MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Eighty-Third Session
February 28, 2025

The Committee on Government Affairs was called to order by Chair Venicia Considine at 9 a.m. on Friday, February 28, 2025, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 1 of the Nevada Legislature Hearing Rooms, 7120 Amigo Street, 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/83rd2025.

COMMITTEE MEMBERS PRESENT:

Assemblymember Venicia Considine, Chair
Assemblymember Duy Nguyen, Vice Chair
Assemblymember Max E. Carter II
Assemblymember Rich DeLong
Assemblymember Reuben D'Silva
Assemblymember Rebecca Edgeworth
Assemblymember Tanya P. Flanagan
Assemblymember Danielle Gallant
Assemblymember Heather Goulding
Assemblymember Bert K. Gurr
Assemblymember Linda F. Hunt
Assemblymember Jovan A. Jackson
Assemblymember Venise Karris
Assemblymember Heidi Kasama

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblymember Steve Yeager, Assembly District No. 9

STAFF MEMBERS PRESENT:

Alex Drozdoff, Committee Policy Analyst
Sarah Delap, Committee Counsel
Judi Bishop, Committee Manager
Karri Hurwitz, Committee Secretary
Mary Whalen, Committee Assistant

OTHERS PRESENT:

Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada
Bryan Wachter, Senior Vice President, Retail Association of Nevada
Lea Cartwright, representing Nevada Psychiatric Association
James Dzurenda, Director, Department of Corrections
Jason Gibson, Private Citizen, Douglas County, Nevada

Chair Considine:
[Roll was taken. Committee rules and protocol were explained.] Today, we will hear one bill, Assembly Bill 208, which restricts the use of certain products by governmental entities and government-funded entities. Before we start the hearing, we do have a bill draft request (BDR) introduction. We will introduce BDR 36-393, which revises permissions relating to artificial intelligence.

BDR 36-393—Revises provisions relating to artificial intelligence. (Later introduced as Assembly Bill 325.)

I will entertain a motion to introduce BDR 36-393.

ASSEMBLYMEMBER NGUYEN MADE A MOTION FOR COMMITTEE INTRODUCTION OF BILL DRAFT REQUEST 36-393.

ASSEMBLYMEMBER FLANAGAN SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

We will now open the hearing on Assembly Bill 208. To present this measure we have Assemblymember Yeager and Athar Haseebullah. Please go ahead when you are ready.

Assembly Bill 208: Restricts the use of certain products by governmental entities and government-funded entities. (BDR 19-737)

Assemblymember Steve Yeager, Assembly District No. 9:
Good morning, Chair Considine, Vice Chair Nguyen, and members of the very hardworking Assembly Government Affairs Committee. I represent Assembly District 9, which is in southwest Las Vegas, and it is an honor to appear in front of you this morning to present my

first bill of the 83rd Legislative Session. With me at the table, many of you know, is Athar Haseebullah, Executive Director of the American Civil Liberties Union (ACLU) of Nevada. I am going to make some brief remarks about the intent of the bill and what it seeks to do at a very high level and then Mr. Haseebullah is going to be kind enough to go through the bill itself. I will note that there is a proposed conceptual amendment [Exhibit C] that I believe you should all have or at least was up on the Nevada Electronic Legislative Information System (NELIS). It vastly limits the applicability of the bill. As I said, Mr. Haseebullah is going to go through that in more detail, but we are essentially asking to limit this bill to the most vulnerable Nevadans who reside in state institutions, those who are not able to seek second opinions when it comes to medical treatment.

Assembly Bill 208 has the goal of protecting the continuity of care for vulnerable populations. Many Nevadans depend on lifesaving drugs for conditions like diabetes, epilepsy, multiple sclerosis, and mental health disorders. Assembly Bill 208 ensures that incarcerated individuals who rely on lifelong or necessary medications receive the correct, medically appropriate treatment rather than outdated or off-label substitutes chosen solely for cost cutting measures. This bill aims to prevent the misuse or mismanagement that could negatively impact patients, particularly those in mental health and correctional facilities.

There is a need to prevent off-patent use on those in state-run facilities and institutions which can be done through the protection of on-patent use. The idea here is, let us use the right medication for the right job. In addition, we have some uncertainty at the federal level, as all of you know from being in this building the last few weeks. Federal agencies have increasingly left enforcement and regulation ambiguities up to the states, making it imperative for Nevada to establish its own standard for consistency and safety.

Federal restrictions could cut access to these medications due to patent disputes, regulatory review, or changes in federal policies. With what I believe is partly chaos and partly uncertainty happening at the federal level, Nevadans need to provide stability and peace of mind for our constituents. With fluctuating Food and Drug Administration (FDA) guidelines and access restrictions to certain medications, it is crucial that Nevada have a clear framework to protect its residents to get medically appropriate care.

That is the framework of the bill, and Madam Chair, if you would allow, I would love to hand it over to Mr. Haseebullah to take you through some of the technical details. Then of course, we will be available to answer what I am sure will be several questions on this measure.

Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada:
I serve as the executive director for the ACLU of Nevada. I want to thank you all for hearing this bill, and thank you to Assemblymember Yeager for agreeing to offer this up. The iteration behind this, and conceptually I know there were some questions—I have heard a few lobbyists chatter about what is this bill meant for? What is it designed to do? I am going to attempt throughout my speaking portion to be as minimally hyperbolic as I can in the overall course of things.

When Assemblymember Yeager and his team reached out to us several months ago, they had asked us what are we hearing from community members? This was about six months ago or a year ago. One of the consistent issues we face at the ACLU of Nevada is, I get letters about three to four times a week from people who are institutionalized in Nevada facilities who complain about medical treatment and the care that they have received; but beyond that, about the items they should be receiving that have been discontinued, items that were supposed to be used in a specific fashion that are not being utilized in that fashion. I will mention a couple of those without going into too much specificity to protect attorney-client privilege as well. It is very tough to read those letters every week, multiple letters like that. Unfortunately, the reality is, this is not—and I will not ascribe blame when saying this to any government entity—the reality though, is that the system is broken and we are seeing people get sick and we are seeing people in a tough position find themselves in a worse position.

I will give examples. We have received complaints about heart medications that were supposed to be used for continuous terms, lifelong care was restricted thereafter and those individuals were not able to use those anymore. We have received the same with respect to antipsychotic medications that, in a very difficult setting like that, are very much necessary. We have seen the same with respect to devices. When I say devices and products in that regard, things as basic as hearing aids, where individuals have not been provided batteries for extended periods of time.

It should not require the ACLU of Nevada's intervention to jump in there, but we also know these cases are not lucrative cases for private practitioners to take on. We do this because we want to improve the quality of medical care and we recognize these departments are facing their own challenges. Each of these entities, whether it is a state-run prison or state-run mental health facility or institution, consistently does not have enough resources to be able to do what they need to do. We understand the challenge that goes in there, but for the individuals that we serve who are the most vulnerable community members, it creates a challenge. I wanted to lay out the framework for that as the initial iteration and the concerns we address.

There has been a new set of challenges that I think we are facing right now; what happens when this body is not in session? We are in August or September of this year and certain medication has no longer been restricted for prescription by the FDA, but Medicaid access or the ability to cover those meds has been cut off. We have all seen what has happened with respect to potential freezes and funding and the chaos it causes, to Assemblymember Yeager's point. Again, federal government, the President is entitled to do what he wants in that regard, but for the people that we serve, we do not want to see any of those items cut off. We do not want to have to beg for a special session for continued care for medication that was otherwise being utilized for long-term care but has since been restricted because coverage does not exist to pay for those items thereafter. We find ourselves in a unique conundrum without a full-time legislature to intervene on those types of issues.

Our goal is straightforward here at the ACLU. We hope to avoid having to litigate these issues long-term. This is not something that we are aiming to do, take on each of these cases because someone is facing these types of issues consistently. It becomes a systemic issue at that point, and the real recourse that is associated with it is heavily problematic. We are doing what we can at this point, and hopefully via this legislation, to mitigate against some of those concerns so that we can be proactive. We do not want to find ourselves in litigation with the State of Nevada on these types of issues because at the end of the day, large settlements paid out by the State of Nevada impact all of our ability to see a better functioning state as a whole and the rest of our social sector. I did want to thank Assemblymember Yeager for his willingness to do that and his proactivity and making sure that continued care, at least for a body that is only able to convene 120 days every other year, will remain stable.

I will walk you through the actual bill language and then the amendment [Exhibit C] and happy to take any questions on it. I also recognize that there are those who have made offers and suggestions. We are happy to work with everybody along the way. Make no mistake that the reason why this bill is here is to make sure that people are protected against misuse. I will not go through every section, I will give the overalls. The amendment, I think, should provide a lot of context there. I am going to cover the amendment first because I think the amendment probably mitigates a lot of the concerns that end up coming forth here. Initially, when the bill was drafted, it applied to all government entities, all government-supported entities or government-funded entities which, as we had defined previously, receive 50 percent or more of their operating budget from the government. Since, the bill has been restricted to our mental health facilities that are operated by the state, our correctional centers, as well as our mental health centers. Those statutory provisions are contained within the conceptual amendment there.

Theoretically, it could have a broader impact on all people. I think right now our biggest concern in the letters that we received, which is why we reached out to Assemblymember Yeager's office on this and had that conversation, was because of those who are confined. Again, proactively looking at this, the other reason why we limited it here was because the biggest challenge that we have with respect to the amendment—again, if there is a cut off we do not view a cut off as necessarily being an FDA approval, but an inaccessibility to be able to access those drugs in a facility where Medicaid is not covering them and a person does not have private access to health insurance that otherwise might cover very expensive medication there, so we have limited the entities that are covered by this. We have also limited the government-funded entities to say the contract that would need to be engaged in would be with respect to these types of entities—the same three I mentioned, mental health centers, mental health facilities, and state correctional facilities, or anything that falls within those specific chapters. It is very limited in that regard.

Finally, the Office of the Governor did reach out to Assemblymember Yeager with respect to Medicaid considerations. One of the considerations and concerns was a cut off of Medicaid funding if there was noncompliance. What we did was, we included language that said the state is able and should cooperate with the federal provisions—should not violate federal law. But if somebody who is institutionalized in that setting cannot get access to an item that was

required, that they needed before, they had a prescription for; or a device they need, they should be able to continue to use and that is no longer available within the facility because Medicaid is no longer covering it; that person should work with the department or the facility to be able to access medication through a licensed pharmacy, retailer, or anything else outside of the facility to make sure that is not cut off.

Part of what we run into, as you might imagine, is bureaucratic challenges when we have to go through items like this. I see a couple of nods. I am sure folks have heard over the years about the bureaucratic challenges that exist when we are dealing with layers of government. We are hopeful that at least helps mitigate against some of these efforts and that the continued care for some of these items is not cut off.

Those are the portions of the amendment [Exhibit C]. Then we go to the actual bill itself. The bill does a few things. It defines what a federally reviewed product is. Primarily the focus was on patents but it is also those that are seeking patents. The reason why we included this specific definition, folks might not know, patent terms expire relatively quickly. They are not for a permanency when we are discussing intellectual property that ends up existing there. We have defined "federally reviewed product"; we have provided for what the potential uses would be and where use would not be permitted, specifically, if it is inconsistent with the written directions, instructions, limitations, or intended usage for that product.

We have spoken to a few pharmaceutical companies over time as well. I am not the lobbyist for big pharma, so let me make that point clear before anybody on NELIS or elsewhere accuses me of such. Part of the concern they had was, the reason why we end up having those conversations, is because they end up implicated if there ends up being misuse in those specific settings. They are kind of the first line that ends up getting targeted when they created a product. They invented a product, they created it for a specific person.

While we certainly respect folks who may have other conceptions about how those items should be used, really what we are doing is we are shifting the burden and the onus of potential liability on to the company that created what could be a medicine that is very effective for use and is now being viewed as something that is negative because it was being used in a manner that was inconsistent with the original purpose of the product. It would also not preclude that in its entirety. It allows for whichever entity is utilizing that item in a nonconforming fashion to thereafter notify the company that they are doing so, and then that company can provide a response and say that is sufficient. It provides that outlet as well, but what it will not do is it will not cut off access for our most vulnerable populations in a time when no lawmaking is being done at that level. I am always happy to sue the State. I would prefer not to, primarily on this issue, because lawsuits do not actually save lives in this particular instance.

What will save lives is good policy making and forward-thinking when it comes to mitigating against some of these effects. Put into perspective, some of the federal policies and why we are specifically concerned about it, I know some folks have said, Well, there is not going to be medication cut off. There is an executive order specifically under the Make America

Healthy Again Commission; that particular provision specifically addresses studying the efficacy and impact of antipsychotic medications. I would offer that cutting someone's medication off who needs antipsychotic medications is actually far more dangerous from a public safety and public health perspective than maintaining someone on it. I do not know what is going to happen with the administration, none of us do. I think the best thing we might be able to do here is help mitigate against some of these considerations.

That is an overview, and I am happy to take any questions to the degree I can answer them. If we are unable to answer them, we are certainly happy to assess and then circle back with members. I did vet this, as well, through a couple of the physicians we work with to see if there were concerns that they had. I think there was some limited concern about their ability to treat patients. I know Assemblymember Yeager and I are chatting with other folks about that as well. Really, the goal is to minimize harm to people who are in these facilities over the course of the long-term. The last thing I think any of us want to see is a death in one of our facilities because care was cut off.

Chair Considine:
Thank you very much for that presentation. We will move to questions and our first question is from Assemblymember DeLong.

Assemblymember DeLong:
I appreciate the presentation and trying to convey whatever this bill is trying to cover. I am still not quite sure what you are trying to keep from happening, but you brought up something that actually, maybe for me, is a bigger issue. You are saying, you need a law here to stop an agency from taking away someone's drugs. To put it that simply, is there not an existing regulatory agency in the state that has regulatory authority that can act more quickly than the Legislature can in any given two-year period?

Athar Haseebullah:
There may be entities that could step in. We have not seen that to date, which is why we get bombarded with the letters when there is not care being provided. To go to the first point about the intent, the bill is to prevent against the misuse of federally reviewed products. That could be pharmaceutical products or other products; as I mentioned, hearing aids or other medical devices by government entities or government-funded entities. It allows for recourse if there is an intent to use it in a manner that the original designer did not intend or the manufacturer did not intend. Again, we have limited it for our most vulnerable Nevadans, but we do not want to see specific items cut off. I do not believe there is another entity that would intervene. If there was, I am happy to refer all my cases there, moving forward, when we receive a complaint. To date I have not received any of those from any other entity. Perhaps there is. I am not sure who that entity would be.

Assemblymember Karris:
Thank you for the presentation. I think this is a very hot topic with the way things are going. We just do not know what is going to happen. My question is, on your amendment [page 2, Exhibit C], number 3. I would just like a little more input on how to procure the medications

outside of the institution if Medicaid is pulled, in our worst-case scenario. I am not quite sure how that would work. Is someone from the institution going to go get it? Is someone's family member going to have to go get it? If you could just broaden that.

Athar Haseebullah:
The conceptual amendment that we are hoping the Legislative Counsel Bureau will be able to work through and define much more clearly, obviously, with the *Nevada Revised Statutes* (NRS) provisions that we currently have, would allow for that individual to work specifically with the facility where they are institutionalized and thereafter potentially seek that from an outside provider. I will give an example. There are nonprofit providers in Nevada that provide free medication that will not end up being covered by Nevada Medicaid for individuals who do not have Nevada Medicaid. I will leave it at that. I think we can certainly infer that our nonprofit sector covers a disproportionate amount of the work in Nevada that the government should be doing. Those individuals would be able to work with the facility to be able to procure those items, again, whether a medication or whether a device that they might end up needing from an outside provider and be able to use in that fashion. It creates the flexibility necessary to be able to do so in a time period when lawmaking again is not occurring. It provides for a safety benefit for any of these departments to be able to vet those items as they are coming in. It precludes the ability for the state to just disregard what care looks like in that regard should an order come through that prevents the ability to access such items.

Assemblymember Gurr:
How will they comply with the restrictions? How will they be monitored and who is going to enforce them?

Athar Haseebullah:
I think that is often a question we have when we are engaging in rulemaking with respect to our institutional facilities. The reality is that there is not always a consistent practice of oversight. Much of this happens in areas where there is the inability to see these actions. From our perspective as an organization that I consider a watchdog organization over government entities, that has continuously engaged in litigation with many of these municipalities as well as many of our state entities including our Department of Corrections, we will often receive complaints directly. I know some members of this body have also, over the course of their careers, received such complaints. Oftentimes these complaints make their way over to private practitioners as well. Now, I will tell you private practitioners that are lawyers generally are hesitant to take these types of cases on, primarily because there is not a lucrative personal injury aspect sometimes that are associated there. We end up taking these cases on because it is the right thing to do and we need to establish better policy.

With respect to what ends up happening there in terms of oversight, it would be much the same way many of these existing items are, which is, if someone is aware that they have been prescribed something wrong and let us say, it ends up going wrong, we tend to receive complaints there. We will certainly follow up, should that happen. We are hoping that does not happen. The majority of times one of the statutes that does exist with Nevada requires

notification of a lawsuit before it is filed; for instance, against a municipal entity, at the state level, we tend to give a heads-up when that type of action happens as well, on all types of different issues when we are dealing with people in institutionalized settings.

I think the reality of what we experience here on the ground is that we will end up receiving that complaint thereafter that someone who was in a position where they should not have been prescribed something was or their drugs were cut off. That is the most common one I foresee coming. We will end up receiving a bevy of complaints, potentially from some of you who have constituents in your districts who have family members who are in one of these settings, who will advise us that this person's medication is no longer accessible, what can you do? From there it is our responsibility, from my vantage point, to take some of those on. Again, we work with limited resources as well. It is a longer-term issue. I think from an immediacy standpoint, we want to make sure that in this in-between period, it is not just lawsuit after lawsuit against the State.

Assemblymember Gurr:
At this point we do not have an agency. Do we have to stand up an agency to handle complaints or is it just simply you get sent to the ACLU? The ACLU tries to follow it up and go sue the people who are doing it wrong, but no state agency is involved?

Athar Haseebullah:
You do not have to refer me any more cases. We have our hands full with it, but I will say we will take those on. If there was an agency to do it and there are certainly people who are better equipped to, share that. I know there is the ability to engage in oversight to some degree on some of these items, but the state does not have an Inspector General. There are a lot of layers within the state right now that do not exist. Quite honestly, I am not up on all the funding mechanisms that exist within the state. Certainly, many of you are better equipped to say that. I do not know that we have the ability to pay for some of these other entities that theoretically could. Certainly, from our vantage point as an organization, that I reference as a watchdog, oversight is a critical component of that. That is why we get involved and we receive probably the highest concentration of complaints in the state with respect to institutional settings and the conditions that occur there.

Assemblymember Kasama:
First, I would like to state I think we all believe that preventative care makes everything less expensive for us down the road. That is certainly very important. My question is, as I read through the bill, where we have sections here like under section 1, contrary to terms of use, inconsistent with written directions, the examples you are giving are more where it has not been provided. This section seems to be talking about inconsistent use, but your examples are it is not getting done or it is not being—so where in the bill does it talk about it not being inconsistent, but it is just not being provided?

Athar Haseebullah:
The actual use in the description for many of these items is for long-term use. That was the original design. When we mentioned heart medication, that is one of the complaints we did

receive. Specifically, those were to be utilized for the remainder of one's life—cut off. When we talk about hearing aids, in that specific instance on the product end, the ability to have a battery in it—cut off. The other item that I would associate with that, too, is if there were a scenario where someone was prescribed—if I am understanding your question correctly—somebody was prescribed something as potentially a one-off and it should not be prescribed as a one-off, I think that would fall under these sections as well. I do not know if that answers your question.

Assemblymember Kasama:
What I am hearing you saying is that the inconsistent use by definition would include not being provided.

Athar Haseebullah:
In A.B. 208, section 1, subsection 1, paragraph (b), where it is described—and this will carry over obviously to section 2, as well—I believe they are mirroring sections throughout in different areas. If we look at paragraph (b), and it says inconsistent with any intended usages would come after the "or." The intended usage for those—and physicians know this better than I would, what is to be utilized for long-term care and what is not. I do not purport to be a physician, but those who we have ended up utilizing as experts in these cases over the course of the long-term have stated what is to be utilized for long-term care primarily when we are dealing with chronic issues that are permanent. Another example is preventative cancer treatments that end up coming up. We have received complaints—and I know this body has worked on these issues a lot over the years and attempted to get our law up to speed, but that is another example.

A few years ago, I believe it was Assembly Bill 282 [*sic*] if I am not mistaken, or Assembly Bill 286 [*sic*], one of those from last session, which spoke to incarcerated women's rights and provided for elements there, actually spoke to some of these items as well. Part of the reason the bill was brought was because there were gynecological exams that were occurring and pelvic exams where there were irregularities. Then there was no follow-up treatment provided. We have also heard from individuals who were diagnosed with cancer who did not have consistent access to their pharmaceuticals long-term—depending on length of the sentence.

We did not ask for many of the individuals who are directly impacted in these settings to come forward with letters of support. I am going to explain why. We were told when we have worked on these issues, there is a culture of retaliation, and people are afraid to come forward with many of these letters in these settings. We are here on those people's behalf to be able to share that information. I am sure they would have loved to if they felt like they were not going to be retaliated against, but if you feel like you are going to end up facing a lockdown setting—and again, I am not saying that—that may be just an allegation that is shared. But the allegation is sufficiently frightening enough for many people to not come forward and tell those stories. That is why they write us confidentially because privilege applies.

Assemblymember Flanagan:
Actually, Mr. Haseebullah, you touched on the point I was curious about and it is the real retaliation space. This feels like a first step that is needed and necessary. Do you plan to do more work, I guess, to create a pathway so they can—because it is one thing to say you cannot misuse the product and you need to provide someone with the medication or the health care devices they need, but in the hostility that can exist in these facilities, how do we actually take more steps or use this as a tool that allows for the communication to happen to say, I do need the help, without being afraid? It is one thing to put it in place, but how do we see the people actually using the benefit?

Athar Haseebullah:
There is a lot of work that needs to be done primarily with respect to issues including retaliation. I will not purport to say today there is a magical solution in place. I would submit there are many issues involving our institutionalized settings right now. We have seen that manifest, and many of us have personal stories of friends and family members who have been treated poorly or in many instances, treated in violation of the Eighth Amendment. There have been claims that have been brought all across the country with respect to that. There is much reform work that needs to be done there. I do not know that we are going to have a solution for that today. Obviously, I think that is a more holistic conversation and a long-term conversation about how we address it, but we receive, as I mentioned, a bevy of complaints.

One of the beauties of being a civil rights lawyer is you have the opportunity to investigate these instances and provide quality feedback when these items pop up. You are able to do things like subpoena entities and get medical records and get to the bottom and get to the core of what is happening. Not everybody in every setting is able to do that. Hopefully, we will be able to work towards those solutions long-term while providing, at least, this modicum of a step towards protecting people in the interim.

Assemblymember Flanagan:
This is essentially a first step toward accountability within the facilities, and then it gives, allows, some recourse and some support to those who are there?

Athar Haseebullah:
I think there has been—this might be the fifth step on a 100-step path forward. There have been many steps and I know this body has spent extensive time making sure accountability is a top feature. I still exist and my organization exists because it has not hit scale. I would like to not have a job in that way one day, where the ACLU was not necessary when it came to these types of issues, but I am not sure that is going to happen right now. I think we are somewhere along the path, but the path does not seem to have an end towards it.

Assemblymember Gallant:
I got off track. I was thinking about a world without the ACLU. What that would look like. I am curious because, on one hand I feel like you are trying to ensure there is continued care and access to medicine, and on the other hand there seems to be this other portion of this bill

that talks about maybe an increased liability for using medications off-label, which seems to be a very standard practice in the medical field. I am not a doctor, but I have spent years working on them as a therapist. How is this going to increase access when you are limiting and increasing the liability to off use label that is pretty common in the medical industry?

Athar Haseebullah:
I know you would be gravely disappointed in a world without the ACLU, but with respect to your question and accessibility—I think what we are trying to do right now is solve for some of these issues that we are expecting to come in the interim. I mentioned specifically items that have been utilized in a manner that was not consistent and they were cut off, but we can also speak a little bit—and I do not want to delve into too many details—individuals who are in an extremely hot setting being prescribed specific medications when they are not supposed to. I could go down the bevy in the laundry list of the issues and complaints we have received. My goal today, though, is not to share all of that information for two reasons—one, confidentiality rules that I am required to maintain, but also the goal is not to view this as a negative on the state. We know the state has a lot of issues.

I view this as a protection of liability against liability for the state, primarily because if something ends up happening, again, the state is going to be on the hook, and that is part of the reason why we mention accountability. Anytime we sue the government, it is not as if the government is being funded by some other entity outside of taxpayers or outside of the specific sectors that are taxed. We are taking money out of our own pocket. It is not a preference to do. We do not have a choice but to do it. That is the remedy that is afforded along with injunctive relief that requires something.

In these types of settings, injunctive relief does not normally come that quickly. Courts do not move, even in emergency settings, as fast as we would like. Our hope is that we actually limit liability for the state by doing this, by ensuring that use is conforming in that regard and providing an outlet for that to occur. There is obviously the ability to notify the product's patent holder, manufacturer, distributor and say, Hey, we are going to be utilizing it in this fashion and seeking approval in that fashion in these limited settings.

The other thing I will mention as well, we have heard—I know Assemblymember Yeager has heard—there is misuse of many products. Our concern primarily, though, is with our most vulnerable community members right now who are in the care and custody of the state, where liability is automatically going to end up imputing to the state. Period.

Assemblymember Edgeworth:
Thank you, Assemblymember Yeager, for bringing this up. Getting appropriate medical care is important for everybody incarcerated or unincarcerated. As somebody who has treated people without access to medical care and people with Medicaid who are unincarcerated—those are the people I have treated—it is common that there will be inconsistent use of medications. It is not uncommon that off-label use medications are used, or devices may not be readily available to people with Medicaid who are unincarcerated. Things like that happen

a lot. Is it right? I do not know, but can I just ask if, at its heart, this bill is asking for people to be getting the same care as unincarcerated Medicaid recipients? We are not talking about getting more care or different care. Is that correct?

Athar Haseebullah:
Yes, that is correct. This would not be additional care, but as I mentioned, the reality with respect to potential Medicaid cuts—and you know this likely better than I do—on the pharmaceutical end, we recognize certain items will not end up being covered through Medicaid. That becomes an issue if the FDA approval still exists. You will have the ability to still have those drugs available, those medications available, but the government is not going to pay for them. When you deal with a population concentration that only and exclusively, to my knowledge—maybe there are exceptions out there—utilizes Medicaid, but those items are not covered. We want those individuals in the meantime to be able to have access to those items.

It would not be more coverage. It would be the ability to have equal coverage and medical care as if they were not in that setting. To us that is a basic fundamental philosophy. We should not have anybody harmed who is within the custody of the state, again, not only because it is the right thing to do and is what Nevadans and all Americans should want, but because the liability aspect that would fall and encumber the state at that point would be significant.

Assemblymember Jackson:
I am not a doctor or a lawyer. I know this was probably mentioned earlier, but if possible, in the most basic terms, how does this bill make sure that government uses these products safely and correctly?

Athar Haseebullah:
The bill—if I was to paraphrase this and simplify this if I was doing a 20-second Instagram Reel or something on some other social media platform—I would say this requires government entities that have prisons, that have mental health facilities at the state level, to make sure the drugs or the items they are using are consistent with the designer's purpose for it. They are not off-labeling everything and running amok. Then on the back end of it, making sure the devices are being utilized and being provided in a manner that is consistent as well.

When I mentioned the hearing aid batteries, that is when that really came up. Somebody asked for their hearing aid batteries for, they stated, over a year before they were provided. This person could not hear for a year. These are not normal types of issues that we often end up seeing. For our most vulnerable folks who do not have access and a lifeline to immediately make 100 phone calls and have money to get an attorney on the line right away, these are the types of issues they face. It is certainly not easy for them, but from a medical care perspective we think the least we could do is help mitigate against those concerns in the meantime.

Assemblymember Goulding:
I appreciate the layman's explanation. That would have been helpful in the beginning actually, because I have been struggling with—are we talking about concerns about the cost or are we talking about misuse? I want to start with who pays for medical care for incarcerated people? Is that always Medicaid?

Athar Haseebullah:
Almost always Medicaid and the state. There have been other bill presentations with respect to debt that has also been incurred on the back end. Those are separate bills, but yes, it is almost always the state. It is going to end up being the public because, generally speaking, private health insurance is not going to end up being available or affordable and we do not have statewide universal health insurance coverage, which I know Assemblymember Gallant will probably be bringing a bill to support in the near future. That is a joke.

Assemblymember Goulding:
Is the concern about coverage, the cost, or is the concern about abuse?

Athar Haseebullah:
There are two simultaneous concerns. The first is about abuse. That is an issue that has existed for a period of time, as I mentioned—items not being given that are properly given; items not being dispensed in the way that they were intended to be dispensed, including for long-term care. First issue, for abuse; second issue, for coverage. When I am saying coverage in this instance, the federal government comes with specific cuts to Medicaid and says something is no longer covered through Medicaid, that will no longer be available within many of these facilities. The individuals at that time who are seeking these items are not going to have the ability to readily do so.

I am sure at some point the Department of Corrections is going to end up saying, Well, we are working on it, we are trying to get this together, but they are going to unfairly be blamed at that point for provisions that do not currently exist in law that tell them, Hey, this is fine. They will be able to access these items outside of this specific facility through a nonprofit provider that will be able to cover these items that will now still be available, get an FDA approval probably, from our vantage point. They may or may not be rescinded, but we do not think that is going to happen in the same way, in terms of likelihood, as a cut towards Medicaid and the inability to have that.

Previously, Assemblymember Edgeworth had asked a question about equal care. That is what we are trying to do, provide the ability for those individuals who are in these facilities to have parity with respect to what they can receive and not be in a position where they do not have them. It is both. It is not either, because both of these items, with respect to accessibility of a medication which comes via coverage through insurance; and secondarily, to mitigate against abusive practices or abuse that occurs with respect to both pharmaceuticals and devices would also be covered within this specific bill. At least from our vantage point, the foresight

associated with it will help to mitigate against it. We do not know what will happen, but we think at least from the vantage point we are operating with, and the concerns and complaints we have received over the course of time, this could allow for that and then mitigate against the state's liability when that does not happen.

Make no mistake that is what is likely to happen. If something ends up cut off that was for consistent use, there is going to be an immediate rush to deal with the state in that regard. The response that the federal government cut off Medicaid access and there was still the ability to be able to procure these items, oftentimes from my vantage point as a litigator, those are harder arguments for the state to make in court. I am not going to make the state's argument for it in the event we have to litigate, but I certainly think that is one way to help prevent against that.

Assemblymember DeLong:
Have you tried to work with the chief law enforcement officer in the State of Nevada, the Attorney General (AG), on these issues, on trying to get things addressed?

Athar Haseebullah:
We have worked extensively with the Attorney General over the course of his tenure as AG, and certainly during the last four years when I have been leading the ACLU on a bevy of issues. But Attorney General's Office's responsibility is to protect the state. That is the responsibility. Our responsibility is to make sure civil rights issues are addressed and sometimes that puts us at odds on some of these items. I do know they try, and the Department of Corrections and the Director have tried to accommodate on many, many issues. We also know, and we have seen this play out many times in these types of hearings, that there have been significant issues that continuously get raised with respect to these facilities. Yes, the Attorney General has been involved on many of these items, but oftentimes what will end up happening first is a lawsuit will prompt that overlap.

Assemblymember Edgeworth:
I think we can all agree that in the state of Nevada there is a real paucity of practitioners in the state. We are at the lowest numbers per capita. I am sure that is reflected in the incarcerated system, that there are not very many practitioners who are willing to work in that environment. Are you concerned this bill might add to a perception that there would be increased liability, thus, less practitioners would be willing to work in this kind of environment?

Athar Haseebullah:
I would actually offer it is the exact opposite. The ability to mitigate against off-label use and consistency with respect to prescribing at that point, as well as requiring the department to work with the individual who does not have access precludes, potentially in many of these instances, the physician from being blamed. That is not what we want to see. This provision, primarily with respect to the amendment [Exhibit C] if the items are cut off during the

pendency of the next 18 months, may allow that practitioner to thereafter say, There is a policy in place where this can be accessed. This is the item that is there. That is why the amendment ends up existing in that fashion. I think it actually precludes against liability or helps mitigate against some of that in that aspect. That is why we are advocates for it as well.

We do need more physicians in the state, and again, we encourage all legislation that supports that as well, because that population is very underserved when it comes to proper health care and treatments being received.

Chair Considine:
Throughout this you have answered all of my questions, but we do have one last one.

Assemblymember Flanagan:
Thank you, Assemblymember Yeager, for bringing this bill forward and to Athar Haseebullah, ACLU, for being here to help us understand it better. The charge is to fight for those who are underrepresented. Thank you for doing that. Is there any consideration in this bill space—my concern is that there is no one, no entity, to monitor whether or not this is taking place or to help this work better. It is great to put the protections in place; to say you need to help these people, provide their medications, provide their devices. We talked about retaliation. Is there any consideration of adding that additional layer or, going forward, having that layer where there is an entry point for the incarcerated person to say, I am not getting this, or to monitor how it is working?

Athar Haseebullah:
With respect to that question, we would love to see something like that. There is also the practical reality that we have seen the budget. Our ability to add items that would introduce new offices or new variables there probably would not be well received. I would love to see something like that happen holistically. I am not sure that is in the cards for this particular legislative session, based on where the projections lie. Obviously, I know many of you are grappling right now with other considerations in terms of what to fund and what not to fund. There is going to be a gap in terms of Medicaid coverage, potentially, with respect to what comes next, and we have been tracking those as well. As it stands right now, we would love to see that happen. I think a long-term project to add accountability to the state and additional oversight in that regard, but where we stand right now, we think this is at least a positive step, again, from a mitigation standpoint.

Assemblymember Flanagan:
I just want to say thank you for the effort, and I just want to put that on the record.

Assemblymember Yeager:
If I could just add, Madam Chair, first of all, thank you to Mr. Haseebullah. Always bring somebody smarter than you to the bill presentation. I think I have done that today. I think part of what we do here is we pass these laws, and this is the first step. What typically is going to happen is, if this gets enacted, the institutions that it will apply to, their legal counsel is going to look at it. Usually, we would expect to see some regulations come out of how this

is going to work. Those are generally proposed by the agency. Those do come in front of the Legislative Commission, which meets in the interim to approve those. I would think that would be a good first step because if this passes, whoever it applies to is going to have to decide how are we going to actually implement this and what procedures are we going to put in place. There is that rulemaking process that would happen between legislative sessions.

Obviously, nothing we do here is ever perfect. That is why we have so many cleanup bills that we do year to year. If this were to be enacted, I think that is something we could potentially look at to see how it works in the interim. If there needs to be additional structures or guidance, or programs, or accountability, that is something we could build on the next session. I think it is a good first step to getting the requirement out there and seeing if it can be complied with. Hopefully we do not have to step in, but if we do, I think that is what we do in the 2027 Legislative Session.

Chair Considine:
Thank you, and thank you for your presentation. If any Committee members have additional questions, please reach out to the sponsors directly. We will now move on to testimony. We will begin with testimony in support of A.B. 208 here in Carson City. Please come up to the table and begin when you are ready.

Bryan Wachter, Senior Vice President, Retail Association of Nevada:
We are in strong support of A.B. 208. We view this as a way to protect our members and the hard innovators that are manufacturing, designing, and creating our products that you enjoy. We want to make sure those are being utilized in a way that was intended. You heard from the bill's sponsors and the presentation that oftentimes there is a lot of pushback on those inventors and those companies when those products are utilized incorrectly.

I do want to address the off-label medication issue with the amendment [Exhibit C]. Speaking on behalf of our pharmacies, it is a standard operating procedure for those medications to be used. It is such a regular thing to be used that we would not actually find there would be a lot of instances where that manufacturer would say, No, please do not go ahead and use that product in that way. It is only in those instances where that manufacturer is putting a red flag saying this is probably not something we want our brand associated with that we should probably be paying careful attention to. With that we are happy to support the bill and we look forward to its passage.

Chair Considine:
Is there any other testimony in support here in Carson City? If not, we will move to Las Vegas. Is there anyone wishing to provide testimony in support for A.B. 208? Seeing no one approach, we will move on to testimony in opposition. Is there anyone in Carson City wishing to testify in opposition to A.B. 208? Please go ahead when you are ready.

Lea Cartwright, representing Nevada Psychiatric Association:
You should see their letter posted as an exhibit online [Exhibit D]. I will not go into too much detail. There have been some conversations already about the off-label prescribing.

During this Committee hearing, I have heard a lot about these are the most vulnerable, they are the incarcerated, they are the folks who—they are in state custody. If you review the amendment [page 1, Exhibit C] where it refers to "mental health center pursuant to NRS 433.144, a facility providing mental health services pursuant to NRS 433.233," that includes Northern Nevada Adult Mental Health Services (NNAMHS), Southern Nevada Adult Mental Health Services (SNAMHS), the rural clinics, and Lakes Crossing Center. Lakes Crossing is a locked facility. You are incarcerated there. Both NNAMHS and SNAMHS do have inpatient facilities, but they are also outpatient; they provide outpatient care. Rural clinics are almost exclusively outpatient care and rural clinics also oversee our mobile health crisis response teams.

As currently drafted in the amendment, we still have concerns that this would be overly broad and cover those moments where psychiatrists are trying to intervene in maybe a less restrictive manner. One example that I have been given is the use of propranolol, which is a blood pressure medication, but it is used off-label for the treatment of anxiety. There are several others. I am not a doctor. I can find several psychiatrists who would love to come and chat with you about this, and we are working with the sponsor and the ACLU to find a common ground here. I just wanted to make sure that all of the progress that we have made as a state in increasing access to medications is not hindered in this moment.

Chair Considine:
Is there any other opposition here in Carson City? [There was no one.] Moving to Las Vegas, is there anyone wishing to testify in opposition to A.B. 208? [There was no one.] Is there anyone on the line? We will now move to testimony in neutral. Is there anyone in Carson City who would like to testify in neutral on A.B. 208? [There was no one.] We will move to Las Vegas. Please begin when you are ready.

James Dzurenda, Director, Department of Corrections:
First one, here in this testimony, I just have to clarify that Medicaid does not pick up our medications, and the Department of Corrections—it is actually against the law for Medicaid to cover those expenses unless it is within the last 90 days of release. Also, I just wanted to bring up what is a formulary. A formulary is approved medications that are out there for specific diagnoses that are common. If there is an uncommon diagnosis, that goes through a panel of doctors. Some are in the Department of Corrections, some are not related to the Department of Corrections to make it impartial, to determine the regimen for medication. If it is not in the formulary, they will determine whether or not there are other medications that exist that can actually be used for treatment of that medication. However, the doctors have to go by the formularies that are used for certain specific diagnoses. Those formularies are in place. If it is a question about the formulary, whether the medications are wrong for those diagnoses, is that really the issue? The medications on that formulary are already approved and have been approved for many years for those specific diagnoses unless new medications come aboard. That is all I have.

Chair Considine:
Do we have anyone on the line for neutral testimony on A.B. 208? [There was no one]. Would the presenters like to make any final remarks?

Assemblymember Yeager:
Thank you so much, Madam Chair, members of the Committee. Hearings like this make me extraordinarily proud. Very good questions, and I think the goal here is obviously to try to get a bill that accomplishes what we are trying to do. I want to thank Mr. Haseebullah, who you noted did most of the heavy lifting in this hearing in answering your questions. We do believe some of the concerns that were raised can be addressed. There can be some further narrowing of that amendment to really get at what we are trying to get at. Ultimately, I think one of the things that we talked about a little bit here but did not come out quite as much is trying to limit the state from liability, trying to limit the state from being sued for doing things they should not do or for cutting off medication. I think that is a value. When we look at the budget, we do not have extra money for that sort of stuff. I want to thank the Committee for the consideration.

I think A.B. 208 is a necessary step towards ensuring responsible management of federally reviewed products and facilities that serve the most vulnerable Nevadans. I think it provides clarity, transparency, accountability while safeguarding both patients and institutions. I am certainly willing to work with any member of this Committee who continues to have concerns. I took very detailed notes of your questions and your concerns. Mr. Haseebullah and I would be happy to try to address those in any way we can, and we just simply ask for your support on A.B. 208 moving forward.

Athar Haseebullah:
Thank you again for indulging me too. If anybody has additional questions, whether they are a legislator or a lobbyist or someone who is just interested in the issue, you are welcome to reach out to me. I am happy to answer questions to the best of our ability. I did want to thank Assemblymember Yeager for bringing this on behalf of the people who would not be able to speak up for themselves.

Chair Considine:
Thank you very much. I will close the hearing on A.B. 208. The last item on our agenda is public comment. Is there any public comment here in Carson City? [There was none.] Is there anyone in Las Vegas? [There was no one.] Is there anyone on the phone line for public comment?

Jason Gibson, Private Citizen, Douglas County, Nevada:
Good morning, Chair, Assemblymembers. Jason Gibson with the House of Gibson. Post political prisoner, ran for District 1 County Commissioner here in Douglas County. Was unjustly incarcerated in order to take me off the ballot. They misidentified and mischaracterized me as being mentally incompetent. I was arrested at Tahoe Justice Court on August 5. I served 42 days in their inpatient treatment program and was released on September 17 under the auspice of an inpatient treatment program. What it essentially is, is a

high security 23/7 lockdown where you are stripped of your inmate rights and your constitutional rights and your right to exercise and be of health. In order to be released, I was subject to medication. They call it medication. What they did is they inflamed my—they disrupted my disequilibrium of my body. My skin was on fire. I could not sleep. I had head congestion and I still have insomnia.

It was unbelievable that you folks are funding these kinds of programs under the auspices of a treatment program. They call this mental health treatment. It is nothing more than domestic terrorism and I have seen what they are doing in this pharmacology business and how they destroyed my parents with the same. I am here to tell you that what is going on in this state is absolutely criminal and they are going to try to do it to me again next Tuesday. I was falsely accused at a board meeting for alleged harassment for speaking like I am speaking to you now. I have not harmed anybody. I have not hurt anybody. I have never struck a woman in all my life or anybody that did not deserve it if I was not defending myself, not a criminal. I am 55 years old. I grew up in this county—

Chair Considine:
Your two minutes for public comment is up. Would you please wrap up?

Jason Gibson:
Thank you very much. I appreciate it and I appreciate this back office. It is a really efficient and clean way of dialing in and thank you for giving us a voice.

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Chair Considine:
The next meeting of the Government Affairs Committee will be on Monday, March 3, 2025, at 8 a.m. in Room 4100. That concludes our meeting today. The meeting is adjourned [at 10:07 a.m.].

RESPECTFULLY SUBMITTED:

_____
Karri Hurwitz
Committee Secretary

APPROVED BY:

_____
Assemblymember Venicia Considine, Chair

DATE: _____

EXHIBITS

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 208	C	Assemblymember Steve Yeager, Assembly District No. 9	Proposed conceptual amendment titled "Proposed Conceptual Amendment to Assembly Bill 208"
A.B. 208	D	Lesley Dickson, MD, State Legislative Representative, Nevada Psychiatric Association	Letter in opposition