights are flashing. The reason for this bill is to cover those areas, because this unfortunately occurred outside of school hours.

**Chair Miller:**

So, it was clarified?

**Assemblywoman Hansen:**

Yes.

**Chair Miller:**

Are there any other questions? [There were none.] We will open it up for testimony. Is there anyone wishing to testify in support of S.B. 322 (R1)?

**Mike Cathcart, Business Operations Manager, Finance Department, City of Henderson:**

The City of Henderson is in support of more appropriate penalties for reckless driving that results in these types of tragedies. The City humbly asks that S.B. 322 (R1) move forward and become the law of the state.

**John Abel, Director, Governmental Affairs, Las Vegas Police Protective Association:**

We are the union that represents Las Vegas Metropolitan police officers. In 2012, I responded to the intersection of Spring Mountain Road and Decatur Boulevard, where a car was driving at excessive speeds of probably 100 miles an hour and hit a bus stop, killing four people. When I responded, all I saw was body parts: legs, heads, and arms of people laying there. It will forever live in my memory. I will never forget it. I have responded to other deaths before, but this one specifically hit me hard. I remember thinking that day, what can we do to stop this? This law seeks to at least help do that. For that reason, we support this bill.

**Kandice Townsend, Government Affairs Specialist, City of North Las Vegas:**

I am here to testify in support of S.B. 322 (R1), known as Rex's Law. The 2022 Dangerous by Design report ranked Nevada as the eighth-deadliest state for pedestrians and the Las Vegas metropolitan area as the twenty-second most dangerous metropolitan area for pedestrians. This is why Rex's Law is so important. It will increase penalties and create accountability for reckless drivers to prevent more tragic incidents. I want to thank the bill sponsors, Senator Stone, Assemblyman Yurek, and most important Rex's parents, Mr. and Mrs. Patchett. I cannot imagine what you are going through. My heart goes out to you.

**John T. Jones, Jr., Chief Deputy District Attorney, Legislative Liaison, Clark County District Attorney's Office; and representing Nevada District Attorneys Association:**

We are in support of Rex's Law. I want to start off by thanking the Patchett family, Senator Stone, and Assemblyman Yurek for bringing this bill. As has been testified to, it is a compromise piece of legislation that does increase the penalty significantly for reckless driving that occurs in these various zones.

I do want to take a brief moment to answer Assemblywoman Hansen's questions. *Nevada Revised Statutes* 484B.063 defines "school zone" as "sections of streets adjacent to school property." There are no time limits in statute with respect to that definition.

**Christopher M. Ries, Detective, Las Vegas Metropolitan Police Department:**

We support Rex's Law, S.B. 322 (R1), and I echo the statements of Mr. Jones. I would like to thank Assemblyman Yurek, Senator Stone, and again, most importantly, the Patchett family.

**Pamela Del Porto, Executive Director, Nevada Sheriffs' and Chiefs' Association:**

We are in strong support. Thank you for your strength and courage. Thank you, Senator Stone.

**Jason Walker, Sergeant, Administrative Division, Legislative Liaison, Washoe County Sheriff's Office:**

We are happily supporting Rex's Law, S.B. 322 (R1).

**Jeffrey S. Rogan, representing Clark County:**

Clark County is in full support of Rex's Law. We think it is an important piece of legislation. It is another tool we can use to make sure drivers engage in lawful behavior when they are on our roadways. We have seen too much of this kind of behavior that has resulted in the death or substantial bodily harm of our citizens, and this bill will help stop that. I urge your support on this bill.

**Patricia Haddad, Director, Government Relations, Clark County School District:**

I am here to share our support for S.B. 322 (R1). For most of us, the most high-risk activity we take part in each day is traveling from point A to point B. Unfortunately, these risks pose dangers for our students and our educators at campuses each day. The loss of Rex was devastating for our entire Clark County School District community, and it is a reminder that we must continue to do everything in our power inside and outside school buildings to ensure the safety of kids.

While we cannot bring Rex back, we can take action to prevent similar tragedies from happening in the future. Our communities must come together to prevent these community-based issues from negatively impacting our schools, school campuses, and our students. School zones are areas where children are most vulnerable, and it is crucial drivers exercise extra caution when driving in these areas. However, too often we witness drivers



who fail to slow down or ignore the safety laws in place around school zones. By increasing penalties for reckless driving around school zones, we can send a clear message that such behavior will not be tolerated. It is time for us to take a stand and ensure the safety of our children is a top priority because we owe it to Rex, his family, and our community to do everything we can to prevent these tragedies from occurring. Let us honor his memory by passing Rex's Law and taking a step towards creating safer school zones for our children.

**Chair Miller:**

I would also like to say to those testifying, we normalized crying in this Committee sessions ago. You have seen all those movies and have seen legislators and electeds ranting, raving, jumping off desks, and throwing papers in the air. No one ever told you how many hearings you would sit through that were emotionally stirring and your natural empathetic nature would kick in. Yes, crying is more than welcome and accepted as a shared activity here in Assembly Judiciary. With that, is there anyone else who would like to testify in support of S.B. 322 (R1)?

**Sandy Heverly, Executive Director and Co-Founder, Stop DUI:**

I am also a victim advocate for Stop DUI, and here this morning to lend our support for S.B. 322 (R1). I also want to thank Assemblyman Yurek and Senator Stone for all the effort they have put forth on this particular measure, and a special thank you to the Patchett family for not only their courage but their heartfelt tenacity and strength in bringing this forward. I humbly and respectfully ask for your favorable vote on S.B. 322 (R1).

**Christopher Findlay, Private Citizen, Henderson, Nevada:**

I am strongly in favor of this bill.

**Haley Gilek, Private Citizen, Henderson, Nevada:**

I have four small children and live in Henderson, Nevada. I want safer streets for our children and loved ones. I am in support of Rex's Law, and I do it for Rex.

**Chelsea Jensen, Private Citizen, Henderson, Nevada:**

I have four kids, and I support Rex's Law. Do it for Rex.

**Derek Sutherland, Private Citizen, Henderson, Nevada:**

I am calling in today to voice my support for Rex's Law, and I encourage you all to do it for Rex.

**Matthew DeFalco, Private Citizen, Henderson, Nevada:**

Rex's Law is a crucial piece of legislation that seeks to protect our children and make our school zones safer. The tragic death of 13-year-old Rex Patchett was a wakeup call for all of us, and we must take action to prevent such senseless tragedies from happening again. By increasing penalties for reckless drivers who cause deaths in school zones, we send a clear message that the safety of children is a top priority. This law will not only hold reckless

drivers accountable for their actions but also serve as a deterrent to others who may consider driving recklessly in school zones. We owe it to our children to do everything in our power to keep them safe, and Rex's Law is a crucial step in that direction.

**Denise Hafen Palmer, Private Citizen, Henderson, Nevada:**

I want to say I am strongly in favor of passing Rex's Law.

**Matthew Wilkie, Private Citizen, Carson City, Nevada:**

I am calling in full support of S.B. 322 (R1). I want to thank Senator Stone and every single sponsor and cosponsor for bringing this bipartisan legislation forward. Increasing the term for imprisonment for reckless driving is a necessary step towards keeping our roads safe. Such reckless behavior puts innocent lives at risk, as we have heard multiple stories today. It is crucial these consequences reflect the severity of these offenses. Rex's Law is an essential measure in preventing and deterring reckless driving. It will help ensure those who choose to discard the law are held accountable for their actions. Lastly, I want to thank the Patchett family for their tremendous strength for being there.

**Brandy Taylor, Private Citizen:**

I think we owe it to our community to support this law and get it passed. I am in high support of Rex's Law, and let us all do it for Rex.

**Chair Miller:**

Is there anyone else wishing to testify in support? [There was no one.] I will open it up for opposition testimony. Is there anyone wishing to oppose S.B. 322 (R1)? [There was no one.] I will open it up for testimony in neutral. Is there anyone who would like to testify in neutral?

**Deborah Kuhls, Private Citizen, Las Vegas, Nevada:**

I am a professor of surgery at the Kirk Kerkorian School of Medicine at the University of Nevada, Las Vegas. I am also a trauma surgeon and trauma medical director at University Medical Center of Southern Nevada. That is Nevada's only level 1 trauma center and Nevada's only pediatric trauma center. I want to remind everyone today that the number one cause of death for the first 44 years of life, including childhood, is injury. It is not a disease, it is injury. We call auto versus pedestrian crashes, not accidents. Like the background in Rex's Law, most vehicular crashes involve the behavior of one or more drivers.

I also want to testify that the publicly available death rates for auto versus pedestrian crashes is a function of speed as well as vehicle type. All figures have essentially a 100 percent death rate at 90 miles an hour. They do not go up to the exact speed in this particular case. There is testimony on the horrific injuries. I can attest that I have treated hundreds of auto versus pedestrian crashes in my almost 23 years in southern Nevada, and the injuries are beyond imagination. So many die or are maimed for life.

I would say, as a trauma surgeon, there is absolutely no sadder day than when I talk with parents and other family members, particularly in the loss of their child. They will come to the trauma center and be waiting for me to tell them what happened. Their child was normal at breakfast that morning, and now I have to tell them that despite our best efforts, that child is dead. This child died at the scene. I really want you to consider my testimony in making the right decision for the citizens of our state.

**Erin Breen, Director, Road Equity Alliance Program, Transportation Research Center,  
College of Engineering, University of Nevada, Las Vegas:**

I would like to thank Senator Stone and Assemblyman Yurek for inviting me today to provide you with some background information on S.B. 322 (R1), Rex's Law. I wish I could tell you that Jason Patchett was the first parent I had met whose child died because of reckless driving. I wish Mr. Patchett was the first parent of a young person I had worked with whose child had died on a sidewalk because of reckless driving. But sadly, that would not be true.

Speed, as I am sure you know, is one of the top two causes of fatal crashes in Nevada. Impairment is the other. In fact, I was concerned many would feel that reckless driving was covered already under impaired driving. That is why I thought it was so important to bring you some data today about our state as it pertains to reckless driving.

Over the past five years in the state of Nevada, using what they call the KABCO scale, K meaning that person was killed; A meaning the person involved received critical or incapacitating injuries. In our state in the last five years, there have been 210 people whose lives were taken or forever changed because of a reckless driver that had absolutely nothing to do with being an impaired driver. It was simply someone who made a terrible choice to be selfish behind the wheel of the car. Two hundred ten is a large enough number that it is easy for us as humans to dismiss it because we cannot visualize it. If we broke that down, on average, 42 people a year are either losing their lives or their lives are forever changed in our state because of bad choices made by someone behind the wheel of a car. If we break that data down further, 80 percent of those crashes happened in Clark County and 11 percent in Washoe County, leaving, of course, 9 percent for the rurals.

In conclusion, I would like to join everyone else and give my thanks to the Patchett family for their bravery, for their tenacity, and for making a difference in the lives of Nevadans who may very well never find themselves in the position the Patchett family has because of the action that you and your Committee can take today.

**Chair Miller:**

Is there anyone else wishing to testify in neutral? [There was no one.] I will welcome the bill sponsors back up.

**Senator Stone:**

First of all, thank you for hearing the bill today. I cannot tell you how much the Patchett family, Assemblyman Yurek, and I appreciate that. I know many of you have children, young children, or in my case, we have grandchildren. This could have been any of our kids. We are coming together here today to prevent this from happening to another family. I want to thank the Patchett family for coming to Carson City, not once, but twice. We understand this bill is not going to bring Rex back, but I appreciate the courage of the Patchett family to come here and testify about this horrific crime to make sure that another family does not have to endure the pain and suffering they have endured.

I will also tell you that this is my twenty-eighth year of being an elected official. For many of you, you are beginning your political careers, and some of you have been here for a while and will probably continue. I am in the twilight of my career. I will tell you in those 28 years, there are only a few issues that really touch your soul. This is one of those issues that will forever touch my soul. I will ensure you that you will remember this hearing for the rest of your lives. You will also take great gratitude—assuming this bill does become law, which I predict and hope it does—that you made a difference in a village of Nevada citizens who are ensuring we are going to strengthen the laws, so a family does not have to endure the senseless act of crime.

Thank you very much for the opportunity. Please consider voting yes for this. I appreciate the accolades that have been given to Assemblyman Yurek and me. This is not about Assemblyman Yurek and me; this is about the Patchett family and let us do it for Rex.

**Assemblyman Yurek:**

This, in my freshman year, has been my greatest privilege to be involved in this bill. When Mr. Patchett reached out to me initially, and I found out he had spoken to Senator Stone, we immediately got together and knew there was something that had to be done. I wish I never had to be here to present this type of bill, but I am humbled and grateful for the opportunity to work with the Patchett family. I appreciate this Committee's willingness to recognize the courage it took for them to leverage this horrible incident to impact other lives for good. I am thankful for Senator Stone and his willingness to work together with me. While this bill is not what we wanted it to be, we were hoping for something stronger, and I can sense that in this Committee, this is where we are at, and we encourage your support for the bill.

**Chair Miller:**

Thank you so much, and thank you so much to the Patchett family again. With that, I will go ahead and close the hearing on S.B. 322 (R1). Our final order of business today is public comment. Is there anyone who would like to make public comment? [There was no one.]

I do not want to say it was an exhausting morning. It is our job. This is what we signed up to do, but thank you for your engagement and your questions and your consideration. With that, I will let you know that tomorrow morning's meeting has been canceled, so the agenda says it is canceled. I will see you all back here in this room at 8 a.m. on Thursday morning. This meeting is adjourned [at 11:10 a.m.].

RESPECTFULLY SUBMITTED:

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Connor Schmitz  
Recording Secretary

RESPECTFULLY SUBMITTED:

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Julie Axelson  
Transcribing Secretary

APPROVED BY:

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Assemblywoman Brittney Miller, Chair

DATE: \_\_\_\_\_

## EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a letter dated May 5, 2023, signed by Patrick D. Kelly, President and CEO, Nevada Hospital Association, in opposition to Assembly Bill 404.

[Exhibit D](#) is written testimony, submitted and presented by Claudette Rhoades, President, Nevada Advanced Practice Nurses Association, in opposition to Assembly Bill 404.

[Exhibit E](#) is a document titled, "AB404 will create a negative spiral harming access to health care and mental health care," submitted by Sarah Adler, representing Nevada Advanced Practice Nurses Association, in opposition to Assembly Bill 404.

[Exhibit F](#) is a letter dated May 9, 2023, signed by Mark Sektan, Vice President, State Government Relations, American Property Casualty Insurance Association, et al., in opposition to Assembly Bill 404.

[Exhibit G](#) is a letter dated May 8, 2023, submitted by Andrew Cohen, President, Comprehensive Cancer Centers, in opposition to Assembly Bill 404.

[Exhibit H](#) is written testimony dated May 9, 2023, submitted by Michael C. Stinson, Vice President, Public Policy and Legal Affairs, Medical Professional Liability Association, in opposition to Assembly Bill 404.

[Exhibit I](#) is a letter dated May 7, 2023, signed by Emily Osterberg, Director, Government Affairs, Henderson Chamber of Commerce; and Aviva Gordon, Chair, Legislative Committee, Henderson Chamber of Commerce, in opposition to Assembly Bill 404.

[Exhibit J](#) is a letter dated May 9, 2023, submitted by Helen A. Foley, Legislative Advocate, Nevada Association of Health Plans, in opposition to Assembly Bill 404.

[Exhibit K](#) is a letter, submitted by Roderic Newton, Private Citizen, Reno, Nevada, in opposition to Assembly Bill 404.

[Exhibit L](#) is a packet of letters in opposition to Assembly Bill 404.

[Exhibit M](#) is a copy of an article dated November 4, 2004, titled, "Voters OK limits on awards," from the *Las Vegas Review-Journal*, by Paul Harasim, submitted by Jeanne Corbit, Manager of Communications, Membership and Events, Nevada Hospital Association, regarding Assembly Bill 404.

[Exhibit N](#) is a booklet titled, "*Nevada Rural and Frontier Health Data Book – 11th Edition January 2023*," submitted by Jeanne Corbit, Manager of Communications, Membership and Events, Nevada Hospital Association, regarding Assembly Bill 404.