



NEVADA LEGISLATURE
LEGISLATIVE COMMITTEE ON HEALTH CARE
(Nevada Revised Statutes [NRS] 439B.200)

SUMMARY MINUTES AND ACTION REPORT

The eighth meeting and work session of the Legislative Committee on Health Care was held on Wednesday, August 29, 2012, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/76th2011/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835).

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Assemblywoman April Mastroluca, Chair
Senator Valerie Wiener, Vice Chair
Senator Shirley A. Breeden
Senator Joseph P. Hardy, M.D.
Assemblywoman Maggie Carlton
Assemblyman Crescent Hardy

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marsheilah D. Lyons, Principal Research Analyst, Research Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division
Asher Killian, Senior Deputy Legislative Counsel, Legal Division
Anne Vorderbruggen, Senior Research Secretary, Research Division

OPENING REMARKS

- Assemblywoman April Mastroluca, Chair, welcomed members, presenters, and the public to the eighth meeting and work session of the Legislative Committee on Health Care. Chair Mastroluca thanked the Committee for their incredible work on the issues during the 2011–2012 Interim.

PUBLIC COMMENT

- Sheila Story, M.S.N., M.N.H., R.N., Nevada State Association of School Nurses (NSASN), stated the NSASN supports the concept of allowing, but not requiring, school districts to stock non-patient-specific EpiPen® medication for administration by unlicensed staff to students who may be experiencing symptoms of anaphylaxis. She said there is concern about the meaning of “qualified person” and asked that there be clarification regarding who may conduct an assessment, and who may administer epinephrine. She noted that, according to the Nurse Practice Act, in the State of Nevada unlicensed individuals may administer epinephrine if they have been trained by a licensed nurse, but they are not allowed to conduct an assessment. (Ms. Story’s testimony is included as [Exhibit B.](#))

APPROVAL OF MINUTES OF THE MEETING HELD ON TUESDAY, JUNE 12, 2012, IN LAS VEGAS, NEVADA.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN HARDY MOVED TO APPROVE THE “SUMMARY MINUTES AND ACTION REPORT” OF THE JUNE 12, 2012, MEETING HELD IN LAS VEGAS, NEVADA. THE MOTION WAS SECONDED BY SENATOR WIENER AND PASSED UNANIMOUSLY.

PRESENTATION CONCERNING PATIENT-CENTERED MEDICAL HOMES

- David A. Johnson, M.D., Policy Director, Nevada Academy of Family Physicians, addressed the Committee regarding the need for a proactive health care system in Nevada that is designed around the patient and is meant to prevent disease and keep people healthy. He stated that the patient-centered medical home (PCMH) is an innovative way to deliver health care that makes the patient the focus and priority of the health care delivery system. Dr. Johnson noted there are working models of PCMHs in 47 states and the first champions of change in those states were leaders in business who were looking for a better way to use their health care dollars to keep their work force healthy. He said a better health care product was found in the PCMH, which resulted in healthier workers and lower costs. (Please see [Exhibit C.](#))
- Nick Honochick, Medical Account Executive, Merck, related that, as both a health care company and a major employer, Merck supports the concept of the PCMH as one way in which health care providers can improve health care quality and patient outcomes. He stated that Merck is an executive committee member of the Patient-Centered Primary

Care Collaborative (PCPCC) whose mission is to advance an effective and efficient health system built on a strong foundation of primary care and the PCMH. More information on the PCPCC can be found on their website at pcpcc.net. (Mr. Honochick's testimony is included as [Exhibit D](#).)

- John Socha, Executive Director of Health Care Operations, MGM Resorts, described the Direct Care Health Plan sponsored by MGM Resorts for its employees in 2012, after extensive research, input, and review of best practices for health care delivery. He stated that after eight months of experience, in which more than 2,500 employees had enrolled in the Direct Care Health Plan, the early results are very encouraging. In conclusion, Mr. Socha stated that private employers are uniquely positioned to benefit from the medical home model and will play a pivotal role in advocating for it. He encouraged the Committee to review and evaluate the PCMH model. (Please see [Exhibit E](#).)
- Chair Mastroluca disclosed that Leslie C. Jacobs, M.D., has previously been her personal physician.
- Leslie C. Jacobs, M.D., Jacobs and Modaber Primary Care, stated that she is a board certified internist in a family practice that has a Level 2 National Committee for Quality Assurance (NCQA) accredited PCMH. Dr. Jacobs described her practice's team-based concept, which allows the primary care physician to be able to focus on the patient and tailor the care to the patient's particular needs. She stated that the leading cause of death in the United States is coronary artery disease and four of the six cardiac risk factors are related to obesity. Dr. Jacobs pointed out that middle-level providers are needed in the practice to spend the time educating, instructing, coaching, encouraging, and giving the patients the proper tools and resources necessary for success. She further noted that incorporating the electronic medical records system allows the physician to track and manage chronic diseases and it is an important part of the PCMH.

Dr. Jacobs stated it is an honor and a privilege to have been asked by MGM Resorts to be one of the 18 doctors on their Direct Care Health Plan and have the opportunity to work with a company that has the foresight, vision, wherewithal, and desire to make a change to help the physicians properly care for their patients.

- Jerry Reeves, M.D., Vice President of Medical Affairs, *HealthInsight* of Nevada, and Principal and Medical Director, wellPORTAL, LLC, thanked the Committee for the opportunity to address solutions that work to improve the cost and quality of health care in Nevada. He stated that providing primary care in a health home with incentives aligned to drive health care providers and patients to engage in better management of health conditions improves cost, health, and satisfaction.

Dr. Reeves noted that citizens of the United States pay increasingly more for health care, with poorer results than other countries. He stated that hospitals are much more costly to maintain than physician offices, and provided a comparison of payments for office visits and to hospitals in 2010 by a commercial insurer in Nevada for health services provided to employees.

Continuing, Dr. Reeves described his company's experience in southern Nevada with a health home benefit plan, which combined strong continuity of care incentives with nurse coaching support. He compared the impacts of the plan on total medical costs, health, and satisfaction to a standard preferred provider organization plan. He noted the net savings to the employer, after counting all program costs and provider bonuses, exceeded \$56 per member per month. The members enrolled in the program experienced approximately 30 percent lower out-of-pocket costs compared to the standard preferred provider organization plan.

In conclusion, Dr. Reeves recommended that the State of Nevada adapt proven health home models to the needs of the populations it serves, such as Medicaid beneficiaries and its employees. (Please see [Exhibit F](#).)

- Senator Hardy disclosed that he is a primary care physician employed by HealthCare Partners of Nevada and a board member of *HealthInsight*.
- Katherine Holland, Vice President, IBM, and General Manager, Global Life Sciences, described IBM's experience with a PCMH, and provided statistics on the results of the program. (Please see [Exhibit G](#).)

Ms. Holland stated that IBM's experience with a PCMH is compelling and if it were applied to Nevada, the quality of care would improve, costs would be lowered, and it would be a very attractive proposition to large employers who either are currently in the State or can be attracted to the State.

- Daniel R. Spogen, M.D., Director, American Academy of Family Physicians, and Chair, Department of Family and Community Medicine, University of Nevada School of Medicine, reported that his job is to train medical students and family medicine residents in the field of family medicine. He is now required by the oversight governing body of graduate medical education to teach a system of health care delivery called the patient-centered medical home (PCMH). However, the State of Nevada does not recognize a PCMH any differently than standard care so the students and residents have nowhere to go to practice this kind of health care delivery. He asked that the State of Nevada recognize what a PCMH is and realize that it will make for a healthier Nevada. Dr. Spogen noted that every state, with the exception of Nevada, has adopted the PCMH as the model to deliver better health care. (Dr. Spogen's testimony is included as [Exhibit H](#).)

Dr. Spogen referred to an informational document provided by the Nevada Academy of Family Physicians titled "Patient-Centered Medical Home (PCMH)." (Please see [Exhibit I](#).) He asked that the Committee: (1) adopt a functional definition of the PCMH; (2) authorize a State agency to lead a multi-stakeholder collaborative to guide Nevada's transformation to a PCMH; and (3) allow public and private payers to adopt a payment system that is more aligned with higher quality medical care that demonstrates improved patient health care outcomes.

- Michael Ulrich, Reno, stated that he is a second year medical student at the University of Nevada School of Medicine, and is speaking as an advocate for his future patients. He said that Nevada has an opportunity through PCMHs to provide the best quality of care to patients as well as help alleviate the shortage of primary care physicians and physician retention in Nevada.

Lawrence P. Matheis, Executive Director, Nevada State Medical Association, responded to Senator Wiener's inquiry regarding the opinion of the medical community about PCMHs. Mr. Matheis disclosed that he is on the Board of *HealthInsight*, is Vice Chair of Nevada's Primary Care Advisory Council, and serves as Chair of the Legislative and Regulatory Committee of the Health Care Council of the Governor's Workforce Investment Board. Mr. Matheis stated there is little disagreement in the physician community about the long-term need to re-create a primary care based system with a strong emphasis on prevention and early interventions.

Mr. Matheis said that the PCMH system will be different in a commercial insurance environment with the younger population than it would be in the Medicaid program for a population where there is a large number of chronically ill and disabled people. However, there will be advantages to using all the resources that are beginning to become available. Mr. Matheis stated the PCMH system will be a shift in the nation's philosophy about what it wants in the health care system. He noted that because of the federal government's commitment to the Medicare population, a work force was needed that could handle chronic diseases and diseases of seniors, so a specialty based work force was trained, which led to underpayments for primary care physicians. Mr. Matheis said that the PCMHs are the future but it will take time, because there currently is a large population with chronic diseases that needs specialty care. However, it will change the State's health care statistics and what is expected from the health care system for future generations.

Discussion ensued between Senator Wiener and Mr. Matheis regarding retention and recruitment of the health care workforce.

- Chair Mastroluca asked Dr. Jacobs how her patients respond to the culture shift of the team approach for their care. Dr. Jacobs responded that, as the primary care physician, she will always see the patient and take care of the chronic medical conditions, identify the issues that need to be addressed, and utilize the people in her practice who are specialists in their field to work with the patient. She added that it enables the physician to spend more quality time with the patient and address the key issues that are leading to some of the chronic medical conditions afflicting the American population.

PRESENTATION REGARDING THE AFFORDABLE CARE ACT OPTIONAL MEDICAID EXPANSION

- Michael J. Willden, Director, Department of Health and Human Services (DHHS), referred to the Microsoft PowerPoint handout he had provided regarding the implementation of the Affordable Care Act (ACA). (Please see [Exhibit J](#).) He stated that many of the charts in the handout contain no numbers, as his Department is still in the process of working on its budget. He stated it is his intention to highlight for

the Committee some of the major points his Department has been working on and some of the major decisions that are yet to be made by the Governor and the Legislature, and not to provide a presentation about how much the ACA is going to cost or save.

- Chair Mastroluca emphasized to the Committee that this is a policy discussion, not a budget discussion.
- Mr. Willden reviewed charts and graphs illustrating Medicaid caseload growth without the impact of the Affordable Care Act, and health insurance coverage with and without the Medicaid expansion.

Discussion ensued between Chair Mastroluca and Mr. Willden regarding the uninsured population and to what extent they will participate in health insurance coverage. Mr. Willden noted that the noncitizen group in Nevada, who will not be eligible for Medicaid, will remain in the uninsured pool. He also pointed out that the tax penalties may not drive everyone to Medicaid or the Silver State Health Insurance Exchange. Mr. Willden said that most of the information he reads indicates that the State's efforts would be maximized at the 8 percent to 10 percent range of uninsured people.

- Mr. Willden continued his presentation with a review of the Federal Medical Assistance Percentage (FMAP).

There was discussion between Chair Mastroluca and Mr. Willden regarding eligibility for the Children's Health Insurance Program and the FMAP.

- Mr. Willden next addressed primary care physician rate increases. He stated that this is the first decision point in his presentation. The State will need to decide what to do half-way through fiscal year 2015 with the primary care physician rate increases as they will no longer be 100 percent federally financed, which would mean the State would have to pay approximately 38 percent of those costs.

Continuing with his presentation, Mr. Willden addressed the per-member-per-month (PMPM) costs, and noted that the PMPM for new eligibles who are childless adults would be approximately \$343. Mr. Willden stated that another decision point for the State will be whether the new eligibles would get the same benefit package provided to current eligibles.

Mr. Willden next discussed the Medicaid/CHIP caseload and medical costs, the Medicaid/CHIP administrative costs, and the Division of Welfare and Supportive Services, DHHS, administration and information technology costs.

Responding to Chair Mastroluca's inquiry if states could implement the expansion incrementally, Mr. Willden indicated that the unofficial answer is they can; however, if the State does not implement the expansion until the second or third year, the prior year(s) of 100 percent federal funding would be lost.

In response to Chair Mastroluca, Mr. Willden stated the rural areas at the present time are basically fee for service. Discussion ensued regarding the groups that are not in managed care, and the grants provided by the federal government for information technology.

- Senator Hardy asked if anything needs to be changed in statute to accommodate the medical homes. Mr. Willden stated he does not think a change is needed, but he will research it.
- Continuing with his presentation, Mr. Willden emphasized the following items with regard to the disproportionate share hospitals (DSH) program:
 - Whether or not Nevada opts in to the Medicaid expansion there will be an impact on DSH, because in the Affordable Care Act the national DSH pool is reduced by one-half.
 - Clark County has sued the State about the State's operation of the DSH program and that will have to be resolved.
 - Nevada's DSH program is in State law and in the *Nevada Administrative Code*, and is not in compliance with the ACA, so there will have to be legislation to get into compliance with the national DSH rules.
 - A decision will have to be made on how DSH is financed in Nevada, as it is currently funded through intergovernmental transfers from the counties, which is a problem with the lawsuit filed by Clark County.

Discussion ensued regarding the Upper Payment Limit and the Graduate Medical Education programs.

- Continuing, Mr. Willden discussed the opportunity for savings in the State's mental health programs and the impact on the counties' medical assistance programs. He noted that another policy decision is whether the counties should participate further in the financing of Medicaid because of savings that may come to them from implementing the ACA. Mr. Willden also stated that the financing for the Indigent Accident Fund and the Supplemental Relief Fund needs to be evaluated, as the Affordable Care Act will have an impact on those funds. He suggested the funds be reprogrammed to enable them to receive a federal match.

Concluding his presentation, Mr. Willden reviewed the unanswered questions list, and reiterated that the charts in his presentation cannot be finalized until answers are obtained to many questions.

Mr. Willden acknowledged the efforts of his staff and the hundreds of man-hours each month they have spent in analyzing and working on the provisions of the Affordable Care Act.

- Chair Mastroluca called for public comments on the Affordable Care Act Optional Medicaid Expansion (Agenda Item V).
- Jon Sasser, Washoe Legal Services and the Legal Aid Center of Southern Nevada, reminded the Committee of his testimony at the July 10, 2012, meeting. He discussed the information provided by Mr. Willden and stated that a cost-benefit analysis is needed to determine the benefits to Nevada from the federal money that would come into the State.
- Chair Mastroluca commented that it would be helpful to know the benefits to Nevada through jobs, sales tax, et cetera, for every dollar that is spent on medical care in the State.
- Senator Wiener noted that the individuals who would be included in the Medicaid expansion would have to obtain health care somewhere if they are not included in Medicaid, and it would often be in the emergency environment, the most expensive and short-lived kind of care.
- Mr. Sasser pointed out that much of the cost of emergency care is currently paid for by the counties and the State's mental health system; therefore, with the Medicaid expansion, there would be a cost shift toward the federal government.
- Mr. Willden stated that the economic impact of additional dollars in the health care system is a large part of the ongoing analysis.
- Chair Mastroluca announced that she had neglected to ask for public comment regarding patient-centered medical homes (Agenda Item IV) and asked if there were any comments at this time.
- Erin Russell, UnitedHealth Group, Southwest Medical Associates, Las Vegas, stated that Southwest Medical Associates is one of Nevada's largest multi-specialty groups, has over 240 providers, and is comprised of nine medical groups, including nine medical centers and additional clinics. She reported that in September 2011, Southwest Medical Associates received a Level 3 designation as a patient-centered medical home from the National Committee for Quality Assurance. Ms. Russell said that Southwest Medical Associates would be happy to be a resource as the Committee continues to further discuss the patient-centered medical home issue, and appreciates that the Committee is taking the time to discuss the integrated health care delivery model.

CONSIDERATION OF REGULATIONS PROPOSED OR ADOPTED BY CERTAIN LICENSING BOARDS PURSUANT TO NRS 439B.225

LCB File No. R077-12, State Board of Health (Music Therapists)

LCB File No. R093-12, Board of Medical Examiners (Perfusionists)

LCB File No. R113-12, State Board of Health (Mammography Technicians)

LCB File No. R078-12, State Board of Health (Medical Facilities)

- Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, Legislative Counsel Bureau (LCB), provided a synopsis of the regulations proposed or adopted by certain licensing boards in Nevada, which the LCHC is required to review pursuant to NRS 439B.225. (Please see [Exhibit K](#), [Exhibit L](#), [Exhibit M](#), and [Exhibit N](#).)
- With regard to LCB File No. R113-12, Assemblywoman Carlton questioned the requirement that mammography technicians who work at more than one facility must post duplicate certificates at each facility. She expressed concern about the added cost to the technician of having to pay \$25 for each duplicate certificate.
- Marla McDade Williams, Deputy Administrator, Health Division, DHHS, stated that the regulations have recently been drafted and have not yet gone to workshop. She stated the Committee's comments will be taken under advisement, and noted the intent of the regulation is to ensure there is some method in place for consumers to know the person administering their service is appropriately certified.

Discussion ensued between Assemblywoman Carlton and Ms. McDade Williams regarding persons obtaining a certificate fraudulently. Assemblywoman Carlton stated that with electronic communications, she is able to go online to determine if the person has a certificate. Ms. McDade Williams agreed there should be a more simple method for verification; however, the Division does not currently have an electronic system available for this licensure type. She stated the Division will figure out a solution to ensure it is not cost-prohibitive for individuals trying to practice in the field of mammography.

In response to Senator Wiener, Ms. McDade Williams stated there are no other licensed health care providers the Division is currently considering addressing with this requirement. She noted most health care practitioners work in facilities licensed by the Division, and diagnostic centers are not licensed by the Division.

- Chair Mastroluca inquired if having to process applications manually creates a hardship for the Health Division. Ms. McDade Williams responded that it does contribute to the cost of administering the program; however, the Division is in the process of developing an electronic system.
- Chair Mastroluca asked if the proposed requirement in LCB File No. R078-12 that an application be accompanied by proof of identity of the person submitting the application that is acceptable to the Health Division, rather than a notarized application, has been included in other regulations. Ms. McDade Williams responded she was not aware of any, but the Health Division would want to ensure its regulations are consistent.

In response to Senator Hardy, Paul Shubert, Health Facilities Surveyor 4, Health Division, DHHS, stated the Division has not completely evaluated what would be required as proof of identification. However, since people would be allowed to electronically submit applications rather than paper applications, some type of user account would be set up through which applications could be submitted. He continued that there would have to be a mechanism for integrating with entities such as the Department of Motor Vehicles to verify the applicant's identity.

- Chair Mastroluca called for public comments on the regulations proposed by licensing boards pursuant to NRS 439B.225 (Agenda Item VI).
- Leslie Pittman, Reno Diagnostic Centers, stated that, with regard to LCB File No. R113-12, it is the perspective of Reno Diagnostic Centers that caution should be taken when putting together additional barriers to mammography technicians. She said that Reno Diagnostic Centers is having difficulty finding sufficient mammography technicians. She noted that Reno Diagnostic Centers will be actively participating in the public workshops on this proposed regulation.

WORK SESSION—DISCUSSION AND POSSIBLE ACTION RELATING TO:

- *Children’s Mental Health Services in Nevada*
- *Cancer Drug Donation Program*
- *Prescription Drug Abuse and the Prescription Drug Monitoring Program in Nevada*
- *Chapter 450B “Emergency Medical Services” of Nevada Revised Statutes*
- *Unlicensed Health Care in Nevada*
- *Children in the Care of Certain Governmental Entities*
- *Use of Epinephrine Auto-Injectors at Schools in Nevada*

(Please see [Exhibit O](#))

- Marsheilah D. Lyons, Principal Research Analyst, Research Division, LCB, explained the process for the Committee’s work session. She noted that the first seven recommendations are on a consent calendar, as the Chair, working with staff, has determined they may not need further consideration or clarification beyond the recommendation summaries. Ms. Lyons then summarized the seven recommendations on the consent calendar.

Recommendations Relating to Children’s Mental Health Services in Nevada

- 1. Send a letter** to Nevada’s Congressional Delegation regarding access to care for certain children who have access to care through a variety of governmental entities such as Medicaid, child welfare, and juvenile justice. The letter will:
 - a) Inform them of the Institution for Mental Diseases (IMD) exclusion that disallows group homes of 16 beds or more from being reimbursed through Medicaid and the impact of this federal regulatory hindrance on Nevada. Specifically, this prohibition is not allowing medically necessary behavioral health services to be reimbursed in a delivery model that is in the least restrictive, most normative setting for the child. The Division of Health Care Financing and Policy’s goal is to develop funding models that are innovative and within the community setting.

- b) Request that the delegation advocate for the IMD exclusion regulation to be reconsidered by the Centers for Medicare & Medicaid Services (CMS) provide specification on the severity of the mental disease rather than the existence of a mental disease in combination with the bed count (i.e., 16 beds or more). This will place more emphasis on the acuity of the child instead of the facility.

Because of these prohibitions in current federal regulation, these facilities have been mistaken for the more traditional higher level of care psychiatric hospitals and psychiatric residential treatment facilities.

2. Send a letter to the Director of the Department of Health and Human Services (DHHS) and the Executive Director of the Silver State Health Insurance Exchange. The letter will:

- a) Encourage the development of a mechanism for Children's Mental Health Consortiums (NRS 433B.333) to provide input into State implementation of the federal health reform initiative to ensure that targeted case management and service delivery for children with serious emotional disturbance is provided with a family-driven, individualized, wrap-around approach.
- b) Request that the appropriate Director consider the viability of pursuing the following proposals, which were presented by the Children's Mental Health Consortiums:
 - i. Include the following as essential health benefits to be covered for children with serious emotional disturbance under benchmark plans for Medicaid, health insurance exchanges, and other plans: family-to-family support, mentoring, mental health consultation, mobile crisis intervention, and respite care.
 - ii. Build in reimbursement incentives for use of evidence-based practices in case management and direct services.
 - iii. Build family navigators into the essential benefits package to provide outreach and navigation to assist families of children with serious emotional disturbance in choosing the best benefits package.
 - iv. Develop a mechanism/legislation for re-investing savings from health care reform's increased federal financial participation into community-based services.
 - v. Submit to CMS a Medicaid State plan amendment for review and approval to establish a 1915(i) Home and Community Based Services waiver, in an effort to increase the capacity of Medicaid mental health service providers to deliver in-home services and supports, and decrease the need for out-of-home care.

Recommendation Relating to the Cancer Drug Donation Program

3. **Send a letter** to the following medical and related groups: the Clark County Medical Society, the Washoe County Medical Society, Nevada Nurses Association, Nevada Osteopathic Medical Association, Nevada State Medical Association, the Nevada Pharmacist Association, Nevada Society of Health-System Pharmacists, the Retail Association of Nevada, and other relevant groups. The letter will: (a) emphasize the Committee's strong support for the Cancer Drug Donation Program; (b) highlight the cost of prescriptions for the treatment of cancer and the availability of unused medication; and (c) encourage the groups to educate their members about the program in an effort to make them more knowledgeable and comfortable referring individuals who may benefit.

Recommendations Relating to Prescription Drug Abuse and the Prescription Drug Monitoring Program in Nevada

4. **Send a letter** to Nevada's Congressional Delegation related to prescription drugs. The letter will: (a) emphasize the impact of prescription drug abuse, misuse, and diversion in Nevada; and (b) encourage the development of policies that recognize the impact of prescription drug advertising, promotion, and marketing, to health care professionals, and-direct-to-consumer on excessive or unnecessary prescription drug use.
 5. **Include a statement** in the Committee's final report: (a) emphasizing the Committee's support for the efforts of the Substance Abuse Working Group within the Office of the Attorney General (Assembly Bill 61 [Chapter 89, *Statutes of Nevada 2011*]) and the Prescription Controlled Substance Abuse Prevention Task Force; and (b) recognizing their accomplishments related to addressing substance abuse issues and challenges in the State of Nevada.
 6. **Send a letter** to the DHHS encouraging collaboration with the United States Drug Enforcement Administration, Nevada Statewide Coalition Partnership, and other entities as appropriate, to provide for safe and available destruction and disposal of medications; including the creation of safe disposal sites in each county in Nevada.
 7. **Send a letter** to the DHHS encouraging collaboration with the Nevada Statewide Coalition Partnership, and other entities, as appropriate, to develop consumer education related to prescription medications. The letter will encourage the development of:
 - a) A media campaign that teaches consumers how to work with their health care professionals around prescription drugs, including how to store, keep, and use their prescriptions.
 - b) Training information for consumers on safe handling, storage, et cetera, along with education on potential for abuse and misuse.
- Chair Mastroluca asked if there were any questions or concerns about the seven recommendations on the consent calendar.

In response to Senator Hardy's inquiry if the focus of Recommendation No. 4 was only on prescription drugs, or did it also include narcotics, Chair Mastroluca stated the discussions in the Committee related to all prescription drug abuse.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATIONS NOS. 1 THROUGH 7. THE MOTION WAS SECONDED BY SENATOR BREEDEN AND PASSED UNANIMOUSLY.

Proposal Relating to the Cancer Drug Donation Program

- 8. Amend NRS 457.460** to allow dispensing practitioners to dispense donated cancer drugs. Allowing dispensing practitioners to dispense along with the voluntary pharmacies may broaden the program. (*Proposed by Larry L. Pinson, Pharm. D., Executive Secretary, and Carolyn J. Cramer, General Counsel, Nevada State Board of Pharmacy, May 8, 2012.*)

- Ms. Lyons provided an explanation of this proposal relating to the Cancer Drug Donation Program.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED TO APPROVE RECOMMENDATION NO. 8. THE MOTION WAS SECONDED BY SENATOR WIENER AND PASSED UNANIMOUSLY.

Recommendation Relating to Prescription Drug Abuse and the Prescription Drug Monitoring Program in Nevada

- 9. Amend Chapter 453 of NRS** to increase penalties for trafficking prescription medications by:

- a) Including specific pill quantities in addition to the gram weights currently listed in NRS related to trafficking schedule II controlled substances; and
- b) Adding similar provisions for trafficking schedule III, IV, and V controlled substances that are prescribed.

(*Proposed by Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department, via e-mail July 11, 2012.*)

- Marsheilah D. Lyons, previously identified, called attention to Tab A of the Work Session Document, which contains suggested changes to Chapter 453 of NRS, "Controlled Substances," provided by Brian O'Callaghan, Government Liaison, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department.

- Chair Mastroluca noted that the proposal is for a range of pill quantities because pills have different weights. She further noted that it is proposed that NRS 453.3395 would also apply to schedules III, IV, and V controlled substances.
- Senator Hardy stated that doctors often write prescriptions for a 90-day supply of medicine. He noted there could be a potential for someone who has a legitimate 90-day supply of medicine being arrested for something else and he was concerned how their possession of a legitimate 90-day supply of medicine would interact with the arrest.
- Ailee Burnett, Detective, Narcotics Section, Las Vegas Metropolitan Police Department, stated that was considered; however, a change was not proposed to the language already in statute for schedule II substances. She noted that language regarding a valid prescription could be included in the proposed change.
- Chair Mastroluca commented that she agrees with Senator Hardy's intent that it must be clear that someone who legitimately has a prescription for the medicine should not be harmed.
- Assemblywoman Carlton stated she has always had problems with the trafficking statute. She stated that murder is a category A felony and this would put the possession of 121 pills or more at the same level as murder. Assemblywoman Carlton said she understands the attempt to clarify the statute, but her problem is the levels that have been chosen, and trafficking 121 pills does not relate to a murder charge.

In response to Chair Mastroluca, Risa B. Lang, previously identified, clarified the proposed changes in NRS 453.3395.

- Ms. Burnett stated that hydrocodone (Lortabs, Vicodin, et cetera) is a schedule III controlled substance that is highly trafficked and is a large problem that is killing many people. However, at present, someone could possess 10,000 hydrocodone pills and they could not be charged with anything except possession of a controlled substance with intent to sell. She stated that the trafficking statute has a harsher penalty and that is why her Department wanted to add schedules III, IV, and V to the trafficking statute. Ms. Burnett noted there is a similar problem with Xanax, another highly diverted medication, which is a schedule IV controlled substance.

Discussion ensued between Senator Hardy and Ms. Burnett regarding the number of people murdered in Clark County because of the illicit sale of prescription drugs.

- Assemblywoman Carlton reiterated that she has always been uneasy with parts of the trafficking statute, and this proposal would expand the statute even further. She expressed her concern about incorporating schedules III, IV, and V into the statute without having all the information needed to make the decision. Assemblywoman Carlton noted that the bill draft would probably be referred to the judiciary committees.

- Senator Wiener stated she is not comfortable expanding the statute to schedule III, IV, and V controlled substances, because she does not have enough information and it has not been discussed sufficiently. She also expressed concern about the pill quantities for category A and B felonies.

In response to Chair Mastroluca, Ms. Burnett provided information on how the pill quantities for the categories of felony were determined.

Responding to Assemblywoman Carlton, Ms. Burnett said that oxycodone is a schedule II controlled substance, so someone selling that substance could be charged with trafficking, but it would require a very large quantity of the drug.

Assemblywoman Carlton and Ms. Burnett discussed the type of drugs in schedule III and Ms. Burnett confirmed that if a person were to have 600 hydrocodone pills and did not have a prescription for the drugs, the only option would be to charge that person with possession of a schedule III controlled substance with intent to sell.

- Assemblywoman Carlton stated she understands there is a problem, but she is not comfortable making this decision and would much rather have the judiciary committees work on it.

In response to Senator Wiener, Ms. Burnett described some of the drugs in schedules III, IV, and V, and confirmed that they are all life threatening, if taken inappropriately.

Responding to Senator Hardy, Ms. Burnett confirmed that when reports are received from the Clark County Coroner's Office for someone who has died from prescription medication or other illicit street drugs, there usually is a combination of drugs in their system, and most of the time Alprazolam (Xanax) is also present in their system.

- Senator Hardy opined there is a problem with prescription drug abuse, but he does not have a good comfort level with the current proposal.
- Chair Mastroluca stated the options of the Committee would be to (1) take no action on the recommendation; (2) break up the recommendation and only make changes to schedule II substances; or (3) send the information forward as a proposal to the judiciary committees and recommend they look into it.
- Senator Hardy stated the reasonable option would be to send the proposal to the judiciary committees.

In response to Senator Wiener, Ms. Lyons stated that the Committee could direct staff to draft a letter outlining the specific problems the Committee has heard, including a summation of the testimony and the recommendation that was presented to the Committee. The letter could also include the concerns that have been raised, and request that the judiciary committees take a look at it.

- Senator Wiener offered to work with the appropriate parties as they go forward with the proposal because of her history serving on both the Senate health and judiciary committees.
- Chair Mastroluca asked the Committee if there were any objections to the recommendation to send the proposal to the judiciary committees.
- Assemblywoman Carlton expressed her concern that by forwarding the proposal to the judiciary committees, it not be interpreted that the Committee supports the proposal, because there still are concerns.
- Chair Mastroluca responded that it would be an informational letter and not a recommendation.
- Chair Mastroluca stated the proposal would be sent as an informational item to the future chairs of the judiciary committees, indicating this issue had been discussed by the Legislative Committee on Health Care. The letter would include the minutes of this meeting and a copy of the record. Chair Mastroluca asked if this was acceptable to the Committee; there were no objections from the Committee.

Recommendation Relating to Standardizing Language in Chapter 450B “Emergency Medical Services” of NRS to Conform to the *National Emergency Medical Services Education Standards* Released by the National Highway Traffic Safety Administration in 2009 (Proposed in Assembly Bill 51 of the 2011 Legislative Session)

10. Amend NRS 450B to:

- a) Remove all references to “advanced emergency medical technician” (currently defined at NRS 450B.025) in the NRS and change the term to “paramedic.”
- b) Remove all references to “intermediate emergency medical technician” (currently defined at NRS 450B.085) in the NRS and change to “advanced emergency medical technician.”

The National Emergency Medical Services (EMS) Education Standards address the core competencies of four emergency medical technician classifications: Emergency Medical Responder, Emergency Medical Technician (EMT); Advanced EMT; and Paramedic. These classifications are aligned with the National EMS Education Standards, as well as other components of the *EMS Agenda for the Future*. These revisions to personnel will make Nevada consistent with the National Standards and provide an integrated systems approach to regulation of EMS education, certification, and licensure. (*Proposed by Marla McDade Williams, B.A., M.P.A., Deputy Administrator, Health Division, Department of Health and Human Services, May 8, 2012.*)

If the classifications are changed as stated above, certain statutes would need to be amended to be inclusive of all classifications as indicated.

- Ms. Lyons described Recommendation No. 10 relating to standardizing language in Chapter 450B, “Emergency Medical Services,” of NRS.
- Senator Wiener commented that this amendment would align Nevada’s definitions with the national standards and create consistency.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION NO. 10 AS A BILL DRAFT REQUEST FROM THE COMMITTEE. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

Recommendations Relating to Unlicensed Health Care in Nevada

- 11. Amend NRS** to provide consistent practices, and authority to address the unlicensed practice of health care and related issues to the following health care professional licensing boards: Board of Examiners for Audiology and Speech Pathology (NRS 637B.100); Chiropractic Physicians’ Board of Nevada (NRS 634.020); State Board of Cosmetology (NRS 644.030); Board of Dental Examiners of Nevada (NRS 631.120); Board of Hearing Aid Specialists (NRS 637A.030); Board of Examiners for Long-Term Care Administrators (NRS 654.050); Board of Homeopathic Medical Examiners (NRS 630A.100); Board of Medical Examiners (NRS 630.003); State Board of Nursing (NRS 632.020); Board of Occupational Therapy (NRS 640A.080); Board of Dispensing Opticians (NRS 637.030); Nevada State Board of Optometry (NRS 636.030); State Board of Oriental Medicine (NRS 634A.030); State Board of Osteopathic Medicine (NRS 633.181); State Board of Pharmacy (NRS 639.020); State Board of Physical Therapy Examiners (NRS 640.030); and State Board of Podiatry (NRS 635.020).

Authorize the following amendments to statute:

- a) Establish a category D felony as the penalty for practicing any of the health care professions identified above without a license. Additionally, give law enforcement agencies the authority to seize the property, drugs, and assets used in the crime for purposes of forfeiture.

Provide each health care professional licensing board with:

- b) Authority to cite and fine those who represent themselves as licensed practitioners when they are not duly licensed or who perform acts which require them to be licensed.
- c) Authority to seek from the District Court an injunction prohibiting unlawful conduct.
- d) Authority to write and enforce a cease and desist letter.
- e) Authority to enter the premises where an individual licensed by that board is practicing or where an individual is performing activities that require licensure.
- f) Authority to investigate based on an anonymous complaint. Provide that if a complaint is submitted anonymously, the board may accept the complaint but may refuse to consider the

complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

(Proposed by Vincent Jimno, Executive Director, Nevada State Board of Cosmetology; Kathleen Kelly, Executive Director, Nevada State Board of Dental Examiners; Douglas Cooper, CMBI, Executive Director, Nevada State Board of Medical Examiners; Debra Scott, MSN, RN, FRE, Executive Director, Nevada State Board of Nursing; Barbara Longo, CMBI, Executive Director, Nevada State Board of Osteopathic Medicine; and Larry L. Pinson, Pharm.D, Executive Secretary, Nevada State Board of Pharmacy, June 5, 2012.)

- Ms. Lyons read Recommendation No. 11 and called the Committee's attention to a chart behind Tab B of the Work Session Document which provides a comparison of the authority of certain health care licensing boards to investigate, regulate, and prevent the unlicensed practice of health care. She noted the Committee has also received a chart that outlines the number of active licensees each of the boards currently has ([Exhibit P](#)).

Ms. Lyons explained this recommendation would establish a category D felony as the penalty for practicing, without a license, any of the health care professions whose boards had signed a letter presented to the Committee at its meeting of June 12, 2012 ([Exhibit Q](#)). She noted that additional boards were added to the list at the request of Chair Mastroluca.

A lengthy discussion ensued regarding whether all the appropriate boards were included in the recommendation, the size of the boards and their ability to enforce authorities provided to them, the appropriate chapters of NRS that should be amended, the recommendation that smaller boards work together and collaborate to create their own investigative arm, and whether the boards should charge for investigations of complaints.

- Chair Mastroluca pointed out that Recommendations Nos. 12, 13, and 14 also relate to unlicensed health care, and Recommendations Nos. 13 and 14 would address some of the concerns that have been raised.

Discussion ensued regarding the possibility of a fiscal note being required for the resulting bills, and whether the recommendations should be combined or kept separate. Chair Mastroluca stated the Committee would vote on each of the recommendations and the Legal Division would determine whether they could be combined.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE RECOMMENDATION NO.11. THE MOTION WAS SECONDED BY SENATOR HARDY AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- 13. Revise NRS** to require the health care professional licensing boards to refer substantiated violations to the proper entities for prosecution and to take all lawful and necessary actions to discontinue the unlawful practice.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION NO. 13. THE MOTION WAS SECONDED BY SENATOR HARDY AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- 14. Revise NRS** to authorize health care professional licensing boards to develop alternate means of providing for the investigation of the unlicensed practice of health care, including combining resources and working collaboratively, if, in the judgment of the board, it would be financially justifiable for them to do so.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION NO. 14. THE MOTION WAS SECONDED BY SENATOR HARDY AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- 12. Amend NRS** to require the State Board of Cosmetology to establish regulations to determine when a licensed aesthetician may use the title “medical aesthetician” or any other designation indicating medical knowledge.

- Chair Mastroluca brought the discussion back to Recommendation No. 12. She noted there is nothing in statute that defines medical aesthetician, yet there are schools that provide training for medical aestheticians.

Discussion ensued regarding the appropriate board to regulate medical aestheticians and that the State Board of Cosmetology should work with the medical boards to develop the qualifications and education requirements for a medical aesthetician.

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE RECOMMENDATION NO. 12, TO AMEND NRS TO REQUIRE THE STATE BOARD OF COSMETOLOGY, WORKING IN COLLABORATION WITH THE OTHER APPROPRIATE HEALTH CARE BOARDS, TO ESTABLISH REGULATIONS TO DETERMINE WHEN A LICENSED AESTHETICIAN MAY USE THE TITLE “MEDICAL AESTHETICIAN” OR ANY OTHER DESIGNATION INDICATING MEDICAL KNOWLEDGE.

- Chair Mastroluca called for a second to the motion and there was none.

In response to Senator Hardy’s suggestion that the State Board of Cosmetology not allow aestheticians to be defined as medical aestheticians, Assemblywoman Carlton stated there are gainfully employed people who took the classes and are calling themselves medical aestheticians who have no complaints against them. She said the goal is to make sure that people are qualified when they use the term “medical aesthetician.”

- Assemblywoman Carlton offered to set aside one of her bill draft requests to work on this issue.
- Chair Mastroluca asked if there were any objections from the Committee to accept Assemblywoman Carlton's offer, and there were none.

15. Revise Chapter 200 of NRS to strengthen criminal penalties for the practice of unlicensed health care by creating two new statutes regarding crimes and punishments.

- a) Establish that unlicensed health care procedures that result in death or substantial bodily harm are subject to a category C felony for the first offense and a category B felony for subsequent offenses.
- b) Establish that an unlicensed surgical procedure, regardless of substantial bodily harm, is subject to punishment for a category C felony for the first offense. For subsequent offenses or if substantial bodily harm to the victim results, the defendant is subject to a category B felony.

(Proposed by Brett Kandt, Executive Director, Nevada's Advisory Council for Prosecuting Attorneys, and Special Deputy Attorney General, Office of the Attorney General. He noted on the record that law enforcement and prosecutors support the proposed language. June 12, 2012.)

- Ms. Lyons read Recommendation No. 15 and noted that sample language suggested to revise Chapter 200 of NRS is included behind Tab C in the Work Session Document.
- Senator Wiener commented on the difference between the penalties proposed for possession of 121 pills or more of a controlled substance as a category A felony in Recommendation No. 9, and this proposal that unlicensed health care procedures that result in death or substantial bodily harm be subject to a category C felony.

Discussion ensued regarding the appropriate penalty level for unlicensed health care.

- Lawrence P. Matheis, Executive Director, Nevada State Medical Association, explained that the discussion regarding unlicensed health care at the April 10, 2012, meeting of the Legislative Committee on Health Care was about how dangerous the procedures are that are being done in unlicensed settings and the risks of those procedures. He stated there is nothing in statute to address this and there is a need to make it clear that unlicensed people in unlicensed facilities doing surgical procedures that lead to death or injury need to be punished.

Discussion continued regarding the penalty levels, and who would be subject to the proposed penalties.

- Chair Mastroluca summarized that the intent of the Committee is not to catch people who are doing legitimate work under legitimate circumstances, but is focused on unlicensed people who are presenting themselves as some type of physician. She noted

that the proposed penalties are acceptable because the statute will provide for a more severe penalty if it is prescribed by law.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION NO. 15. THE MOTION WAS SECONDED BY SENATOR HARDY AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

Recommendations Relating to Children in the Care of Certain Governmental Entities

- 16. Amend NRS** to require agencies which provide child welfare services to collect information concerning the actions of PLRs, including data on the number of medical evaluations attended by persons legally responsible (PLR) (NRS 432B.4684), the number of medications approved or denied by PLRs and the number of second opinions requested by PLRs. The information collected must be compiled by the Division of Child and Family Services (DCFS) and included in a report submitted annually to the Legislative Committee on Health Care.
 - 17. Amend NRS** to require the DCFS, DHHS, to establish by regulation a limit on the number of clients each PLR may have simultaneously.
 - 18. Amend NRS** to require the DCFS to establish a standardized training curriculum for PLRs. Require PLRs to receive such training. The DCFS must further provide for such training to be made available online.
 - 19. Amend NRS** to revise the fictive kin process to allow placement with fictive kin even if the record indicates that there has been a previous substantiation of child abuse or neglect if a case plan was established and successfully completed.
 - 20. Amend NRS** to require older children in foster care to receive information about psychotropic medication before they begin taking the medication to notify them about the risks and benefits of the medication, including any side effects of taking the medication, the potential impact of taking the medication on employment, and any other issues related to the use of the psychiatric medications. Allow the foster children to refuse such medication based on that information, unless a court orders the child to take the medication. (*Proposed by Barbara Buckley, Executive Director, Legal Aid Center of Southern Nevada, and Janice Wolf, Directing Attorney, Children's Attorneys Project, Legal Aid Center of Southern Nevada.*)
- Ms. Lyons read Recommendations Nos. 16 through 20, which relate to children in the care of certain governmental agencies.
 - With regard to Recommendation No. 17, Senator Hardy expressed concern about putting something in statute or regulation that places a limit on anything because of the uncertainty of what might happen in the future. Senator Hardy further commented that it will require

more people and time for the agencies to fulfill the requirements that would be mandated by Recommendation No. 20.

- Chair Mastroluca responded that she understands the concern about limiting the number of children a person legally responsible (PLR) is responsible for; however, if there is no limit, one person could be responsible for more than 150 children, and that is not realistic. With regard to Recommendation No. 20, Chair Mastroluca said there are children in foster care who have been given psychotropic medications repeatedly with no understanding or knowledge of the long-term effects of the medication. She stated the children have a right to know about the choices that are being made for them and have a say in those choices.
- Senator Breeden asked what defined “older children” in Recommendation No. 20.
- Jill Marano, Deputy Administrator, Division of Child and Family Services, DHHS, responded that the Committee may want to consider changing the wording to “Amend NRS to require children in foster care to receive age appropriate information” She noted that the National Resource Center for Youth Development recently released a brochure and guide on psychotropic medication and the Division is posting that document in the rural child welfare offices. Ms. Marano stated it is important that youth are engaged and aware of what is going on with their medication and are involved in the choices; however, putting an age limit on it may be a challenge to do in law, especially with the limitations or abilities of some children.

Discussion ensued regarding how to address allowing foster children to refuse the medication. Chair Mastroluca stated she would be comfortable taking that requirement out of the statute, but would like it to be part of the record that the intent is that it be included in regulation. Assemblywoman Carlton said it is important that the child’s voice in opposition be recorded someplace.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE RECOMMENDATION NO.16. THE MOTION WAS SECONDED BY SENATOR WIENER AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE RECOMMENDATION NO.17. THE MOTION WAS SECONDED BY SENATOR WIENER AND PASSED. SENATOR HARDY VOTED NO, AND ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE RECOMMENDATION NO.18. THE MOTION WAS SECONDED BY

SENATOR WIENER AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN CARLTON MOVED TO APPROVE RECOMMENDATION NO. 19. THE MOTION WAS SECONDED BY SENATOR HARDY AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- Chair Mastroluca called for a motion on Recommendation No. 20, with the following changes discussed by the Committee:
 - Change the phrase “older children in foster care to receive information” to “children in foster care to receive age appropriate information.”
 - Remove the sentence “Allow the foster children to refuse such medication based on that information, unless a court orders the child to take the medication,” and include that the children be allowed to refuse the medication in the intent for the regulation or policy that is created.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION NO. 20, AS AMENDED, AND INCLUDE THAT IF A CHILD REFUSES THE MEDICATION THAT IT BE DOCUMENTED IN THAT CHILD’S RECORD.

- Assemblywoman Carlton clarified that the intent of the Committee that the foster children be allowed to refuse the medication would only go up to the drafting of the bill, at which time legislative intent would take over. Therefore, as the bill moves forward in the Legislature, it is important for the Committee to make sure the intent of the Committee is incorporated in the statements on the floor and in committee hearings.

THE MOTION AS STATED BY SENATOR WIENER WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

Recommendation Relating to the Use of Epinephrine Auto-Injectors at Schools in Nevada

21. Amend NRS to apply the following provisions to all public and private elementary and secondary educational institutions, and institutions of higher education in Nevada:

- a) Authorize school nurses and other trained school personnel to administer an epinephrine auto-injector to an individual at school or at a school function when the nurse or designated, trained personnel believe the individual is experiencing anaphylaxis (NRS 392.425 and NAC 632.226).

- b) Implement Good Samaritan protections (NRS 41.500) for school systems, school nurses, and trained personnel who administer an epinephrine auto-injector to an individual when acting in good faith in an emergency.
- c) Authorize schools to stock epinephrine auto-injectors for use in emergencies, regardless of whether the student has been previously diagnosed.
- d) Authorize physicians to write a prescription for an entity, such as a school, and not just an individual.
- e) Encourage schools to make food allergy training available to food service workers and other school personnel. Encourage each school to develop a comprehensive anaphylaxis action plan, so that students, teachers, and school employees:
 - i. Understand the risk of anaphylaxis;
 - ii. Avoid their allergic triggers;
 - iii. Recognize the signs and symptoms;
 - iv. Are prepared with access to epinephrine auto-injectors (two doses); and
 - v. Know to seek emergency medical care following administration of treatment.

Proposed by Bruce Lott, Vice President of State Government Relations, Mylan Inc.

- Ms. Lyons read Recommendation No. 21 relating to the use of epinephrine auto-injectors at schools in Nevada.
- Senator Wiener referred to the testimony provided earlier in the meeting by Sheila Story under “Public Comment,” in which Ms. Story expressed concern about the definition of who may conduct an assessment and who may administer epinephrine.
- Senator Hardy stressed the need for immediate action when there are signs of anaphylaxis.

Discussion ensued between Assemblywoman Carlton and Senator Hardy regarding symptoms of heart problems that may mimic anaphylaxis.

- Chair Mastroluca acknowledged receipt of an electronic mail message received from Caroline Moassessi, President of the Northern Nevada Asthma and Food Allergy Parent Education Group ([Exhibit R](#)). Chair Mastroluca stated that two concerns expressed by Ms. Moassessi are: (1) that the language in the recommendation would only authorize schools to stock epinephrine instead of requiring it; and (2) requiring that schools stock epinephrine may actually give better legal protection to the schools and the school districts.
- Senator Hardy noted that requiring schools to stock epinephrine would be a very costly unfunded mandate. He suggested that the recommendation include a provision allowing the schools to accept gifts, grants, and donations.

Discussion ensued between Chair Mastroluca and Senator Hardy regarding broadening the Good Samaritan protections in the recommendation.

- Beatrice Razor, Nevada Nurses Association, stated that the suggestion of the Nevada Nurses Association is that schools be required to stock epinephrine and that at least two doses of epinephrine be stocked. She noted the school districts would be able to buy the epinephrine in larger amounts.
- Senator Hardy stated that if the Legislature were to change the wording from “authorize” to “require,” he would support that also, because he would prefer that every school stock epinephrine.
- Assemblywoman Carlton inquired if there are any rules for the State Board of Pharmacy that would need to be addressed to allow physicians to write a prescription for an entity.
- Assemblywoman Carlton expressed her concern that by only authorizing schools to stock epinephrine, some schools would not stock epinephrine and all children would not be treated the same.
- Senator Wiener stated she has the same concerns as Assemblywoman Carlton. She stated the ability to accept gifts, grants, and donations is significant because there are philanthropic pharmaceutical companies that would contribute to emergency conditions and situations for children. She noted that, at present, the use of epinephrine is not addressed, and authorizing it would open the door to allow the schools to stock epinephrine.
- Jay Parmer, American Strategies, Inc., stated he represents Mylan Specialty and introduced Colin Chiles, Director of State Government Affairs for Mylan Specialty, which manufactures the EpiPen®.
- Mr. Chiles informed the Committee that Mylan Specialty has announced a new program that will provide up to four free pens for every single kindergarten, elementary school, middle school, and high school in the country, both public and private. (Please see [Exhibit S](#).) He stated that the caveat to this is that the schools need to have an entity prescription in order to qualify. In addition, Mylan Specialty’s current program of half-price pens for schools will also be available if schools need additional pens. Mr. Chiles noted the most recent states to address the use of epinephrine in schools are Virginia (which has a mandate), and Illinois (which allows the use).

In response to Senator Wiener, Mr. Chiles confirmed that under the program, as it currently stands, each school would receive four EpiPens per year.

Responding to Assemblywoman Carlton, Mr. Chiles stated it is up to the schools to provide the entity prescription, and information explaining the process can be found on Mylan Specialty’s website at epipen4schools.com. Mr. Chiles stated the EpiPens cannot be provided without the prescription.

- Assemblywoman Carlton stated her goal is to make sure every child has access to epinephrine, and she does not want a school district to decide not to participate, which would impact all the children in that district. She stated a strong message should be sent to each school district that there is a program by which the EpiPens can be obtained without cost and that they will participate.

Discussion ensued between Senator Breeden and Mr. Chiles regarding the weight requirements for the EpiPen and the EpiPen, Jr.

- Senator Wiener stated that this program is an answer to a major health issue. She said the Committee should be careful about making a long-term policy based on a very generous offer to cover the cost, when there is no guarantee of how long the program will continue.
- Chair Mastroluca said she has the same concern as Senator Wiener, and that Mylan Specialties has made a very generous offer; however, nobody knows what will happen in the future and she would not want to put an expectation on the school districts to continue a program, when in ten years it may not be available.

Chair Mastroluca commented that she understands Assemblywoman Carlton's concern, as she also has experienced the frustration of one or two school districts choosing to not participate in something that is passed and made available to them. She noted that the language in the document from Mylan Specialty specifies that the program is also available to private schools and if the Committee were to change the recommendation to "school districts," the private schools would not be covered. Chair Mastroluca commented that the current recommendation would give the schools the ability to take advantage of this very generous offer for as long as it exists.

- Assemblywoman Carlton reiterated her concern that some schools may choose to not participate and not all children would be protected.
- Chair Mastroluca stated that parents and groups, such as the Northern Nevada Asthma and Food Allergy Parent Education Group, could make the schools aware that the program is available and encourage the schools to take advantage of it.

Discussion ensued regarding making the epinephrine auto-injectors for schools a requirement; an authorization with the requirement that if a school district chooses to stock them, every school in that district must receive the EpiPens; or whether it should be a requirement with a sunset when grants, gifts, or funding are not available, at which time it would be authorized.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE RECOMMENDATION NO. 21 WITH THE ADDITION THAT THE SCHOOLS BE AUTHORIZED TO ACCEPT GIFTS, GRANTS, AND DONATIONS. THE MOTION WAS SECONDED BY SENATOR HARDY AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- Assemblywoman Carlton stated that she voted “yes” on the motion, but still has concerns.
- Chair Mastroluca stated the following items were discussed by the Committee during the interim and they will be addressed by legislators:
 - The local farms preparing and serving foods to the public and the farm-to-fork initiative is being taken up by Assemblyman Hardy and Assemblywoman Carlton;
 - The recommendations regarding prescription drug abuse and the prescription drug monitoring program are being taken up by Chair Mastroluca and Senator Hardy, as well as further legislation on synthetic drugs, including synthetic cannabinoids and bath salts; and
 - A task force has been created under the leadership of Senator Wiener regarding patients with Alzheimer’s Disease, and the task force will submit a State Plan with recommendations in October 2012. The task force also has a bill draft request that will come through the Committee on Health Care.
- Senator Hardy requested a bill draft for a resolution encouraging the existence of patient-centered medical homes in Nevada.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR HARDY MOVED TO APPROVE A RESOLUTION ENCOURAGING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, THE COMMISSIONER OF INSURANCE, AND STAKEHOLDERS TO DEVELOP A NEVADA SYSTEM OF PATIENT-CENTERED MEDICAL HOMES. THE MOTION WAS SECONDED BY SENATOR WIENER AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

- Chair Mastroluca requested permission from the Committee to work with the Legal Division to work out the details of the bill draft requests discussed by the Committee. There were no objections from the Committee.
- Chair Mastroluca noted that, with regard to Recommendation No. 9, it was the recommendation of the Committee that a letter be sent to the judiciary committees. However, a vote was not taken at that time and she called for a motion to send a letter to

the judiciary committees regarding prescription drug abuse and the Prescription Drug Monitoring Program.

- Senator Wiener stated that the Committee had also recommended that a record of the meeting be included with the letter so there would be full history on the discussion that took place. Senator Wiener noted that she had also offered to work with the proponents of the bill because of her 16 years serving on the health and judiciary committees.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WIENER MOVED TO APPROVE A LETTER FROM THE COMMITTEE TO THE JUDICIARY COMMITTEES REGARDING PRESCRIPTION DRUG ABUSE AND THE PRESCRIPTION DRUG MONITORING PROGRAM, INCLUDING A RECORD OF THE COMMITTEE'S DISCUSSION OF THE RECOMMENDATION. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN CARLTON AND PASSED. ASSEMBLYMAN HARDY WAS ABSENT FOR THE VOTE.

PUBLIC COMMENT

- Homa Woodrum, Las Vegas, stated she is an attorney in Las Vegas and mother of a child with multiple food allergies. She testified regarding her child's allergies and the need to authorize and/or mandate that schools stock epinephrine auto-injectors for use in emergencies. (Please see [Exhibit T](#).)
- Senator Wiener complimented Chair Mastroluca for her leadership and vision and the work she has done to lead the Committee in a way that has made it easier to process very difficult issues, and her welcoming demeanor to the public. She noted this is her final meeting in a health care committee in her legislative career of 16 years. She thanked Chair Mastroluca for making the Committee meetings memorable.
- Assemblywoman Carlton noted that this is Senator Breeden's last official meeting, and she congratulated Senator Breeden for her four years of service to the State.
- Chair Mastroluca acknowledged staff and thanked them for their service.

ADJOURNMENT

- There being no further business to come before the Committee, the meeting was adjourned at 4:42 p.m.

Respectfully submitted,

Anne Vorderbruggen
Senior Research Secretary

Marsheilah D. Lyons
Supervising Principal Research Analyst

APPROVED BY:

Assemblywoman April Mastroluca, Chair

Date: _____

LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Marsheilah D. Lyons, Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is the written testimony of Sheila Story, MSN, MNH, RN, Nevada State Association of School Nurses, and School Nurse, Chief Nurse, Carson City School District.

[Exhibit C](#) is the written testimony of David A. Johnson, M.D., Policy Director, Nevada Academy of Family Physicians, Minden.

[Exhibit D](#) is the written testimony of Nick Honochick, Medical Account Executive, Merck, Las Vegas.

[Exhibit E](#) is the written testimony of John Socha, Executive Director of Healthcare Operations, MGM Resorts, Las Vegas.

[Exhibit F](#) is the written testimony of Jerry Reeves, M.D., Vice President of Medical Affairs, *HealthInsight* of Nevada, and Principal and Medical Director, wellPORTAL, LLC, Las Vegas.

[Exhibit G](#) is the written testimony of Katherine Holland, Vice President, IBM, and General Manager, Global Life Sciences, Las Vegas.

[Exhibit H](#) is the written testimony of Daniel R. Spogen, M.D., Director, American Academy of Family Physicians, and Chair, Department of Family and Community Medicine, University of Nevada School of Medicine, Reno.

[Exhibit I](#) is a document titled “Patient-Centered Medical Home (PCMH),” provided by the Nevada Academy of Family Physicians, Reno.

[Exhibit J](#) is a Microsoft PowerPoint handout titled “Implementation of the Affordable Care Act,” submitted by Michael J. Willden, Director, Department of Health and Human Services.

[Exhibit K](#) is a document titled “Digest for Proposed Regulation, LCB File No. R_077-12 (State Board of Health),” and a document titled “Proposed Regulation of the State Board of Health, LCB File No. R077-12,” dated August 22, 2012, provided by Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, LCB.

[Exhibit L](#) is a document titled “Digest for Proposed Regulation, LCB File No. R_093-12 (Board of Medical Examiners),” and a document titled “Proposed Regulation of the Board of Medical Examiners, LCB File No. R093-12,” dated July 19, 2012, provided by Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, LCB.

[Exhibit M](#) is a document titled “Digest for Proposed Regulation, LCB File No. R_113-12 (State Board of Health),” and a document titled “Proposed Regulation of the State Board of Health, LCB File No. R113-12,” dated July 31, 2012, provided by Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, LCB.

[Exhibit N](#) is a document titled “Digest for Proposed Regulation, LCB File No. R_078-12 (State Board of Health),” and a document titled “Proposed Regulation of the State Board of Health, LCB File No. R078-12,” dated July 5, 2012, provided by Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, LCB.

[Exhibit O](#) is the “Work Session Document” dated August 29, 2012, prepared by Marsheilah D. Lyons, Principal Research Analyst, Research Division, LCB.

[Exhibit P](#) is a document titled “Number of Active Licensees for Certain Health Care Licensing Boards” provided by Marsheilah D. Lyons, Principal Research Analyst, Research Division, LCB.

[Exhibit Q](#) is a letter dated June 5, 2012, to Assemblywoman April Mastroluca, Chair, Legislative Committee on Health Care, from Vincent Jimno, Executive Director, Nevada State Board of Cosmetology; Kathleen Kelly, Executive Director, Nevada State Board of Dental Examiners; Douglas Cooper, CMBI, Executive Director, Nevada State Board of Medical Examiners; Debra Scott, MSN, RN, FRE, Executive Director, Nevada State Board of Nursing; Barbara Longo, CMBI, Executive Director, Nevada State Board of Osteopathic Medicine; and Larry L. Pinson, PharmD, Executive Secretary, Nevada State Board of Pharmacy, regarding “Discussion and recommendations for statutory changes to support a regulatory agency’s efforts to protect the public through effective regulation of unlicensed persons and licensees who practice beyond their established scope.”

[Exhibit R](#) is an electronic mail correspondence dated August 28, 2012, to Chair Mastroluca and Ms. Lyons from Caroline Moassessi, President, Northern Nevada Asthma and Food Allergy Parent Education Group, regarding “Urgent Concerns regarding Stock Epinephrine in Schools- August 29th, 2012 work session.”

[Exhibit S](#) is a document dated August 14, 2012, titled “Mylan Specialty Offers Free EpiPen® (epinephrine) Auto-Injectors to Schools Nationwide,” provided by Jay Parmer, American Strategies, Inc., Reno.

[Exhibit T](#) is the written testimony of Homa Woodrum, Las Vegas.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm or telephone: 775/684-6827.