

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

**Eighty-Second Session
April 12, 2023**

The Committee on Judiciary was called to order by Chair Brittney Miller at 8:01 a.m. on Wednesday, April 12, 2023, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda [[Exhibit A](#)], the Attendance Roster [[Exhibit B](#)], and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/82nd2023.

COMMITTEE MEMBERS PRESENT:

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

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Cecelia González, Assembly District No. 16

Minutes ID: 756



STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Jennifer Parks, President, Empower Nevadans Now
Doriann Myers, Private Citizen, Las Vegas, Nevada
Candice Duran, Private Citizen
Nova Coffron, Private Citizen, Carson City, Nevada
Christian Morris, Attorney, Henderson, Nevada
Tess Opferman, representing Nevada Women's Lobby
Serena Evans, Policy Director, Nevada Coalition to End Domestic and Sexual
Violence
Annette Magnus, Executive Director, Battle Born Progress
Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada
Patricia Fries, Private Citizen, Sparks, Nevada
Antonio T. Alamo, Private Citizen, Las Vegas, Nevada
Bayo Curry-Winchell, Private Citizen, Reno, Nevada
Sowjanya Reganti, Private Citizen, Reno, Nevada
Laura Shook, Private Citizen, Reno, Nevada
Aiden Gould, Private Citizen, Reno, Nevada
Paul J. Hauptman, M.D., Dean, School of Medicine, University of Nevada, Reno
Iolanda Edsall, Private Citizen, Reno, Nevada
Katherine Parks, representing Liability Cooperative of Nevada
Sarah Adler, representing Nevada Advance Practice Nurses Association; Vitality
Unlimited; and New Frontier Treatment Center
Shana Tello, Academic and External Affairs Administrator, University Medical
Center
Jay Morgan, M.D., Treasurer, Nevada State Medical Association
Erik Pearson, Private Citizen, Las Vegas, Nevada
Katie Feldman, representing Planned Parenthood Votes Nevada
Ursula Inge Ferguson, Private Citizen, Las Vegas, Nevada
Katherine Turpen, Private Citizen, Las Vegas, Nevada
Deborah Kuhls, Private Citizen, Las Vegas, Nevada
Wolfgang G. Gilliar, Dean, College of Osteopathic Medicine, Touro University
Nevada
Kimberly Bates, Program Director, Internal Medicine Residency Program, Dignity
Health-St. Rose Dominican; and Interim Chief Medical Officer, Dignity
Health Medical Group, Nevada
Wiz Rouzard, Deputy State Director, Americans for Prosperity

Justin J. Sonderegger, Private Citizen, Reno, Nevada
Katrin Ivanoff, Private Citizen, Las Vegas, Nevada
Jiashou Jimmy Xu, Private Citizen, Las Vegas, Nevada
Susan B. Proffitt, Private Citizen, Las Vegas, Nevada
Sandra Koch, representing Nevada Section, American College of Obstetricians and Gynecologists
Florence Jameson, Private Citizen, Las Vegas, Nevada
Sallyanne Miles, Private Citizen, Carson City, Nevada
James Breeden, M.D., President, Carson Medical Group
Andrew Pasternak, Private Citizen, Reno, Nevada
Laura Thompson, Private Citizen, Reno, Nevada
Patrick D. Kelly, President & CEO, Nevada Hospital Association
Will Bradley, Private Citizen, Las Vegas, Nevada
Connor Cain, representing Sunrise Hospital and Medical Center; Sunrise Children's Hospital; MountainView Hospital; and Southern Hills Hospital and Medical Center
Joan Hall, President, Nevada Rural Hospital Partners
Rebecca Herrero, Private Citizen, Las Vegas, Nevada
Keith Brill, Private Citizen, Las Vegas, Nevada
Julie Hereford, Co-Founder, NevadansCAN
Pauline Lee, Private Citizen, Las Vegas, Nevada
Bryan Wachter, Senior Vice President, Retail Association of Nevada
Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber
Tom Clark, representing Nevada Society of Dermatology and Dermatological Surgery; and Reno + Sparks Chamber of Commerce
Elliot Malin, representing Nevada Osteopathic Medical Association
Jerry Matsumura, Private Citizen, Reno, Nevada
Timothy McFarren, Private Citizen, Carson City, Nevada
Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada
Peter A. Caravella, Private Citizen, Las Vegas, Nevada
Barry Cole, Private Citizen, Reno, Nevada

Chair Miller:

[Roll was called. Committee protocol was explained.] We have one bill hearing and a work session today. Because we have members that need to get to other morning committees, we are going to start with the work session first. I will have our policy analyst, Diane Thornton, walk us through the first bill on work session, [Assembly Bill 14](#).

[Assembly Bill 14](#): Revises provisions relating to the state business portal. (BDR 7-405)

Diane C. Thornton, Committee Policy Analyst:

[Assembly Bill 14](#) revises provisions relating to the state business portal sponsored by this Committee and heard on February 21, 2023. [Read from [Exhibit C](#).] There is one proposed amendment. The Chief Deputy Secretary of State, Office of the Secretary of State proposed

an amendment to delete the bill in its entirety and instead in its place, establish the Business Licensing Working Group within the Office of the Secretary of State.

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Bilbray-Axelrod:

Who did that amendment?

Chair Miller:

The amendment is offered by the Secretary of State's Office.

Assemblywoman Bilbray-Axelrod:

It is to gut the whole bill and make it a study.

Chair Miller:

It was in a working group that was combined with Assemblywoman Newby and Secretary of State staff. It is a friendly amendment.

Assemblywoman Bilbray-Axelrod:

Thank you for that clarification.

Chair Miller:

Are there any additional questions? [There were none.] I will entertain a motion to amend and do pass Assembly Bill 14.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 14.

ASSEMBLYWOMAN BILBRAY-AXELROD SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Newby. The next bill on work session is Assembly Bill 125.

[Assembly Bill 125](#): Revises provisions relating to public safety. (BDR 43-796)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 125 revises provisions relating to public safety, is sponsored by Assemblywoman Backus and was heard in Committee on March 6, 2023. [Read from [Exhibit D](#).] There is one proposed amendment to the bill. Assemblywoman Backus proposed an amendment which does the following: First, it revises section 3 to be permissive

due to jurisdictional concerns when a report may be taken and to also add additional factors of when a missing person may be entered into the National Crime Information Center. Additionally, it adds cosponsors to the bill.

Chair Miller:

Are there any questions?

Assemblywoman Bilbray-Axelrod:

Did I list myself as a cosponsor on that? If not, can I add myself?

Chair Miller:

We will not be adding at this moment. It would have to be a floor amendment. Any other questions? Not seeing any, I will entertain a motion to amend and do pass Assembly Bill 125.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 125.

ASSEMBLYWOMAN CONSIDINE SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Hansen:

I will be a yes in Committee. I still have some issues trying to work through before floor, but to get it out of Committee, I will be a yes at this point. I will let you know if something changes.

Chair Miller:

Is there any other discussion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN GALLANT, GRAY, AND
YUREK VOTED NO.)

Assemblywoman Gray:

I am going to reserve my right on this one also to change my vote on the floor if law enforcement's concerns are addressed.

Chair Miller:

I will assign the floor statement to Assemblywoman Backus. Next on work session is Assembly Bill 160.

**Assembly Bill 160: Revises provisions governing the sealing of certain criminal records.
(BDR 14-634)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 160 revises provisions governing the sealing of certain criminal records, is sponsored by Assemblyman Miller, and was heard in Committee on March 7, 2023. [Read from [Exhibit E](#).] There are two proposed amendments to the bill.

The first amendment does the following. It revises section 1 by requiring the Records, Communications and Compliance Division of the Department of Public Safety to compile a recommended list of eligible records and transmit it to the Administrative Office of the Courts (AOC). It requires the Administrative Office of the Courts to develop and implement a process to review, approve, and transmit to each court with jurisdiction, each eligible record. It establishes certain procedures for the sealing of eligible records. It provides that the Administrative Office of the Courts must report yearly to the Legislature the number of records identified eligible for sealing. It provides that the Central Repository for the Nevada Records of Criminal History and its employees may require access into and inspect any records sealed. It adds a new section creating the Advisory Task Force on Automatic Record Sealing. It amends *Nevada Revised Statutes* (NRS) 179.245 to provide that by January 1, 2025, the AOC may issue any rule or regulation to streamline the process for filing a petition for record sealing as recommended by the Task Force. Additionally, it amends NRS Chapter 179A to provide the legislative intent concerning the enhancement and modernization of information sharing amongst criminal justice agencies, and it revises the effective date of the bill.

There is a second amendment proposed by Teresa Benitez-Thompson from the Office of the Attorney General. This would include NRS 41.910 in sections 5 through 7 of the bill, which is the certificate of innocence.

Chair Miller:

With that, are there any questions? Not seeing any, I will entertain a motion to amend and do pass Assembly Bill 160.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 160.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG SECONDED THE
MOTION.

Is there any discussion on the motion?

Assemblywoman Hardy:

I know there was a lot of work done on this bill and on the amendments. I am going to be a no right now even though I feel more comfortable with the amendments in hopes that I can get to a yes because I do think this would be beneficial.

Chair Miller:

Are there any other comments? [There were none.]

THE MOTION PASSED. (ASSEMBLYMEN GALLANT, GRAY,
HANSEN, HARDY, AND YUREK VOTED NO.)

I will assign the floor statement to Assemblyman Miller. Next on work session is Assembly Bill 193.

**Assembly Bill 193: Revises provisions relating to custodial interrogations of children.
(BDR 14-229)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 193 revises provisions relating to custodial interrogation of children, is sponsored by Assemblywoman González, and was heard in Committee on March 1, 2023. [Read from [Exhibit F](#)].

There is one proposed amendment. Assemblywoman González and Nathaniel Erb, policy advocate from the Innocence Project, proposed the following amendment. It amends section 1, subsection 1, by deleting "at any time" concerning certain requirements relating to custodial interrogations. It amends section 1, subsection 1, paragraph (a), by providing that a peace officer or other person authorized to conduct a custodial interrogation of a child is prohibited from knowingly "making a materially false statement" rather than "provide false information" regarding certain evidence. It amends section 1, subsection 2 to provide that information obtained in violation is presumed to be involuntary and inadmissible in any criminal or juvenile proceeding. It provides a rebuttable presumption, provides that the finder of fact is required to consider the totality of circumstances of the interrogation, and provides certain exceptions if there is an imminent threat to life or property. Finally, it revises the effective date of the bill.

Chair Miller:

Are there any questions from Committee members?

Assemblywoman Bilbray-Axelrod:

Did we address the fact in this bill, because I had a note, about no parent during interrogation in Nevada?

Assemblywoman Cecelia González, Assembly District No. 16:

The reason that a parent is not required is that was not the intent of this bill. I would love to work on that in the interim. I think there is an appetite for that. I think also, we worked on the *Miranda* juvenile rights last session, and not that is in place of it, but that is currently what they are using. We can talk offline.

Assemblywoman Bilbray-Axelrod:

Okay. I am going to be a yes out of Committee.

Chair Miller:

Any other questions from Committee members? Not seeing any, I will accept a motion to amend and do pass Assembly Bill 193.

ASSEMBLYWOMAN SUMMERS-ARMSTRONG MOVED TO AMEND
AND DO PASS ASSEMBLY BILL 193.

ASSEMBLYWOMAN MOSCA SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN GALLANT, GRAY,
HANSEN, HARDY, AND YUREK VOTED NO.)

I will assign the floor statement to Assemblywoman González. We will move to our next bill on work session, Assembly Bill 275.

**Assembly Bill 275: Revises provisions governing the sealing of criminal records.
(BDR 14-204)**

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 275 revises provisions governing the sealing of criminal records, is sponsored by Assemblywoman Hardy, and was heard in Committee on March 14, 2023. [Read from Exhibit G]. Assemblywoman Hardy proposed two amendments to the bill. The first one would add a new paragraph to indicate that the petition must, if applicable, include a statement certifying that the petitioner was a victim of sex trafficking. Secondly, it adds cosponsors to the bill.

Chair Miller:

Are there any questions from Committee members? [There were none.] I will take a motion to amend and do pass Assembly Bill 275.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 275.

ASSEMBLYMAN YUREK SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Hardy. The next bill on work session is Assembly Bill 371.

Assembly Bill 371: Makes various changes relating to parentage. (BDR 11-140)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 371 makes various changes relating to parentage, is sponsored by Assemblywoman Cohen, and was heard in Committee on March 28, 2023. [Read from Exhibit H.] There is one proposed amendment. Assemblywoman Cohen and Kimberly Surratt from Surratt Law Practice proposed the following amendment: It amends section 59 by providing that a child support agency may facilitate rather than order genetic testing only if no acknowledged or adjudicated parent of a child other than the parent who gave birth to the child. It amends section 63 by deleting subsection 1, paragraph (a), which requires the child support agency to pay the cost of initial genetic testing in advance. It amends section 71 to provide that the petitioner must give notice of a proceeding to adjudicate parentage to certain persons if the person's whereabouts are known. Finally, it amends section 88, subsection 4 to exclude the child support agency concerning the bill for genetic testing.

Chair Miller:

Are there any questions from Committee members? [There were none.] I will entertain a motion to amend and do pass Assembly Bill 371.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 371.

ASSEMBLYWOMAN NEWBY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED. (ASSEMBLYMEN GALLANT, GRAY,
HANSEN, HARDY, AND YUREK VOTED NO.)

I will assign the floor statement to Assemblywoman Cohen. Next on work session is Assembly Bill 373.

Assembly Bill 373: Revises provisions relating to deceptive trade practices directed toward elderly persons. (BDR 52-773)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 373 revises provisions relating to deceptive trade practices directed towards elderly persons, is sponsored by Assemblywoman Gorelow, and was heard in Committee on March 27, 2023. [Read from Exhibit I.] There are two proposed amendments to the bill.

The first amendment is sponsored by Teresa Benitez-Thompson from the Office of the Attorney General. She proposed adding a new section to the bill amending *Nevada Revised Statutes* (NRS) 598.0963 to clarify the authority of the Attorney General to seek civil

penalties for violations of NRS Chapter 598, and it amends section 2, subsection 2 to increase the amount of the civil penalty that the Attorney General may seek up to \$15,000 from \$5,000 for each violation.

The second amendment is sponsored by the deputy public defenders from both Clark and Washoe Counties. They proposed an amendment to revise the penalties in section 2, subsection 4 of the bill.

Chair Miller:

Are there any questions from Committee members? [There were none.] I will entertain a motion to amend and do pass Assembly Bill 373.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 373.

ASSEMBLYWOMAN HARDY SECONDED THE MOTION.

Is there any discussion on the motion? [There was none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Gorelow. Our last bill on work session today is Assembly Bill 408.

Assembly Bill 408: Revises provisions relating to reckless driving. (BDR 43-95)

Diane C. Thornton, Committee Policy Analyst:

Assembly Bill 408 revises provisions relating to reckless driving, is sponsored by Assemblywoman Brown-May, and was heard in this Committee on March 30, 2023. [Read from Exhibit J.] There is one proposed amendment. John Piro, Chief Deputy Public Defender, Clark County Public Defender's Office, and Erica Roth, Deputy Public Defender, Washoe County Public Defender's Office, proposed prohibiting an operator from charging any fee or cost for the storage of the motor vehicle until at least 48 hours after the motor vehicle arrives and is registered at the place of storage. It provides that the owner of the vehicle must pay a hardship tariff pursuant to subsection 7 of *Nevada Revised Statutes* 706.4477 for the cost of removal and storage of the motor vehicle under certain circumstances.

Chair Miller:

Are there any questions from Committee members? [There were none.] I will take a motion to amend and do pass Assembly Bill 408.

ASSEMBLYWOMAN MARZOLA MOVED TO AMEND AND DO PASS
ASSEMBLY BILL 408.

ASSEMBLYMAN YUREK SECONDED THE MOTION.

Is there any discussion on the motion?

Assemblywoman Summers-Armstrong:

I would like there to be some consideration for collecting demographic information on the citations to include all the general stuff and location of where these are going on so that we can track where these incidents are happening and by and to whom.

Chair Miller:

Because Assemblywoman Brown-May is not in the room, I would encourage you to further that discussion with her. Are there any additional comments? [There were none.]

THE MOTION PASSED UNANIMOUSLY.

I will assign the floor statement to Assemblywoman Brown-May. That concludes our work session today. We will move on to the next item on our agenda, Assembly Bill 209, presented by Assemblywoman González, Jennifer Parks, Doriann Myers, Candice Duran, Christian Morris, and Dylan Shaver. I will formally open the hearing on Assembly Bill 209, and you can proceed when you are ready.

Assembly Bill 209: Revises provisions relating to certain providers of health care. (BDR 3-833)

Assemblywoman Cecelia González, Assembly District No. 16:

I am here to ask for your support for Assembly Bill 209. Today is no different from any other day when I am in the Assembly Committee on Judiciary, asking and talking about justice. Assembly Bill 209 aims to repeal a 20-year-old set of special protections voters gave to the medical industry. These special rules were passed as a result of a story that the industry told us.

Their campaign went like this: These special protections are going to improve health care. They are going to draw in more doctors to Nevada, keep the ones that we currently have, and they are going to lower the malpractice rates. However, here we are 20 years later, and this is what we know. Our care is worse. We rank fiftieth in doctors per capita in the entire country and insurance companies' rates and profits continue to go up year after year [page 9, [Exhibit K](#)]. In creating these protections, we gave up our rights. We gave up the power of

juries to do what is right in negligence cases. We gave up the time we have to discover and take action and recover damages caused by an unaccountable industry. We shamefully put a cap on the value of human life.

When I took on this project, I did not really know the history of these laws and to the extent that this issue faces so many Nevadans. Since then, I have had the opportunity to hear from victims from all over the state. I have met a nurse whose hospital's repeated errors left a newborn family without their mother. I met a woman who was given an unnecessary hysterectomy that left her in so much pain that she can no longer have intimate moments with her partner. I met another victim whose hospital misdiagnosed her cancer not once, not twice, but three different times; so much so that the doctor had to send her sample to outside second opinions causing her life to be put in even more jeopardy. Because of these outdated laws, none of these victims have had access and none of these people responsible have been held accountable. In talking with all of these victims, there are things that are very unique. Every person's case is unique to themselves. However, they have all had the same story.

I am going to go into the problems. Number one, the statute of limitations [page 4, [Exhibit K](#)]: The statute of limitations to bring a medical malpractice case is just one year, one year. You have one year from the loss of a loved one—for example, losing your child—to decide if you want to put your family and yourself through a long, expensive, and grueling trial. This is just far too short.

Number two, the delays: Once a victim has decided to seek justice for their poor treatment, providers typically rely on delay tactics, meaning that they hide information from their victims; they claim that records do not exist or have been lost, and provide incomplete information when they finally do provide information.

Number three, the affidavit of merit [page 3, [Exhibit K](#)]: For those of you who may not know how to proceed with a medical malpractice case or maybe have not been part of one, you first have to file what is called or referred to as the "affidavit of merit," which means that you have to go to another provider who will agree or state that you have received what is referred to as "below the standard of care," meaning that this doctor has to go on the record against his peer to say that you have been hurt. This again prolongs the time that you have to find said doctor, and you also have to pay that doctor.

Of course, what I feel like we have all been talking about for the last couple of months is the cap on noneconomic damages, which is a huge, significant barrier to victims seeking justice when we talk about medical malpractice cases. They also tragically define the value of human life as economic productivity and nothing more. If a careless mistake renders a person who has wanted to have a family their entire life infertile, there are no economic damages. If young parents lose a newborn at a hospital, there are no economic damages. If you are caring for an elderly parent who receives negligent health care, there are no economic damages.

Assembly Bill 209 seeks to eliminate these special legal protections that were sold to us 20 years ago for which we are still awaiting results [page 6, [Exhibit K](#)]. In doing so, Nevada would join 24 other states that have no medical malpractice caps. You are going to hear from the opposition: Nevada is low on doctors. This is true. I do not think any of us are insensitive to that fact. However, in these 24 states that have no medical malpractice caps, each one of those states still have more doctors per capita than Nevada. You are also going to hear from the insurance companies. I am going out on a limb here and will say they probably hate this bill as well.

In Nevada, malpractice insurance is a source of significant profit for this industry. Since 2007 insurance companies have billed Nevada's doctors for an average of \$82 million per year while only paying out about \$24 million in claims [page 10, [Exhibit K](#)]. What does that mean? That means that there is more than \$1.1 billion against payouts, pocketing \$750 million for themselves. While those stats certainly work in our favor here at the table and unravel a lot of the misleading information on this topic, this bill is about accountability [page 4]. Nevadans do not have to choose between bad care or no care, which is what they will also come up here and tell you. We know that the system is broken, we know that we want to fix it, and this is my contribution to that effort. I believe that this bill finally creates accountability for providing bad care and gives victims and their families the route to hold people accountable for something other than their future treatment or economic value.

Since I have served in this body, we have had a lot of conversations about accountability. We have talked about police being accountable in their communities. We have talked about miners being accountable for the environment. We have even talked about teachers being accountable for student achievement. And today we are here to talk about holding an industry that is dominated by massive corporations accountable for the very people whose health they hold in their hands.

Madam Chair, with me today is Jennifer Parks, the President of Empower Nevadans Now and a registered nurse to talk to you about her real-world experience with medical malpractice. We will also hear from a few victims who are strong and courageous to come before you today to tell their stories. Finally, we have Christian Morris, an attorney with unmatched experience in this field, available to answer any questions. At this time, I will turn it over to Jennifer Parks.

Jennifer Parks, President, Empower Nevadans Now:

I have been a registered nurse for a long time; it will be 20 years in June. I have lived in Nevada for 26 years, and I am very proud to call it my home. Empower Nevadans Now is a group that formed to focus conversations around the victims of the health care industry that has grown unaccountable to its patients and to the quality of care delivered to those patients. Our current health care system is a mess. I wish I could say differently. This is partly because the system is set up for profit as opposed to healing patients. This includes insurance companies. They deny care or require the providers to practice in a certain manner that is not in the patient's best interest. It also includes hospitals that do not give the nurses and doctors the support they need and instead intentionally understaff the facilities.

The issue we have at hand today is not just about simple mistakes or one provider's poor decisions on any one given day—those happen sometimes. Rather, this is about a more collective problem. I am here to tell you that doctors and nurses are caring people. They went into health care to help others, but every day they are forced to provide that care in a substandard fashion, and substandard care is unsafe care. I have lived it from very early on in my career.

One night when I was a brand-new nurse, I was given an especially unsafe assignment [page 6, [Exhibit K](#)]. I had worked short-staffed before, that was not new, but this night was different. It was so much so that I was compelled to call the nursing supervisor. I needed to report the unsafe assignment. What you may not know is once you accept report, you cannot leave—that is patient abandonment, and it is not okay. I was tied to that assignment, but I needed to go on record for how unsafe it was. I asked for additional help and I was denied. Instead, I was told I should do my best. Possible solutions would have been calling in another nurse to help, as we have float nurses; or calling in a nursing assistant to offer care; but instead, my hospital gambled with patient safety to save a few bucks on staffing. I was lucky that night, none of my patients died. What a terrible measure. I am here to tell you that I did provide substandard care that night and it was not safe care.

Over the past 20 years, I have been witness to many other examples. I am going to highlight just a couple. I have dealt with doctors who are in a hurry to get their patients up to the operating room. I am sure they felt the pressure of the facility as well, so much in a hurry that they did not come down to the emergency room (ER) to properly consent their patient for the surgery they were about to undergo. I have seen new nurses who were hired into high acuity areas. These are new graduate nurses, some of them without even prior medical experience. In those high acuity areas, they are taking care of some of the sickest of the sick. They were not given enough training, and in more than one instance, they committed a medication error, the kind that resulted in death.

I have seen a doctor who documented that she came into the hospital to see her patient, but she did not. Instead, she just gave verbal orders over the phone. Later, that patient lost both of her legs. I have seen nurses who have charted concerning blood pressure readings that would indicate they are monitoring their patient, but that is not enough. They did not notify the doctor of these abnormal and highly concerning readings, and in one case, the patient a few hours later coded and died. They missed their chance to intervene.

What is the solution? Identifying a broken system is not enough by itself. We need to give patients a voice and a path to justice. Hospitals and insurance companies are focused on their profits, period. They do not respond when even one of their own staff or multiple staff members alert them to issues of safety and broken parts of the system. They respond only to money. The goal of [A.B. 209](#) is to do what our laws and regulations and even the Board of Medical Examiners cannot: hold a system accountable for the quality of care. Only then will they make the necessary changes to protect patients: our loved ones, our family members, you, me. Some of those victims I highlighted just moments ago are not able to come and

speak to us. They are no longer alive. But I do have with me today a small group of some brave victims who are willing to share their story. You are going to hear from Doriann Myers, Candice Duran, and Nova Coffron.

Doriann Myers, Private Citizen, Las Vegas, Nevada:

I want to thank each of you for giving me the time today to share my story. I am 61 years old, and I am married to my college sweetheart, Brad. We have two kids, Tyler and Mason. I lived, worked, and raised my family for over 30 years in the state of Nevada. The part of my story that I am about to share with you started in 2014. My youngest son, Mason, was 15 and my oldest son, Tyler, was 18. Tyler was born with a degenerative muscle disorder. When he turned five years old, I gave up my career in real estate and I became a stay-at-home mom to care for him full time. By the time he was 10 years old, he was confined to a power wheelchair.

In 2014, I was diagnosed with breast cancer. I was told that it was caught very early and that a lumpectomy was all that was necessary. I was so grateful for early detection. A medical marker clip was placed in the tumor and the surgery was then performed. After that, I believed that I was cancer free. The next year I went in for my annual mammogram. Once again, there was a suspicious spot in the exact same area. Another biopsy was performed, and the new medical marker clip was placed. The results showed breast cancer. I could not believe that I was facing cancer a second time. I went through chemotherapy, and then I had a double mastectomy so that I would never have to go through this again. Just a few months after that surgery, I discovered for a third time that a mass still existed in the same breast in the same location. Chemotherapy had to begin immediately. I could not believe that cancer could still be there.

At this point, my husband Brad and I decided that we needed to seek medical care elsewhere. We called Nevada our home for 30 years. But sadly, we discovered that when we needed our medical community the most, they were not there for us to help me survive cancer. We went to a renowned cancer center in Texas. During some imaging tests I had while I was there, it was discovered that the tumor in my breast still had a medical marker clip in it. What does this mean? It means that the cancerous tumor had never been removed during a double mastectomy. It had been left behind. I was devastated. I had been through an aggressive chemotherapy treatment that was not even necessary because my cancer had not reoccurred. It had never been removed. I lived away from my family for months on end.

Two months after I returned from Texas, I became ill and was soon diagnosed with acute myeloid leukemia. I once again left Nevada and sought medical care in Texas. My leukemia was deemed to be caused by one of the unnecessary chemotherapies that was given to me in Nevada. I was hospitalized for nine months while trying to fight for my life. Now, as traumatic as all of this sounds, I will now share with you the most devastating part of my story.

During my time in Texas, my oldest son, Tyler, began to succumb to his disease and he passed away at the age of 21 while I was going through treatments. I had given up so much

to care for him, yet I was not able to be with him and care for him during the last two years of his life. I cannot even find the words to express the heartache that this mama experienced. What happened with my medical care should never have happened. I no longer am the wife and the mother that I wanted to be because of my medical conditions. Although I cannot change what has happened to me in the past, I can use this experience to help others. Today I come before you and I share my story to encourage you to help pave a path for justice for all the families in the state of Nevada. Thank you for your time and for letting me share my story.

Candice Duran, Private Citizen:

Thank you for taking the time to listen to my story. I am a 33-year-old proud mother of four sons, Elijah, Cava, Caymanian, and Ezra. I am here today because I have been put in the position of being a 33-year-old mother who does not get to live the life of a usual 33-year-old mother due to medical malpractice. I have never been able to get justice for what happened to me. That is why I am testifying because I do not ever want anybody else to have to go through what I have gone through and be put in the position I am in today.

Here is my story. In 2016, I was pregnant with my fourth son, and I was having way more complications than I ever did with my first three. I knew something was wrong because of the horrible pain I was experiencing and obvious symptoms, because my skin was even busting open from the water retention that I was having. Every time I went to the doctor, I told him something was very wrong. He continued to downplay my concerns and told me that despite what I felt, it was all normal. He kept telling me that I had a urinary tract infection because I had protein spilling into my urine. He was trying to treat it with antibiotics, which was unsuccessful. He then started giving me injections of antibiotics along with oral antibiotics at the same time. After so long of doing all of this and nothing working, he told me he did not want to deal with me anymore. I ended up in the emergency room, and when I was admitted, they tracked down the medical records from my doctor and from looking at all the notes, they indicated he knew I had preeclampsia this whole time.

I was pretty lucky because failure to diagnose preeclampsia can put the mother in a coma or sometimes lose the life of the mother and the child. My doctor kept me in this high-risk state that caused a whole domino effect of health issues. Although my son is healthy and I am alive, my path has not been easy at all. After my son was born, the preeclampsia did not go away, and my kidneys were not functioning. Then I had to be put in the intensive care unit and my son had to go home without me. A kidney biopsy showed that lupus was causing kidney failure, which I never had an issue with. I found out that I had lupus, but it was always in a dormant state; all the stress on my body from the preeclampsia caused my lupus to come out of dormancy and start attacking my kidneys. I had to go through chemotherapy just to stop the lupus from doing any more damage. I was in and out of the hospital for the next year, dealing with my new list of medical conditions. By the time I was able to get out of the hospital and start trying to do anything to get any justice, I had learned it was already too late.

Now I am stuck with end-stage kidney failure for the rest of my life. Today, my kidneys only function at about 3 percent. I have to undergo dialysis every Monday, Wednesday, and Friday. I do not get to be the kind of mom that I want to be, and I do not get to give my sons the kind of life that I planned on giving them. I worry every day that I might not get to see them grow up or witness any of the key milestones that every parent dreams about being a part of, and I will never get this time back with them. There are no economic damages under Nevada law for what I have lost and what I will never get back. Thank you for hearing my story.

Nova Coffron, Private Citizen, Carson City, Nevada:

I am a survivor of medical negligence. My story is not nearly as heartbreaking as the ones you have heard already. But I do represent a large group of people who you do not hear about as often because we fly under the radar. On March 2, 2020, right before midnight, my husband drove me to a local hospital emergency room because I was experiencing abnormal pain and some strange seizure-like muscle spasms. We did this out of an abundance of caution because seven days prior, I had been released from a different hospital after a routine cervical spinal disc replacement surgery. The surgery had gone well, and I was recovering normally at home. As we entered into the emergency room (ER), we were shocked to see that it was empty. We could not believe our luck knowing that emergency room wait times are often very, very long. We were immediately ushered into triage where we presented my complete discharge packet for my prior procedure so that they knew what medications I was on—the list was long—as well as the phone number for the on-call physician assistant who was working with my case and knew all of the important information about my procedure. I thought I had provided everything I could on my end to ease the treatment of my case. Added to that, I was sure that I would be getting everyone's full attention since I did not see a single other patient in the emergency room that night. What good fortune, or so I thought.

The doctor briefly visited with me and took inventory of my symptoms. He immediately ordered intravenous (IV) Dilaudid for pain. Now being fresh out of spinal surgery, as you can imagine, I was already on that laundry list of medications. After the IV Dilaudid was administered, the nurse began asking me to list off the medications that I was currently on. I was completely out of it at this point. I was slurring my words, but my symptoms remained present. The doctor visited again and after hearing that I was still feeling unwell, through my slurred speech and obviously sedated effect, stated that I was having a panic attack and ordered IV Valium. He left, and my husband sat with me in the triage room while the nurse administered the Valium through an IV. I remember seeing her inject the medication into my arm, and I remember commenting on how it was burning, and then I was plunged into blackness.

It is through my husband's eyes that I can tell you the rest of the story. After the Valium went into my system, I slumped back into the hospital bed. The nurse commented that, She must be tired. My husband then watched me turn from a normal color to yellow to pure white as my heart stopped doing what it had been doing faithfully for the past 324,120 hours of my life. It was a lethal injection, and I was in full cardiac arrest. It was only then that the nurse realized something might be wrong. They both jumped up and tried to shake me and

yelled my name. They realized I was coding. My husband watched as the code team went to work pumping my chest with cardiopulmonary resuscitation (CPR). And if you have ever seen chest compressions in person, you know, it is a violent process. Often, ribs are broken. I was only seven days out of a two-level artificial disc replacement on the C5 through C7 vertebrae, which is the lower portion of my neck.

I am glad for CPR and all its violence. It saved my life, but it never should have been necessary. My husband watched them and thought, I am losing my wife; my wife is dead. He was running through how he was going to tell our son, who just happened to be celebrating his third birthday that day, that his mother was gone. I think of his trauma as far worse than mine. In addition to CPR, they also conveniently gave me a dose of Narcan which quickly brought me back once several minutes of CPR had effectively gotten my heart to start beating again. I remember coming to and my husband crying next to me, trying to explain what happened. Well, I missed my son's birthday that year. I was sent to the intensive care unit (ICU) for several days. They performed every test under the sun: electroencephalogram for brain activity, CAT scans, magnetic resonance imaging (MRI) of my heart and brain; my entire body—I was healthy.

It was only after I was about to be discharged from the hospital that I learned they never even called my on-call neurosurgeon. He was livid. He told me he would have suggested a totally different course of action that would likely have not resulted and ended in cardiac death.

The coming weeks were a lot for me to process. On one hand, I felt lucky to have survived when the American Medical Association statistics show that only 25 percent of people survive cardiac arrest in a hospital setting. The odds are much lower outside of a hospital. However, it would have never happened to me outside of a hospital setting because it was the hospital that overdosed me to the point of cardiac death within 45 minutes of arriving in the emergency room. Then to add insult to injury, I received a hefty bill for the ICU stay. I called the hospital multiple times, I wrote letters, I sent them to everyone I could find in a position of authority at the hospital and received no response from anyone—no apologies, no promises to amend their policies or procedures so that this did not happen to anyone else, nothing. I cannot tell you how disheartening it was to go through that whole situation. I was gaslit by the hospital that told me I just had a low tolerance for pain meds.

I called several attorneys, and no one would touch the case. They said I was alive and well, and that was my consolation. It was not worth it to go up against these giant hospital organizations that dedicate millions and millions of dollars to make stories like mine go away. My medical notes had several inconsistencies but clear as day at the top, it said "cardiac arrest, cause unspecified." Then they proceeded to notate that I was given chest compressions followed by Narcan—which we all know what that is for—that resulted in the favorable outcome. Since my release, I have not been the same, both physically and emotionally. I have ongoing pain that should be totally gone according to my neurosurgeon. My symptoms before I went in for surgery were treated, but then I came out of the ER with new symptoms. My only choice is to move forward and not dwell in anger and the what ifs, but then I keep hearing stories like the ones you heard before me; they happen a lot. I hear

stories of mothers who did not make it home. I hear stories of people who are permanently maimed to the point that they are not the same person anymore. Sometimes I feel guilty I survived with so little damage in comparison.

In our most vulnerable moments, we have been betrayed. There must be some accountability. What happened to me cannot be changed. I want what happened to me and everyone else here today to never happen to anyone else. I do not want to hear another story of a mama not being able to care for her children the way they deserve because of medical negligence. I lived and I am relatively healthy, but it easily could have been a very different outcome. Why did I make it and others did not? My own 33-year-old cousin died last year in his hospital room after he aspirated, and no one was able to come and help him. The outcomes of these stories all vary but the reality is that none of them should ever have happened. Some people walk away with luck on their side; some people never go home; others never go home the same. None of it is their fault. We must have accountability because it is the only way positive change can happen.

Christian Morris, Attorney, Henderson, Nevada:

I would like to walk through A.B. 209 with you. I will be very frank with you. It is not the changes to it; it is really the repealed portions I feel as though will have a majority of the questioning and the focus for the hearing here today. Assembly Bill 209, which obviously is a bill that was in 2002 and kind of revamped in 2004, is the focus of what we are talking about. I just want to say that it was a privilege to be able to sit up here with these witnesses and hear their stories because it is incredibly powerful, and we are all here to improve health care in Nevada.

Addressing A.B. 209 is a step toward that goal because the reality is, the fear of reprimand and accountability is what keeps quality high, and we deserve to demand that here in Nevada. We should be able to demand quality health care. One of the ways we can do that is by ensuring that we are watching what our medical providers are doing and keeping it in check: it is checks and balances like we have in every single profession. Looking at A.B. 209, the changes to it are really not anything that have any big kind of consequence. We have a section here about having insurance. Generally, doctors already have insurance, \$1 million, \$3 million. It is required if you want to have hospital privileges; it is required if you have an ambulatory surgical center. There are a few that do not, they can go bare, but it just requires they actually have health insurance. I think we all kind of assume they do anyway. But this would put that requirement in there.

Then looking at the repealed section, I really do think this is the area of focus. As we know, the current status of our law in Nevada has a limitation on the value of human life. The repealed section would take off that limitation to the value of human life and of human loss. It would also repeal the joint and several liability issues we have where, when we work as doctors, like work in any profession, we are a system. We have to look at the medical records that come from other providers, rely on that information, make sure that we have the full picture when we are taking care of a patient, and it takes away that area where it is, each doctor can point at the other doctors and say it was not my fault, it was yours. Everyone is

joint and severally liable. It also repealed the area of a one-year statute of limitations. The reason why that is important is because there are many times where people are not capable of knowing what has happened to them. They are currently suffering from a medical condition. They are not focused on what went wrong. They are trying to live, they are trying to survive, they are trying to get better.

In addition, medical care is complex. For me, one of the few attorneys who does still take medical malpractice cases—and we are few and far between—you get tens of thousands of pages of medical records, and you have to dig through them to figure out what is in them. Many times there is omitted information, many times there is information that is not complete, and it is very difficult to get a picture and be able to say, Hey, what happened in this case in this very short period of one year? That is a very important part of the repealed sections for A.B. 209.

There are some areas that are very basic and straightforward. Many cases go to a settlement conference. That is something that happens in almost every single litigation case; you will at some point go to a settlement conference. But that is another portion here for the repeal. And then the other one would be the dismissal of the action without the affidavit of a medical expert. Something that is very difficult for the litigation of these cases is to figure out what went wrong when you are not allowed to do any discovery, you are not allowed to talk to the medical provider, you are not allowed to take depositions, you are not allowed to get the real evidence before you file the case. You can only rely on what you can see in the medical records they are willing to give you. Many times, it is very difficult to be able to dig in and see what is going on in these cases before you file the lawsuit, yet the law requires that you find an expert, generally in another state, to look at these and say, Okay, we think something has gone wrong here, and it has fallen below the standard of care that allows you to even get access to justice. The idea here is to not lock patients out of the courthouse, not lock the citizens of Nevada out of the courthouse, allow them to have their day, allow them to have the justice that almost half of the states are allowing to happen.

The reason why it is important is because transparency, accountability, and responsibility breed quality, and we know it. That is why we are talking about these issues because when you have transparency, responsibility, and accountability, you will attract good doctors. We want good doctors in Nevada. Good doctors do not consider, Well, is there a cap, before they come to practice in the state. Good doctors who actually care for their patients are not the ones focused on this. The reality is that these caps have benefited one entity and that would be insurance companies, and it has been going on for many, many years, which is why this bill is so important. I appreciate the time to be here, and I will welcome any questions or comments from anyone here.

Chair Miller:

Thank you for your presentation. Thank you, especially to the victims, who have been so brave to come forward and share your stories in a public setting like this. We appreciate that. Are there any questions from Committee members?

Assemblywoman Newby:

The additional language in section 4, subsection 1, regarding the liability policy that needs to be held, applies then to section 2, which refers to *Nevada Revised Statutes* (NRS) 41A.017, "provider of health care." Looking up that statute, it includes folks who are far beyond physicians, surgeons, or some of the ones we talked about today. Do physical therapists, psychologists, those sorts of folks, do they currently have to carry the liability policy right now or would this be a change that they would need to now start carrying that?

Christian Morris:

I think that is a very expansive category that needs to be looked at and parceled out. For someone who is not in their profession, I cannot tell you specifically who is required to and who is not required to. Generally, when you have a license and you renew it, you have to prove to an entity, the state, and insurance company that you do have liability insurance of some level. I think that is a very good point to make, that this blanket for everyone who falls within that category would have to have this type of level of coverage needs to be looked at. I cannot specifically answer as to whether they currently are required to do so for each specific category, but many people do in order to have an insurance contract. To have a payor insurance even use you, you have to prove that you have some level of liability insurance, but does it currently have law that every single person has to have that level? Not currently, and I think that has to be something that is carefully looked at as to each category and the requirements for that.

Chair Miller:

For the sake of record keeping, will you be responding to all the questions along with Assemblywoman González?

Christian Morris:

Yes, I will.

Assemblyman Gray:

First, I want to say my heart goes out to everybody's story. My sister lost her husband actually to medical malpractice. That being said, it is still a very tricky issue, especially here in Nevada. Has the Nevada Supreme Court ruled on the cap or the constitutionality on the cap of noneconomic damages in Nevada?

Christian Morris:

Not that I am aware of. This is an issue that is under the law, and they do have to, of course, figure out when the cap applies, and it gets reduced down generally by the district court judges when there is a verdict that comes in. I do not know if you are aware of this, but jurors do not get to know about this cap. When jurors hear a case and they see the epic level of agony and pain and they want to compensate for what has happened for the loss of a wife, for the loss of a husband, for the loss of a child, they do not know that they are not actually able to do that. That is something that is done by the district court judge after the verdict comes down and it is reduced down. They follow the law. Generally, the judges just take what we have as noneconomic versus economic. For everyone's clarity, noneconomic is the

value of disfigurement, the value of the loss of not having your wife, the value of the loss of the enjoyment of life. It is limited to \$350,000. To answer the question specifically on, has the Supreme Court decided it, to my knowledge, no, because they have always just followed the law and not litigated the constitutionality of it.

Assemblyman Yurek:

Truly our hearts go out to the copresenters who shared their stories. It is difficult to hear those. There is another story right here, and I think that is the tension in the room. I remember, for example—and to set up my question—my wife was pregnant with our first child back when I was 25 years old, a relatively new police officer with insurance, looking forward to giving birth to our child, when the crisis back then occurred. Insurance companies were pulling out and there was grave concern in the obstetrics/gynecology (OB/GYN) area, in particular, where my wife and I were looking, Are we even going to have a doctor here to help give birth to our child? So that created quite a scare in us. I know special sessions went on. I had a couple of kids later and OB/GYNs were still here. Did the current law and the cap that we have help to stabilize the decisions that were made in special session and the law that exists now? Did it help to stabilize the insurance market? If so, should we be concerned that this type of repeal could result in increased insurance rates again that could then lead to doctors pulling out and exacerbating our health care crisis?

Christian Morris:

I think we have to really look at why we are in the situation that we are because what happened to lead to the law that we have currently in Nevada is that a very large insurance company, St. Paul Insurance Companies, pulled out of Nevada. Doctors did not leave Nevada. A large insurance company for reasons that are not disclosed, pulled out of Nevada. There was a need to make sure that there were liability insurers here in Nevada. Has it stabilized is a great question, because if you tell an insurance company, Hey, you can bill all of our doctors their premiums and we are going to limit what you pay out, yes, that absolutely will do it.

But the issue is, are there truly doctors leaving Nevada because they do not have liability insurance. The issue was an insurance company did, and there are no insurance companies that are in crisis here in relation to giving liability insurance to doctors. There is not some sort of shortage of insurance companies. I think that is the reality of what we need to look at, because was it truly the issue of doctors leaving Nevada or did one insurance company pull out in 2002, and then a crisis happened and insurance companies have come in. Insurance companies insure doctors in every single state in our nation. That is what they do, and these doctors come and they practice here. Do we need good doctors in Nevada? Do we need more medical providers in Nevada? Yes, but to say, Come here and it is a free-for-all and no matter what you do, if you kill someone, the value is \$350,000, that is not the right message, and it has not been helping us. We have not been able to recruit more of them because of that. I think what we need to look at is what is the effect, because the effect is not that doctors are running away or that doctors are coming. We are still struggling to get them into our state. We need to provide a good environment for them to be here. We want Nevada to be an attractive place to practice and to live, but we want good doctors coming in to do that.

By raising limitations, by reducing this limitation, by taking it away, the message is, Well, just practice, not good practice. And it has not been proven—there are no statistics that I am aware of that say the more reduced your cap is, the better doctors you get and the more you get. We have to look at what was the reason why we are here, and the reason why is not because doctors were leaving. It is because of the fact that there was an insurance issue that for whatever reason pulled out which insured 60 percent of the doctors, and plenty of insurance companies have filled that issue. Has it stabilized? Sure, but who have suffered are the patients, who have suffered are the citizens of Nevada by getting quality medical care, because the reality is that we do need checks and balances and fear of reprimand is real.

Nobody wants to get sued. What do you do? You make sure that you do not do anything to the best of your ability to allow that to happen and you give quality care. What happened, which lead to where we are, really was not truly about no one wanting to move to Nevada because we did not have this law in place. It was an issue with an insurance company, and it certainly has stabilized. The information you found is that the insurance companies have benefited billions by allowing that to happen, and who have suffered are the citizens, and that is the reality of what we are sitting here looking at today.

Assemblyman Orentlicher:

As your witnesses and testimony have indicated, having this \$350,000 cap can be very unfair. As the Florida Supreme Court has said, it can be irrational when you compensate the people with lower injuries and do not compensate the people with the more serious injuries, which is surprising that our Supreme Court did not think it was irrational to have the cap. If you remove the cap entirely and remove this arbitrary system we have now, because it is arbitrary, we end up with some arbitrariness on the other side because one of the downsides of noneconomic damages is juries do not really have any guidance. It is very subjective, and unlike economic damages where they have to measure in certain ways, what are your medical costs, what are your lost wages—at least there is some metric. But there is no real metric, and so that can lead juries to act inconsistently, arbitrarily, on their own. Of course, judges can step in, but judges can be arbitrary, too. What is your answer for removing one arbitrariness on one side and just replacing it on the other side?

Christian Morris:

I think your concern is something that is addressed by every single citizen in Nevada. That is the beauty of the jury system. Who is better to value human loss and human life than another human, because that is where it is not actually arbitrary. It is based on how other humans value humanity and value the pain and anguish and loss that they see because it happened to someone in their community. They are in fact the best measure for these damages because who else is supposed to do it? Who else is the best person to do it? That is why the jury system is so beautiful and access to justice is essential. In my opinion, that is how we truly get the temperature of what is going on in our community, when the jury speaks, and when they speak, it is based on what they have seen in a courtroom—which many people think is very sterile. It is not; it is where epic loss is measured, and it is measured by people who are wholly able to do it because they are humans who can relate, who can see and can value it.

It is not really arbitrary if you think about it. It is a group of people who come together using their common sense, using the evidence they have seen, using their intuition to say this is how this life and this loss and this injury should be valued, and I honor their decisions in that. There are so many things that we can hear—runaway jury, hot coffee case. When you truly look at why humans in our community come together in a courtroom and make a decision, it is eye-opening as to how valid that is and why it is not actually arbitrary and that the law that we are looking at today is a number that was picked. It has nothing to do with the actual pain that you even heard here today. That is where it is so essential that every person have that opportunity to be valued by people in their community who can relate, who can understand, and who can hear the whole story and be able to come to evaluation based on that.

Assemblywoman González:

Assemblyman, you mentioned that these cases are subjective, and I think that they should be. I think Ms. Morris commented on that part. These victims and families have no path forward or justice forward other than an industry who came here in Nevada and set this arbitrary number. I think it should be subjective.

Assemblywoman La Rue Hatch:

I know it is not easy to relive your trauma and to tell your story, and I appreciate your doing that. I also have an example of medical malpractice in my experience. I think most of us do. I took my two-year-old daughter to a local Washoe hospital where they wrote down her weight as 35 kilograms instead of 35 pounds, and then dosed her accordingly. I think all the medical experts in this room, their eyes are getting big right now because they know how serious that is. From that experience, though, I do not know that getting a million dollars after she died would have fixed that for me. She did not; she is still alive and well, but had she died, I do not know that any amount of money would have fixed that.

What I want to look at is prevention. How do we stop this from happening before we get there? I think Ms. Parks mentioned that there are issues with insurance companies and for-profit hospitals and staffing. I just want to know how this bill gets those fixes; not necessarily gets me money after something wrong happens. To add some context, as a teacher, there are many teachers who are increasingly being sued for violating an individualized education program (IEP). It has become an industry, and that has not made our district give me more support in my classroom. It has not made a smaller class size in my district. Sorry, I will stick to a question. I just want to know, comparably, how will suing doctors make the hospitals actually fix the staffing issues and the other things?

Christian Morris:

I think that it is a very good question because that is what a lot of people wonder, What will ever make it better, and no amount of money will ever make it better. The reality is that when there are consequences, it deters bad action; and that is what it is—it is deterrence. If there are consequences when things happen, such as a grave mistake in the weight of a baby which could have incredibly bad outcomes, will people be more careful in making sure that there is proper staffing, proper training, have all of the policies and procedures in place, and that there is supervision? People do not want to be sued. But the message is, Please stay

in check, please take care of us in our most important moment, or there are consequences. That is a reality. In human nature, that is what keeps people doing everything that we should do. We cannot just hope. They have to have that consequence. As Ms. Parks said, of course, they look at the bottom line, and if you put that bottom line at issue, there will be actions and that is what we want to do. It is to compensate, yes, because there has to be some sort of justice. But the other most important part of justice is deterrence of bad actions. We want good doctors, we want good hospitals, we want good medical providers, and that is the message that we want to send. By deterring bad action, the result is good action.

Assemblywoman Hardy:

I, too, want to express my empathy for those victims who shared their stories, being vulnerable and reliving those experiences. We have heard a lot of talk this session and in previous sessions about needing more doctors and health care providers, and we have our medical schools and want to keep those students here in Nevada. Part of our strategy is homegrown doctors and having them here in Nevada. This bill creates risk for our current medical students; it creates uncertain costs, conditions, and things like that. How are those students prepared for that and wanting to stay here in Nevada? Do we have any kind of idea how it is going to affect those students whom we are trying to keep here?

Christian Morris:

I think that it is a very legitimate concern. I think that one of the most important things is we have to look at what is the mindset behind it. My husband is a doctor. I know a lot of people in the medical community, and I am not aware of anyone who says, I am going to leave the state of Nevada based on our law, or I am going to stay in the state of Nevada based on this law regarding the caps. I do not know of any of that. I do not know of any doctor even personally who left the state of Nevada before 2002 and then decided to move here after the law changed. But I think the issue is, what is the concern is, that they will not have a limitation on it, that their malpractice rates will go up. Why limit the citizens of Nevada from their access to justice and just allow the insurance companies to charge whatever they would like? Imagine if we had to cap them on the amount that they could charge a doctor in their premiums. That would be pretty powerful, but they can offer a rebate to their policyholders. They have been able to more than stabilize. They could have this ability to say, Hey, we want to stay as an insurance company here in Nevada. We are not going to charge excessive rates.

I obviously have no say in the insurance industry. But what I can say is that we want good doctors here, we want homegrown doctors, but the message should not be stay here because we are going to limit your exposure. The message should be, stay here and give good quality care to our citizens. That should be the message that we have here because, there are many states that have many great doctors who do not have the type of limitation on the value of human life and loss that we do here. If there was a correlation, I would love to speak to it. But I think the message has to be clear: We love you. We want you to stay here. We want good care. I think a law saying, Well, bad care is okay too, is a dangerous message to send.

We want people to come out of medical school, stay here, and give us good quality care. This is not a message that is opposite of that. I think if you want a higher standard, you have to ask for it, and that is what this does.

Chair Miller:

There are a lot of people in the room who are waiting for their opportunity to give testimony, but we do have a lot of questions. I want to make sure that members have the opportunity to ask those questions. We have plenty of time right now. I am giving everyone a touch point of where we are. We still have quite a few questions to go through.

Assemblywoman Bilbray-Axelrod:

I have had an opportunity to work with you, Ms. Morris, and I know you are quite passionate about this issue. It is deeply personal for me. I am pretty open in this building that my husband was in a coma and almost died. He had amazing doctors and he survived, and he is better than ever. I have the opposite story, and I am so happy I do. But say that did not happen, and it went terribly wrong, and they did not listen to me. The statute of limitations I totally get; one year, you are still dealing with grief. That year, even when my husband made it, I was still in shock and awe. I get a year is crazy, but should there be some sort of limitation? I mean, could a person who, as a baby was circumcised and then at 40 decide that that was a horrible thing to do and sue the doctor? I just feel like there needs to be some sort of limitation.

Christian Morris:

There has to be absolutely some sort of standard, and what it is, it is falling below the standard of care. The standard of care is something that is established by the medical community and the care that is given. In your example, would it be a feasible case that that child be able to sue 40 years later? No, it would not, because the doctor followed the parents' wishes and circumcised the child at their request. There has to be viability in the claims that are made. This is not something like, oh, everyone just loves to sue a doctor. I do not want to have to sue a doctor. It is usually because some horrid tragedy happened, and it needs to be held accountable and that is it. You have a defendant who obviously has credibility, a very good education; this is not something where every claim is just going to be thrown at it. I think that is an illusion that happens. There has to be falling below the standard of care. For every litigation case, in order to prove that, you have to have areas of expertise in which they said, This is something that fell below the standard of care; this doctor's conduct rose to the level of gross negligence and that is what we are looking at. These are not cases that are easily filed and then they go away; these are litigated cases. These are cases that take a lot of medical expertise, and you have to be able to prove it in a court of law with the standards.

I think that concern is not one that could actually come to fruition when you look at what it actually takes because all of us have standards. In the legal profession, I would have to do something that fell below my standard of care that I give to my clients, not for every move that I make. I think that that is something that needs to be addressed because I think it is a fear that a lot of doctors have. There has to be a standard of care shown to have been breached.

Assemblywoman González:

We are not asking for an unlimited amount of time. Even in that example, a person would not be able to come back 40 years later. We are asking for general negligence. I want to touch back on my opening remarks about how we gave this industry special protections that no other industry has. If I hit you with my car, general negligence, you still have a statute of limitations of two years to bring a case forward. We are not asking for unlimited time. We are literally asking for it to be treated like any other act of negligence.

Assemblywoman Hansen:

There had been something mentioned earlier from somebody else regarding nurses, and I want to clarify on the record. Nurses, unlike doctors, are covered by the hospital's insurance. Is that correct? They do not have to have their own insurance.

Christian Morris:

Yes.

Assemblywoman Hansen:

It sounded like in some of the testimony we heard that the hospitals are not hiring enough nurses to keep costs low. We know there are shortages of doctors and nurses in our state at our hospitals. Those workloads can be kind of onerous. But if those nurses are covered by the hospital's insurance, is it not just inherent then that the hospital would be very conscientious about their risk management because of their insurance costs? It is not that they are trying to hire less, they are going to manage better because they need to keep their insurance costs down. I was just curious if you could expand on that a little bit, the hospital's risk management versus their insurance costs and the nurses.

Christian Morris:

I think the issue that really needs to be looked at is where is the cause and effect of risk management, because when a claim is brought against the hospital, let us just say for the negligence of a nurse, who really deals with that? Well, the risk management is involved, but it is really the insurance company that provides the insurance that is handling the adjustment of the claim that has been made. It always tracks back to the insurance company. Now, the insurance companies are the ones that handle "the money part." The risk management interfaces with the insurance company. But the reality is that the more claims that are brought against the hospital, the more risk management is going to have to deal with that and interface with their insurance company.

What is going to make deterrence happen is that if they are truly looking to take down costs, all of that takes time. When a claim is made, risk management has to be involved; they have to work with their insurance company; they have to deal with their nurses. All of that takes time away from patient care. You always want to make sure that the hospital and risk management are looking to limit that from occurring because the money reality is with the insurance company, and the insurance company is the one that actually writes the checks. The risk management itself, you want them focused on the quality of care. You want them

focused on fewer claims being made so more time can be spent taking care of the patients. And the way you do that is by supervision, is by policies and procedures in effect, is by watching what is going on in your hospital.

The reality is yes, there is short staffing, but if the true reality of this bill was working, we would not have this problem, we would not have the short staffing, we would not have the lack of the doctors. The cause and effect of the law is not coming to fruition; the issue is, we need to make sure we get better health care and more health care providers. We want the hospital's risk management to be focused on patient care as opposed to trying to take this issue of money, which we really know is the insurance company, and focus on the care. I hope that helps a little bit. Risk management in itself is the one that deals with the claims being made, but the behind the scenes is always the insurance company that is dealing with the money aspect of it, not the hospital itself.

Assemblywoman Gallant:

I feel for a lot of the victims in this system, and this is coming from somebody who chooses to birth her babies at home rather than in the hospital because the insurance and the attorneys—it is based on reducing liability so they want me to fit into a box and that can cause complications. I understand that, but I do also know that we have had some amazing care here in Nevada, and the doctors have been just phenomenal. As a business owner, I know anybody can sue for anything. I know we are talking about these jury cases, but most cases end up being settled, and it does have an effect on the insurance and on costs. How many pending medical malpractice cases are there? Also, how many of those medical malpractice cases typically end up being settled and not making it to the jury, because that still increases costs? As a business owner, even though I did not do anything wrong in a particular case, it still raises insurance rates. Can you give us that whole picture?

Christian Morris:

In Clark County, there are under 400 medical malpractice cases currently. To give you some perspective, there are tens of thousands of cases down at the courthouse. There are tens of thousands of procedures happening in Nevada per year. It is truly a handful of cases, and the reality is, you are correct, most cases settle. However, the reality also is that where medical malpractice cases go to trial, it is generally a defense verdict. Why? Because people do not want to not trust their doctor; it scares people to not trust their doctor. I know everyone in this room wants to be able to trust their doctor. The reality is there are actions that happen that forced us to not be able to do that; it is taken away from us.

Where the danger is—and it resonates with me what you are saying—but when you look at the reality of it, this is one of the most important professions we have. This is the most important time; we want to make sure it is done correctly. And in order to do that, there has to be accountability of it. If we do not have the accountability, things can run rampant and go bad, and tragic stories happen with absolutely no responsibility being held, and that is where you have to kind of juxtapose these two issues that you are kind of talking

about. There are very few medical malpractice cases because so many people just turn them down. The statute ran. It does not make sense to do it because unfortunately, the person died, and the value of their life is only \$350,000.

What are we going to do about that? These are the realities of looking at the other side of it. Do we want to make it attractive to sue a doctor? No, what we want to do is make it attractive to practice good medicine. By making it attractive, you are careful, because we need our medical providers to be careful. One of the ways to do that and keep them in check is this route. Are there issues of concern to be talked about? I think those are absolutely legitimate. But as we sit here now, this is not something that we can actually pursue. We cannot demand good health care through accountability and transparency at the courthouse because our citizens cannot get in the courthouse for a majority of the cases and the things that go wrong to them.

Assemblywoman González:

I wanted to jump in here. The take-home of this industry is \$1.1 billion. What does that mean in terms of insurance? That means that for every \$100 that they collect, they are pocketing \$60, and if this was health insurance, that would be against the law; they would have to return it back to you. I wanted to point out too that it is risk rated. For example, if I get in a car accident tomorrow, if I get in a car accident next week, the insurance company is going to come back and say, Hey, your risk has gone up, so my premiums will go up. In this situation, it is the same with our doctors. If they are having multiple claims, their insurance rate would go up. I just wanted to put that on the record.

Assemblywoman Mosca:

My question was around the affidavit of merit that was discussed earlier. If you could just talk about what is the average cost, wait time, or are there doctors that do it? Could you provide some general information about that affidavit?

Christian Morris:

In order for us to be able to even file a medical malpractice lawsuit in Nevada, we have to find an expert who is basically in the same field of the area in which the negligence occurred and have them write this affidavit saying, What we saw here falls below the standard of care, These are the actions I saw, These are the areas in which the failure occurred—and we have to attach that to the complaint. Now this is something that, as someone who practices medical malpractice, I am constantly scrambling for because doctors are busy. There are doctors who review these; they are in every state. You can find different doctors who will look to review them, but it costs around \$5,000 to \$10,000 to get that and you have to be able to get the medical records to them. There are cases that I have heard that are absolutely tragic. The person has passed, there is not an estate established, I cannot get the medical records, the statute of limitations passes, and I cannot do anything about it.

Our ability to even get these affidavits is so difficult because of the fact we have got this one year, we have got to get evidence to this doctor, to this expert, to have him or her review, and have them find all of the areas in which there was medical negligence in order for us to even

file the complaint. That is really where a lot of these cases go to the wayside: this really short statute of limitations, and this requirement that you have evidence before you have evidence. Many times I will request medical records from the hospital, thousands and thousands will come in, but the one thing I am looking for is not included. I do not even have subpoena power at that point to get it because I do not have anything that gives me subpoena power. I can only get the family to request and go in there. I have family members go in there and stand at the desk and wait and wait and wait for those records, and I will dig through and find missing or omitted records, which is another part of this bill. It will be a fine if you omit or mislead in these medical records, which happens many times. They say, Oh, we forgot to give that to you, and it is probably the most important part of the case.

Assemblywoman Cohen:

Thank you to the victims for sharing your stories. Your last statement just changed my question because now I do want to go to section 1. Can you go through that in a little more detail and say what has been going on? Have there been providers of health care that have knowingly made false and misleading statements? Is it just that you are not getting records because records are difficult to maintain and there has been mismanagement in hospitals, or is it literally that there is false information being provided?

Christian Morris:

Yes, there are situations in which there have been misleading statements made to the patients as to what the MRI shows, that a wrong disc was operated on, the disc below was operated on, and it should have been the disc above. That information was never told to the patient. I know a specific case of that in which the patient took their MRI to another doctor, and the doctor said that is not the level that was operated on. That is the reality. There is a disproportionate in power because doctors have so much knowledge and we trust that they are telling us the truth. I am not saying all doctors do it. I am not saying that in absolutely every situation where I request hospital records, there are missing ones, but it does happen. The reality is, we just want to make sure it does not happen, because if you are talking to a patient, you need to be truthful about that. It is not a huge consequence. It is a consequence that will probably have some impact, if you look at it, that you cannot mislead your patients. I think that should be standard. I do not think that it has to be written down, but unfortunately, there are situations in which important medical records are not in the medical packet.

I know of another situation with a nurse who literally misread the chart to the family in fear of not wanting to have repercussions for what had happened. We want to make sure that that stops. We would say we want that to happen, put it in writing. It makes it a little bit more powerful. Be honest with your patients. When they request their records, they are entitled to all of them and all of the things that happened to them while they were at that stay or that doctor's appointment. That is the purpose of that section.

Assemblywoman Summers-Armstrong:

Thank you for the witnesses who came forward, and we all have our stories. I think the part that is most critical is the right to honesty between a patient and their doctor. We are human; we all make mistakes. But if I cannot trust you as my doctor to tell me the truth, even if it is not great news, I think that is sad that we even have to have that in section 1, subsection 1. Can you speak to what is happening with insurance companies buying and owning practices and hospitals, and where we are with the ability to not be able to break that veil, because we have insurance companies that are not just insuring doctors but now also own practices and, in some cases, hospitals? What are you seeing in our environment? Since St. Paul left and we have new players, how is that affecting the atmosphere of the delivery of care in our communities?

Christian Morris:

That is a great question. I have seen that a lot. I think it speaks to the enormity of the money that these insurance companies have. They can go in and buy up the practices and hospitals. I think the issue that comes from that is, it takes away the autonomy of the doctors and the medical staff who work there to have ownership in the care they are giving. I think that is a danger point whereas, compared to their having this position of, the role of, medical provider, they are employees now of an insurance company, and these insurance companies are unfortunately focused on the bottom line as opposed to the level of patient care. I think it is important to keep an eye on that because these doctors go to medical school for years and years, they get out, and they want to practice, have a life, and give good care; and the insurance companies unfortunately control everything. They control the amount of money they get per patient; they control the amount they get paid for every single different type of insurance; they negotiate with them, and they negotiate them lower and lower every year. We do not want our medical providers exacerbated. We want to create a good environment for them.

It is a little bit outside of what we are talking about. That is the way to create a great environment for getting medical providers and doctors to come to Nevada—is make sure they are properly paid through these insurance companies so they want to come here and they want to work and they are not just pawns for being bought up by them. That is definitely a trend that we are seeing. I think the danger of that is that we want good, independent doctors who can establish their own practice and not look at, Well, maybe I will just get bought out by the insurance company later. They want to stay here. They want to keep in good practice. They want to have their patients. They want to be a referral source for every good doctor in the community, and that is something that is absolutely permeating through our state.

Assemblywoman La Rue Hatch:

I really appreciate the push to get justice for victims and to assist them with the noneconomic damages. Repealed section 7.095 removes the caps on how much attorneys can take from these settlements. If this is about victims, why are we including that in there so victims are actually getting less from these settlements?

Christian Morris:

In order to get good quality representation, you have to be able to have lawyers who are willing to do the work, and it is extremely expensive to litigate a medical malpractice case. It takes time, it takes years, and it takes an area of expertise, and it is sad that the citizens of Nevada have few and far between to pick of us because it is not "attractive" to take it. Now, the defense, they have no limitations. They can spend as much as they want, they can charge as much as they want, they can work as many hours as they want—there is no limitation on that. Yet, there is a limitation on getting the quality of representation for the injured party. All that does is even the playing field to take the limitations off the person who has the burden. As the plaintiff's counsel, you have the burden to prove it and yet you are limited, while the defense is limitless with billions of dollars at their fingertips and no limitation at all. The goal of that is to even the playing field and allow for an open market where people can go and hire the attorney they would like to hire and the attorney wants to take their case. There just are not enough of us. We need more.

Assemblyman Orentlicher:

I want to follow up on an earlier question from Assemblywoman La Rue Hatch and your response to it. She asked about how this will help future patients, and you said "deterrence." As a legislator and a law professor, I want to believe in deterrence. I teach it, and it is an important principle, but I also know sometimes what happens in practice does not always coincide with theory. I am going to quote from a study that I am guessing the other side is going to present. I want to make sure you have a chance to respond to it because otherwise you may not.

This was in the *Journal of the American Medical Association* in January 2020. It is a fairly recent study by a group of respected people in the field of tort law malpractice especially, and they described a systematic review of studies on the relationship between quality of care and tort laws. You have probably seen the study. As I said, I want to make sure you have a chance to respond. Their conclusion is, "In this systematic review, most studies found no association between measures of malpractice liability risk and health care quality and outcomes. Although gaps in the evidence remain, the available findings suggested that greater tort liability, at least in its current form, was not associated with improved quality of care." I want to give you a chance to respond.

Christian Morris:

It is always difficult when you are addressing a study because there are so many studies. There are studies that show when there are caps on damages that there are more risky procedures taken, less radiography done—that suboptimal care is not addressed. There are studies that say what they are saying, that there is no correlation. I think that we need to look at what is the reality because what you teach, what you preach, is human nature. When you look at what a medical provider has—you have got a message to them that it is okay if you do not do what you need to do, we are going to protect and limit that liability. That is what the message is. When the message is something different, which is, We want good care, to say that that does not result in good care by showing them that the law says you need to follow this good practice—but the reality is, you want to look at what human nature is.

The studies say that there is no correlation while there is missing data; there are other studies that say that you will get more risky procedures and less care where there is no fear of repercussions, where there is no fear of it.

When you look at what we are talking about, kind of like risk management with hospitals, there are bodies that look at risk analysis. What is our risk? When you have that risk analysis, people tend to do less risky behavior when there are consequences. When someone is reprimanded, they are less likely to repeat that action. When something happens in a practice, everyone hears about it and people are careful. To say that one study or a study that you just referenced, that there is no correlation, kind of behooves human nature. When people are reprimanded, it gets printed. Even in our legal magazine, I always read through to see what bad things lawyers are doing to make sure that I am never going to do that again. That is how we learn, we learn unfortunately from other people's mistakes, and sometimes people learn from their own, and the idea is they do not repeat it. While they might have areas in which they can say, Well, there is just absolutely no correlation, that does not look at what the purpose of this is because it is either a message to say, It is okay to have suboptimal care, bad care, or we are demanding good care in our state—that is a different message.

If it does not have a good result, I am sure we can address that, but we know now, as it currently sits, it is not solving our problems of lack of medical providers. It is not solving our problems by people's agony and pain being pushed to the wayside. It is not solving our problems of giving our citizens access to the courthouse. When we look at the results of what we currently have versus what the message is by addressing this law, then we will not be looking to see what is the best outcome, because other than that, what would be the point of this arbitrary cap? If you think about it, with your earlier question, it is so arbitrary yet there is no good outcome to it. Where I think we need to look at is why arbitrarily limit the value of human life in Nevada if there is no good outcome. Why not demand a higher standard and get a better outcome? I hope that answers your question.

Assemblywoman González:

As many folks know, I am a Ph.D. student here, and so I can speak to developing a research study. Where did these research studies come from? Are we studying Nevada? What are we actually talking about when we get into the weeds of a study? I would say it is hard to testify against a study, and we can talk more offline about that. But also, if we are saying there is no correlation to the quality of care with the cap, so then the opposite is true. Are we leaving victims out with no access to justice when they do have these bad infractions? I guess it is a question for the other side when they come up here.

Assemblywoman Hardy:

I wanted to follow up on Assemblywoman Cohen's question about section 1, subsection 1, a provider of health care shall not knowingly make a false or misleading statement or prevent, hinder, or delay the person. What would be considered "delayed"? Is there no time limit on that so they could be charged 30 days, or is it 60 days? What is a delay? And then if it is determined you took too long, now you are subject to a fine. If you could answer that, please.

Christian Morris:

I think I understand your question. I want to make sure that I do. The issue is that goes really to the statute of limitations. What will happen is if there is a misleading statement, if there is information omitted or not disclosed to the patient, the patient has the statute of limitations of one year in which to do it. If they do not know the malpractice occurred, they can never hit their statute of limitations. The idea is to not hinder the patient from the lack of knowledge because they do not hold any kind of medical knowledge generally. They have to rely on what the doctor is saying, they have to rely on what the medical records show, to know that something bad happened, which is why they have their adverse outcome. The reality is that there are adverse outcomes that come from no point of medical negligence. It is just an adverse outcome.

Generally, when there is some sort of nondisclosure, where there is some sort of misleading, it is because they are trying to obviously cloak what happened in the procedure that resulted in the adverse outcome. The point is to say you cannot mislead and therefore have them miss the statute of limitations. It hinders their ability to actually hit the statute of limitations. That is what the point is. You cannot mislead, you cannot be untruthful with your patient, and you cannot do it for the purpose of their not being able to meet the statute of limitations in which they could bring the action. I hope that answers your question.

Assemblyman Gray:

Looking at this from a little different perspective, one thing that concerns me is access to care. Working in the ER, say this all goes through, these doctors are going to get penalized. They are going to have to run additional tests that may not be medically necessary; now they have to form their practice and their procedure around protecting themselves as well as protecting their patient. Could this reduce access to care and drive up the cost of health care? When I worked in the ER, it was not uncommon to have patients sitting in an ER for four hours, and the doctor now wants a clean catch urine sample on an infant baby because he thinks she might have a urinary tract infection, which will not affect the standard of care or the course he is going to take, but he has to have that documentation.

I really think it is going to do two things. Will it address the overall cost of care, which I think it will; and will it reduce access to care—because people are going to be less willing to go to an ER because they know they are going to have to wait longer or are less likely to get specialty tests because they know they are going to have to wait forever to get them, and it may not affect the outcome at all?

Christian Morris:

I think the reality is that if there is a change in this law like we are talking about, the people who are going to be put on notice of this realistically are the insurance companies because they are the ones who control everything regarding money. However, what you are saying is that there is a concern of overtreatment, that they will be concerned of, Hey, I do not want to get this claim so are we going to be overtreating the patient? We have to look at what the

standards are in our community because unnecessary tests are not something that we want and/or need, and to assume that a medical provider will start giving unnecessary tests, we are not having trust in our medical community, because there is no need for unnecessary tests.

I have not seen any evidence that doctors in other states that do not have this cap, that do not have these limitations, are providing unnecessary medical care. I have not seen any statistics or studies that show there has been a prevention of access to care or that all of a sudden unnecessary procedures or radiography is being done because of a change in the law regarding this cap on damages. I do not know that I can speak to it because I have not seen any evidence of it, and I have enough faith in our medical providers that they would not start doing unnecessary tests to prevent. Would they be careful with their patients? Would there be more deterrence? Would risk management be watching their policies and procedures in supervision? Yes, I would hope for that, but I cannot speak to it because I have not seen it. I have not seen any evidence in other states of there being unnecessary or excessive care or prevention of patients going to get care because of it.

Assemblywoman González:

I really appreciate your question about access to care and the concerns about unnecessary care because earlier today, we heard victims who went through unnecessary medical treatments without penalties and at the end of the day, they were even still billed for it. I want to point back to my opening remarks on how we are still fiftieth for doctors per capita two decades later, and we also have been voted that we have the lowest cost to health care. I think that there is a narrative here that is just inaccurate when we talk about access and cost, like my colleague said.

Assemblyman Gray:

I would opine that the standards of care would change because there is going to need to be a protection for the doctors as well as the insurance companies. Would you not agree that that is taken into account for standards of care when they develop these standards?

Christian Morris:

Absolutely, and I think standards are absolutely what we want to focus on. But to say the standard would be then to be excessive standards would be something that we do not have any evidence of. Because standards do need to be followed, policies and procedures do need to be adhered to and carefully watched, and that is the goal. The goal is not to have it excessive, and to say that that would be the way that they would go as opposed to carefully monitoring what is occurring in their hospital, to make sure that there is the proper staffing and supervision, is the goal of it. Obviously, it is not to have excessive. To say that that is how they would then spend their money as opposed to more supervision, that is not what we want. We want more supervision, we want more adherence to policies and procedures, and that is not the direction we would anticipate they would go or spend the unnecessary dollars to do it. I think that is something that has to be monitored, being careful of making sure that does not occur. But these obviously are facilities which are in the business of being in

business. To be spending unnecessary dollars in that area, as opposed to adhering to policies and procedures, would not financially benefit them. It would be more of a standard of care in which their facility meets all of its measures, and that is what the goal is there.

Assemblywoman González:

I want to point you to this slide [page 8, [Exhibit K](#)]. Only one hospital in our entire state has more than a one-star rating. If our concerns are about standards of care, I do not know how much lower we can get than that. I just want to put that on the record.

Assemblywoman Cohen:

I would like to talk about the repealed section, the settlement conference section. Our state has had, as far as I know, really good success with administrative dispute resolution. Why is it necessary to repeal the settlement conference?

Christian Morris:

Practically, almost every case goes to a settlement conference and/or a mediation. The way that happens is generally the judge will say, Do the parties here wish to get a settlement conference? Both parties have to agree in order to go there. And frankly, how they are successful is, the parties actually want to go to a settlement conference. The idea here is that they are not forced to go to a settlement conference, and that is the difference. Generally, forced settlement conferences are not successful because that does not mean that both parties wanted to be there and come together and talk. What it does is, it allows it to be a choice to both parties in order to attend that settlement conference and not just mandatory.

Assemblywoman Hansen:

I wanted to follow up along the lines of my colleague, Assemblywoman Gallant, regarding how many cases or even the percent of cases that are settled. But before you answer that, if you could, it is my understanding that the Eighth Judicial District Court has had a specialty court added so that they can handle the caseload—if you could let us know, if you have the numbers here, and if not get that to us. What is the percentage of cases settled? And what is the percentage that the attorneys get from the victim's compensation, if you know that?

Christian Morris:

Every year it changes because for a while, we did not even have trials going on down at the courthouse. The reality is that, not just medical malpractice cases, all cases, a majority of them, settle. There are many reasons why a case is settled. Trial is extremely expensive. Trial is extremely stressful. What you just saw here today from the victims who stood up and spoke, it took everything from them. To do that in a court of law, many of them do not want to relive that; many of them need closure and need to move on. The idea of settlement is that you take less, and everyone's risk is resolved. It is hard to measure; what does it matter if a medical malpractice case goes to trial or not. A case does not go to trial because you have to have a trial-ready attorney, you have to have a party who is willing to do it, you have to have the funding to do it. That is why trials are so few and far between.

The reason why we have the specialty court in the Eighth Judicial District Court is because medical malpractice cases are complex. They have more requirements than a regular court, and we need people who are experienced in the area. The specialty court was not created because there are so many of them; it is because we wanted organization on both sides in order to handle these complex cases. Unlike regular cases where you go before the court and you do a status check, in medical malpractice you do sweeps where they all come together, and Judge Jerry Wiese currently handles all of those because he is experienced in the area. The reason why we have the specialty court is not because there are just so many of them, it is because we wanted organization in the handling of them because they are unique, they are different, and they are complex. That is where it is different.

I do not have the exact numbers for you, and I can get those to you, as to what the current law is on the percentage of what attorney's fees are. It is a percentage per the amount of the money that is resolved. I can get that for you, and it is staggered. I can tell you for attorneys who do handle these cases, that is not the focus; the focus is making sure that what happened comes to light and it does not happen to anyone else. It is not an easy task, and it is not one that we take lightly, because it is very important. We all know how important it is that we be able to trust that our loved ones and ourselves can trust our doctor when we go there. It is epically important that it be on the table and that it be looked at. But the reality is, that is why we have to have these checks and balances and why this conversation is so important because it has consequences to all parties and all sides. I hope that answers your question.

Assemblyman Yurek:

I have a question about how the insurance premiums for the doctors play out. For example, if I have an auto insurance policy—obviously there are actuaries, and insurance sets their rates on a regular basis—but if I file a claim because my son crashes our car or something like that, my insurance rates are going to go up. Can you help me put that in the context of medical malpractice? If there is an increase in claims, are all doctors going to get hit with these increased premiums or are the individual doctors who get more claims, is it their individual rates that would go up more significantly?

Christian Morris:

That is a great question. I know it is a big concern. One thing I want to address about insurance rates is, even when we put this law into effect, it was to keep our doctors in Nevada, and their rates have continued to go up. That has not occurred. My husband has been practicing here for years and his rates only go up; they do not go down, which was kind of the illusion when we put this rule into place. The reality is, it is not what you are talking about, that all rates go up. It is individualized for your malpractice insurance based on your actions. If you are a doctor who has had 20 claims and they are valid claims, then you are going to have a higher rate. Not everyone in the community is going to; you are going to, because there is obviously some risk analysis by that insurance carrier and every doctor has different insurance carriers and every rate is different—they shop around, they negotiate for them. But of course, if they are having multiple claims, their rates will increase.

That is a reality for anyone, even when you get behind the wheel of the car. If there is something and you know, you are in a DUI, your insurance rate is going to go up. Your neighbor's rate will not, but yours will. The reality of that kind of system is that you do have to, and that is something that does actually have an impact on a doctor. They want fewer claims, irrespective of that, because they do not want their rates to go up. The rate does not go up based on how much exposure they have. Their rate goes up based on the fact that they had a valid claim that was made on their insurance. It does not go up, to my knowledge, that, Hey, we had to pay out "X," so you have to pay this. The rates go up in a titrated manner. The level of exposure of the doctor does not control how much the rate goes up. It goes up because a claim or multiple claims were made.

Assemblywoman Summers-Armstrong:

Can you talk about something called a "diminishing policy," where defense attorneys get paid less money, and then what is left goes to the victims? What is this all about?

Christian Morris:

I refer to it as an "eat away" policy. What that means is that there is a policy and, let us just say hypothetically, the policy is \$100,000. For every hour that the insurance defense attorney bills on that policy, they get paid out of the policy and it diminishes. There will be times where, it is time for resolution, we have an "eat away" or "diminishing" policy, and there is only \$20,000 left because we spent \$80,000 on the insurance defense attorney and some experts. So, \$20,000 is all that there is. That is what a diminishing policy is.

Assemblywoman Summers-Armstrong:

I am a doctor. I have a policy. It is a million dollars. I am sued. I have to hire somebody to defend me. I start with a million, my attorneys chew up half a million dollars in their fees. That means only half a million dollars is left to settle the case and pay the victim of something that I have done wrong. Is that what you are saying?

Christian Morris:

Yes, Assemblywoman, I am. I have not seen it in medical malpractice as often as I see it in other certain situations. I have not personally had an experience of a diminishing policy with a medical malpractice case. However, if you were faced with that, that would be exactly the outcome, that when it diminishes, that is "all that is left," and that would be all that is able to be "given" or "decided" for the victim. That is what the diminishing policy means. I have not seen it consistently in medical malpractice cases, but if it was in effect, that would be exactly correct. The \$500,000 that went to the insurance attorneys and the experts, that would be gone and all that would be left is the remainder.

Chair Miller:

I believe that at this time the members have asked all of their questions. Is there anyone who would like to testify in support? We ask that everyone keep their comments brief. We will move between here in Carson City, Las Vegas, and the telephone. You are welcome to say "ditto," if someone hits points or makes remarks that yours would be redundant. We will start here in Carson City with support testimony on Assembly Bill 209.

Tess Opferman, representing Nevada Women's Lobby:

The Nevada Women's Lobby feel strongly that we must amend our medical malpractice caps, and this is the time to do so. We have heard one story after another of victims who have faced negligent treatment and have no recourse. We are particularly supportive of this bill because these caps unfairly affect women and low-income families more than higher-income families. There are victims who have received unnecessary hysterectomies and have been rendered entirely infertile because of medical negligence.

These cases have no economic damages because they do not prevent someone from working and will not affect their income. Therefore, they are subject to the \$350,000 cap. Children who are killed because of medical negligence are not wage earners and therefore have limited access to economic damages. They are also subject to the noneconomic damage malpractice caps of \$350,000. Seniors are no longer wage earners, and because the family is not dependent on their income, they are also limited to economic damages. These caps are so low, victim survivors of these cases cannot even retain a lawyer to attempt to get some compensation for these egregious cases. They are forced to deal with the outcome of medical malpractice oftentimes for the rest of their life and are forced to bear the burden of additional medical costs associated with the medical error.

In addition to the full repeal of malpractice caps, we are supportive of the extension of the statute of limitations. What if the medical malpractice creates an issue that does not appear until a later date? These individuals should have access to justice and should be given additional time to pursue a case. Though we certainly do not want to force doctors, and especially OB/GYNs, out of the state, many states, and especially those with better health care, have significantly higher medical malpractice caps, and a full 14 states have no caps at all. We do need to address health care in our state, making sure we have nurses and doctors willing to work. But part of this solution is holding entities accountable, holding insurance companies accountable, holding hospitals accountable, and holding bad doctors accountable. With each year that medical malpractice caps remain steady, we give victims less and less access to justice. We must give victims some room for recourse and urge you to pass A.B. 209.

Serena Evans, Policy Director, Nevada Coalition to End Domestic and Sexual Violence:

Never in my time as a domestic and sexual violence victim advocate did I think I would be involved in medical malpractice. Recently, the Nevada Coalition to End Domestic and Sexual Violence and direct service providers in northern Nevada have been working with a large group of women who have experienced alleged reproductive coercion, medical mutilation, and sexual assault at the hands of a prominent OB/GYN. I say alleged, not because I do not believe them, but because open investigations are pending that have yet to conclude final findings. Many of these victim survivors want to share their stories but because of the vulnerability of their experiences and the powerful profile of this doctor here in our community, they are fearful of sharing them on public record.

Today, I am honored to be here on behalf of those numerous victim survivors to uplift their voices and share just a small piece of their stories. Working with this group of individuals, I have heard horror stories that have made me sick to my stomach. At the hands of one doctor, numerous women have experienced unnecessary procedures, sexual assault, botched surgeries, becoming infertile, and medical coercion. For many of these individuals, the extent of the harm this doctor has caused was not known until a few months later, and they were then forced to wait many months to see another OB/GYN to get answers, eating up the time of the statute of limitations. The damage caused goes beyond just physical pain and medical complications. It has left these individuals traumatized, emotionally scarred, and fearful of ever trusting another doctor again. Medical malpractice is the only route for these victims to seek justice, and the cap for damages is far too low. Many of these women whom I have had the pleasure of working with need numerous reconstructive surgeries and ongoing and intensive medical care, all at their own expense.

The Nevada Coalition to End Domestic and Sexual Violence is here today as a voice for the voiceless in support of A.B. 209, as this bill will allow them to hold this predatory and harmful doctor accountable for the damage and pain he has placed upon these victims and their families.

Annette Magnus, Executive Director, Battle Born Progress:

I am here today to show our support for A.B. 209. Additionally, I want to thank Assemblywoman González for working on this important measure. Medical negligence protections have left all Nevadans with worse health care and little to no recourse. I urge your support of A.B. 209 so we can increase accountability and the quality of health care in our state.

Athar Haseebullah, Executive Director, American Civil Liberties Union of Nevada:

I am also a civil rights lawyer by background, one of the few civil rights lawyers in the state. Part of the reason why I am one of the few civil rights lawyers in the state is because these caps and what has occurred with respect to policies that are in place here have actually precluded an entire generation of civil rights lawyers from moving forward. The cost of litigating these measures is extremely high. The likelihood in court is not always great. One thing that always comes up whenever we get a request that comes in is that folks really, really need help and there is not an attorney available. We cannot fault private attorneys in that instance for not taking those cases because the risk becomes so high. I would estimate that probably about a third of the requests that I end up getting are related to medical malpractice. That is not something we really engage in, obviously—we are a constitutional shop first and foremost—but because that overflow exists, there is no one to really refer out to in that way.

We are hoping that if this bill is passed, we can at least start the process of making sure that ecosystem is a little bit better and that we do not continue to have those numbers in droves and do not have to continue to reject people when they have had egregious actions occur simply because these caps are in place and preclude the ability for justice to actually be issued here. We urge you to support this bill moving out of Committee. We are very

grateful to the sponsor and the stakeholders for bringing this forward because the impact that it has had on nonprofit legal service providers in the state of Nevada who are practicing law has been tremendous.

Patricia Fries, Private Citizen, Sparks, Nevada:

The only thing I have against this bill is that nurses are to have—

Chair Miller:

I am sorry, ma'am. We are in support right now. The rules of our Committee—and I should have stated it at the beginning of our testimony—are that in order to support it, you support it in its entirety.

Patricia Fries:

I am sorry about that.

Chair Miller:

If you would like to come back up for opposition or neutral.

Patricia Fries:

Can I do neutral, ma'am?

Chair Miller:

Sure.

Patricia Fries:

I just want to make sure I get it right the next time.

Chair Miller:

Is there anyone else to testify in support of Assembly Bill 209? [There was no one.] Is there anyone who would like to testify in opposition? So we have an idea of time, please raise your hand if you are here to speak in opposition.

Antonio T. Alamo, Private Citizen, Las Vegas, Nevada:

Madam Chair, I believe, because I am the first speaker, there is a little latitude to allow me five minutes to speak. I was under that impression.

Chair Miller:

You will be the only one speaking?

Antonio Alamo:

That is correct, because I am going to give a history.

Chair Miller:

Then everyone else is speaking for two minutes?

Antonio Alamo:

That is correct.

Chair Miller:

Everyone else in the room, in Las Vegas, and on the phones is speaking for two minutes.

Antonio Alamo:

Thank you, Madam Chair, for that latitude. I am an internal medicine physician, son of Cuban parents, and I was born in Reno and raised in Las Vegas. I left the state of Nevada for eight years to do my training at the University of Southern California, and I came home to practice medicine, something that did not happen very often back then. I sit here in a déjà vu fashion. When I left my office yesterday to come here, there was an identification badge that has been sitting on my desk for over two decades, and on it is a very thin version of me with black, thick hair, and dated 2002 with my name on it during the special session. I was here in this room 20 years ago over the same exact topic.

My testimony is going to give an example of time travel, more historical than anything else. I came back to Nevada after my training in 1994, beginning in my first six years of practice, and there was a malpractice crisis. My mom and wife worked in the office so I could save money. My malpractice premiums had doubled. My colleagues had a threefold increase in their malpractice premiums. I was moonlighting in urgent care at night and weekends to help overcome the malpractice premium increases. I was not the only one suffering this plight. This plight caused many doctors to roll up their practices and leave Nevada. Leaving Las Vegas was not an option for me; it was my home.

Then-Governor Kenny Guinn called a three-day special session. After the three days with little to no sleep, a good law was created with limits that helped stabilize the crisis. In the following two years, a ballot initiative occurred which tightened up and made near perfect what we attempted to do during the special session. That ballot initiative was supported by over 60 percent of the Nevada population. The number of frivolous lawsuits decreased, more insurance companies returned to Nevada, and premiums began to normalize in a predictable insurance market. The crisis was over. Now 20 years later, on the opposite end of my career, the last hopefully six years of my career, I sit here and testify, one doctor not representing any employer, health plan, or hospital. I am not testifying here with political theater. I am just letting you know what will happen again. It is just math, business math of insurance companies. I lived it. These caps kept the premiums at a certain level, but when it reaches a threshold where frivolous lawsuits become the norm, as before, we will be back to where we were in 2002. The biggest hit was pediatrics, OB/GYN, and specialists, but everybody suffered.

Look, I have chosen a profession that exists to help people, and most definitely, malpractice is a tragedy. It does affect a small number of people, as was mentioned before. It is awful when it happens. It is tragic when it happens. I am not going to deny it. My eyes watered when those brave people came up here and testified. In fact, going to water again. It is awful, but we need to work together for the fix. This bill is not going to curb and fix the

malpractice issue. We need to fix things on the front end of the incident; not after the tragedy already happened. Beware of the law of unintended consequences. We cannot afford to get this wrong. We have increased our physician numbers in Nevada in the last two decades, but the population outpaced us.

We cannot afford to lose any doctors to leaving or early retirement, or discourage new graduates from coming to Nevada. George Santayana said that those who forget the past are condemned to repeat it, and we will repeat it. We are not trying to affect a small number of people. This will affect the entire state, all the people, because every one of us eventually become a patient in the medical system, including myself. This is going to affect access and medical care the way this law is written; it does not fix the problem. Again, I am here just as one doctor—look around the room—one of the oldest doctors and the one who sat here 20 years ago, not representing anybody but myself in the profession in the state of Nevada. Thank you very much, Madam Chair. I think I only took four minutes. I appreciate this time and privilege to be in front of every one of you. Thank you.

Bayo Curry-Winchell, Private Citizen, Reno, Nevada:

I am a physician and medical director who is focused and passionate about improving health equity. When I say health equity, that is a powerful word. We often forget what that means. For me, it really means having a voice for people of color in health care and those who are marginalized and underserved. In northern Nevada, I represent about eight Black physicians here. Why I start with that, when we talk about health equity and we talk about access, we have to talk about how we are going to improve it—not how are we going to stop it. Right now, my drive is to see how I can increase representation in Nevada for people of color. Representation improves health outcomes, representation improves access, and overall, it helps with health equity.

When we are talking about this and we are saying it is going to improve access, improve quality, I think, as a Black, female physician, how am I going to get more doctors of color to come to Nevada and practice in those areas we know we often serve. That is a big piece when we talk about access and quality; Nevada is trying to move that needle. When we have laws like this or bills that may pass, we have to focus on the people that it will actually affect, and we need to improve, yes, access, but what does that mean: More doctors and more doctors of color, more doctors to be able to go into medical school and then go into residency and find ways to uncouple unconscious bias. Those are the things that actually affect health outcomes. As a Black, female physician, I am here to represent myself and share that piece in hopes that I can raise the alarm on the need for more people of color who are health care physicians.

Sowjanya Reganti, Private Citizen, Reno, Nevada:

I am a medical oncologist and president-elect of the Nevada State Medical Association. I have been practicing in the community for the last 16 years. I strongly oppose A.B. 209. As we know, Nevada is infamous for physician shortage. In fact, Nevada is below the national average in 33 of the 39 physician specialty areas. That statistic is not just a number; it has a real impact on us. The consequences of passing this bill will be detrimental, not only

to physicians but also to the patients. This will result in a physician shortage, making it very difficult for patients to receive access to health care in a timely fashion. The major consequence of this bill, it is going to force the physicians to retire or to leave the state, and with every doctor we fail to keep in Nevada, we add more strain and burnout to our remaining workforce and increase wait times. Being a medical oncologist, I cannot believe my patients are not receiving access to health care in a timely fashion. It is life and death for them.

My second concern is with young physicians and students who are in training right now. I am concerned that they are going to choose nonclinical, like they are going to go join the pharmaceutical companies for their future jobs, which again, will decrease the workforce in Nevada. Nevada is already ranked forty-eighth in the nation for overall health care. We must focus on legislation that will not only increase this ranking but increase the accessibility of proper health care. Please oppose A.B. 209, which will endanger a fragile health care system. Thank you for your time for listening.

Bayo Curry-Winchell:

I did not mention that I oppose A.B. 209. Sorry, I apologize for the record.

Chair Miller:

Thank you for clarifying that.

Laura Shook, Private Citizen, Reno, Nevada:

I am an emergency medicine physician for the Northern Nevada Emergency Physicians, and I completed residency last summer in Seattle, Washington. I moved to Reno in August to build a life with my husband and my career in emergency medicine. I love my job, and I am so proud to work here in Nevada. It took an immense amount of effort to obtain a job out of state after residency, and most doctors will end up living and working in the same state in which they train. Assembly Bill 209 would make it extremely challenging to recruit other young physicians. Please support our patients, our doctors, and our access to health care by opposing A.B. 209.

Aiden Gould, Private Citizen, Reno, Nevada:

I am a graduate of the United States Naval Academy and a former major in the United States Marine Corps. I currently work for Northern Nevada Emergency Physicians as an ER doctor in Reno. I am here today to respectfully ask you to consider opposing A.B. 209. The reasons I joined the military were that I wanted to be part of something greater than myself and to serve my country. After I got out of the service, I went to medical school because I still had the drive to be part of something great, to be proud of what I do, and, of paramount importance to me, to continue to be of service. While working in the medical field, I have come across countless physicians over widespread specialties who have the same drive to be part of something important and to be of service, particularly to the people of this community.

Throughout my career seeing patients in the ER, I have never heard a single person tell me their priority is increased malpractice payouts. What I hear every single day that I practice is that my patients cannot get in to see their primary care physician for weeks or even months, that they cannot get seen in follow-up by a majority of specialty for months. Sometimes my patients even have to go to other states or as a last resort, they return time and again to the ER, often sicker because we do not have the specialty available or more often, because the wait times are so long, they cannot be seen in any reasonable time frame. This crisis certainly affects those who are socioeconomically vulnerable, but you are not immune even if you are educated or financially secure; everyone is impacted.

Our medical community is already stretched thin. If we make Nevada a less supportive and unfriendly climate for practitioners by increasing malpractice premiums, one of the results of supporting A.B. 209 is it will be even more difficult to recruit and retain excellent physicians. Access to physicians will worsen, wait times will become even longer, and patient care in our state will suffer.

Paul J. Hauptman, M.D., Dean, School of Medicine, University of Nevada, Reno:

I am also representing Dr. Marc Kahn, dean of the Kirk Kerkorian School of Medicine, University of Nevada, Las Vegas, who is unable to attend in person today. The Legislature has taken a major step forward during the current session by considering in bipartisan fashion bills that are specifically designed to address the physician shortage in Nevada; for example, bills supporting funding of new graduate medical education programs and multiple ambitious loan repayment options.

I would like to remind the Committee that according to data from the Office of Statewide Initiatives at the University of Nevada, Reno [[Exhibit L](#)], Nevada ranks between forty-fifth and fiftieth in every category of physician supply. Based on a rate of 225 physicians per 100,000 population, Nevada needs an additional 2,450 physicians just to meet the national rate of 301 physicians per 100,000 population. Despite these glaring statistics and in spite of well-designed efforts to support graduate medical education and loan repayment during the biennium, you are now at the same time considering A.B. 209, which will have a chilling effect on ongoing attempts to keep our medical students and trainees in Nevada and limit our ability to attract new physicians to the state.

So, which is it—do we want to increase the supply of physicians thereby improving patient access or not? Do we want to attract new businesses that can be confident their employees will have ready access to health care or not? Finally, raising the cap will not improve quality of care. As you heard from Assemblyman Orentlicher today, there are no reliable, well-designed studies that directly show an improvement in quality or outcomes. The *Journal of the American Medical Association* study that he cited summarizes 37 studies in a meta-analysis, and as Assemblyman Gray has suggested, the cost of care increases as patients are subjected to more and often invasive testing with no clear benefit. I encourage you to vote no on A.B. 209 in order to improve health care access in Nevada.

Iolanda Edsall, Private Citizen, Reno, Nevada:

I am a board-certified OB/GYN here in town. I am a proud Nevada native. I went to Nevada schools. I started my practice with OB/GYN Associates in 2017, and I am now a fully vested partner and partial business owner. My family has called Nevada home since the late 1800s and I have never wanted to live anywhere else. My primary objective as a physician has been to provide the same quality of care for my patients that I would want for my family. Now, my career timing has been very fortunate. I was not working during the health care crisis in the early 2000s. I never was unable to afford my malpractice insurance. I never had to grapple with difficult decisions such as, Do I give up obstetrics? Do I need to relocate my practice out of state to keep my doors open? The reason why is because of medical malpractice reform. The citizens of Nevada were given the facts and they were given the agency to make the determination if malpractice reform would serve them favorably and the resounding answer was yes.

I know you are all aware that unfortunately, Nevada continues to rank poorly in our access to health care statistics, but our workforce is aging. The average age of physicians here in Nevada is 55. My practice is no different. Nearly half my partners plan retirement in the next decade. Nevada's only hope is to try to recruit a younger workforce who not only see the value but feel safe in coming to practice in our state. I know the survival of my practice is going to rely on this. Now, this is unfortunately, the health care climate that Nevadans already have to struggle to cope with. Just imagine if Assembly Bill 404 and Assembly Bill 209 pass. Well, this is going to drive up everyone's malpractice rates, unfortunately. I am personally afraid some of my partners may give up obstetrics early. I am afraid some of my partners may choose early retirement. I am afraid a lot of my medical colleagues are going to choose to leave this state entirely. If you have ever had to wait six months to get in to see a health care provider, just imagine the frustration, and quite frankly, the risk that is going to ensue if those practice wait times go up even longer for the scarce number of doctors who are left here. As a physician, as a human being in Nevada, please, medical malpractice reform is as important now as 20 years ago.

Katherine Parks, representing Liability Cooperative of Nevada:

Thank you for giving me the opportunity to express my client's opposition to A.B. 209. I do not envy you your jobs as it relates to decisions such as what is at issue with A.B. 209. It is difficult. It was what was pointed out by the Nevada Supreme Court in *Tam v. Eighth Judicial District Court*, when the court upheld the damage caps. It says that it is the interest of government in ensuring that adequate and affordable health care is available to the citizens of this state. They had to balance the rights of malpractice patients against that critical issue, as you have heard the doctors talk about. Make no mistake, the outright repeal of the safeguards in existing legislation; removing the obligation or the requirement that people go to settlement conferences; removing the cap on attorney's fees that can be charged by plaintiff's attorneys in malpractice cases; removing the joint and several liability or the several liability requirement that is currently in the statute—each of the repeal measures is going to dramatically not only increase the number of malpractice cases that are filed in

Nevada, but it is going to prolong them. Prolonging malpractice cases will increase litigation costs, will increase premiums, and will take a human toll on doctors who are required to or end up having to participate in litigation in this state.

Assembly Bill 209 will increase litigation costs, it will increase time that is required to be spent by hospital staff in litigation, it will especially hurt the rural hospitals that make up the Liability Cooperative of Nevada, make it more difficult to recruit physicians to work in their hospitals, and it will not ensure that adequate and affordable health care is available to the citizens of Nevada. We would ask that you consider opposing A.B. 209.

Sarah Adler, representing Nevada Advance Practice Nurses Association; Vitality Unlimited; and New Frontier Treatment Center:

Vitality Unlimited and New Frontier Treatment Center are both certified community behavioral health clinics (CCBHC) and residential treatment centers for alcohol and drugs [[Exhibit M](#)]. I bring to you the voice of other providers today, those residential treatment centers and CCBHC, they do have providers whom they need to insure. I want to pause for a moment and applaud the bravery of the victims who spoke today and the vigor of the bill sponsor. Their intentions are all very good. Nevada faces many health care and behavioral health care challenges, but my clients absolutely believe A.B. 209 will move Nevada in the wrong direction. Kind of the summary I feel after listening to the presentation is that insurance is the target, but providers are going to take the arrow. The cost of malpractice insurance and making providers bigger targets, my clients believe will push them into early retirement, will push newly trained providers to choose another state, and—also of great concern—will limit the access of Medicaid enrollees to care.

In this building, I feel every day that we look and act like everyone in Nevada has enough income, housing, and health care. But there are more than 800,000 enrollees in Medicaid in Nevada, and what they need is better care that will come from better ratios of providers. They need better health and health equity that will come from providers who are available to treat the Medicaid population. My clients very much are those providers.

Chair Miller:

After the two testifiers in Carson City are finished, I will move to Las Vegas because I know they have been patiently waiting, and it is a different experience down there. I want to give them an opportunity. We will come back to Carson City, but I think you have to exercise a little more patience when you are in the room by yourself down there. I want to be mindful of them as well in their schedule.

Shana Tello, Academic and External Affairs Administrator, University Medical Center:

Unlike all other hospitals in the state, University Medical Center (UMC) operates the only Level I trauma center in Nevada. Our trauma center treats patients with life-threatening and other significant injuries. The University Medical Center Trauma Center serves people from all over southern Nevada and parts of Utah and Arizona. A Level I trauma center brings together medical specialists experienced in the fields of cardiothoracic surgery; orthopedics; ear, nose and throat (ENT); ophthalmology; and other important specialists. The

collaboration of these specialists in our trauma center significantly lowers the risk of a patient's death or disability. Assembly Bill 209 will directly impact operations of our Level I trauma center. The specialists who staff our Level I trauma center are generally not employees of UMC. Currently, NRS 41.503 limits our medical providers' liability to \$50,000 if their care or assistance was "rendered in good faith and in a manner not amounting to gross negligence or reckless, willful or wanton conduct."

Assembly Bill 209 repeals the statute which will subject those medical providers who staff our trauma center to a substantial increase in medical malpractice premiums. As a result, our ability to staff the only Level I trauma center in Nevada will be impacted significantly, which ultimately will impact access to care. You have already heard a lot about access to care. This is a major concern. The increase to these providers' premiums would likely cause us to lose many of the medical providers whose expertise is greatly needed to treat those patients suffering from significant and life-threatening injuries. This is what occurred in 2002 when the UMC Trauma Center was shut down for ten days. Nevada needs our Level I trauma center. We urge you to vote no on A.B. 209.

Jay Morgan, M.D., Treasurer, Nevada State Medical Association:

In addition to the Nevada State Medical Association, I am representing myself and your Nevada doctors. About 20 years ago, I walked into the ER, and a young man comes out with a blown pupil, 20 years old, got hit by a car, ran off the road. We took him to the operating room, took out a blood clot right after a CT [computed tomography] scan. Well, he is a lawyer now. A young boy shoots himself in the head, two years old. I do not treat pediatrics, but my thought is as we are going to the operating room, we are going to save the kid's life. He misses a few words now and then, but he has really grown up to be quite a young man. I feel for patients, the patients who talked today. I live and die by my complications. I tell you, I have been here for 30 years, the Black guy in Reno, Nevada, for 30 years. It has been an interesting time.

For physicians, we need some protection. We need some guardrails, but there should be some rules. We need to work together. We need to talk about this. Assembly Bill 209 is not the way. It may be a start and may be something we can talk about, but it is not the way, if there is unlimited ability to sue somebody. I may retire. I am going to be 65. I do not feel like it and I went back on ER call because I love taking care of patients. I love saving people. Thank you for listening.

Erik Pearson, Private Citizen, Las Vegas, Nevada:

I am speaking in opposition to A.B. 209. I am a board-certified pediatric surgeon. I have been proudly serving the children and families in Nevada and surrounding regions for the past six years. I co-own my practice with my two partners, Dr. Nicholas Fiore and Dr. Kelly Kogut, who have been serving this region for 20 years. I have two questions for you to consider: Who do you want to care for the sickest children in Nevada, and where do you want those children and families cared for? My answer to this is simple. I want a well-trained and experienced doctor for my child, and I want my child cared for as close to home as possible.

We currently have an access crisis in children's care in Nevada. We have just five board-certified pediatric surgeons in our entire state, less than half the number of other states with similarly sized growing populations. We have just one pediatric neurosurgeon and no pediatric ENT surgeons or peripheral vascular surgeons, causing many children and their families to travel out of state in delaying necessary care, carrying that impossible burden and economic weight. Our access crisis is not just in surgical specialties but across all children's care, whether that is in the ER, the hospital, or the office. If you are a doctor for children or a parent and you try to make these appointments, you understand this challenge. What we need in Nevada is to become a magnet for pediatric physicians, surgeons, and subspecialists. Our practice recently recruited a pediatric surgeon from a celebrated program, the Children's Hospital of Philadelphia, and she has already made an impact in improving the care in Las Vegas. We must fill our care gaps by recruiting these experienced and well-trained pediatric doctors, keeping patients and their families in Nevada by making expert care available. Unfortunately, A.B. 209 does not protect patients. It does the opposite. Thank you very much.

Chair Miller:

A reminder to anyone who has anything in writing or wants to submit additional comments, you may submit it to the Committee as well.

Katie Feldman, representing Planned Parenthood Votes Nevada:

Planned Parenthood Votes Nevada is here today in opposition to A.B. 209. We believe that patients who suffer adverse outcomes from the care they receive should be treated with compassion and provided financial compensation for the damages they suffer. However, today we are here to highlight serious concerns we have with moving the cap on noneconomic damages from its previous level of \$350,000, placing Nevada well outside the national norm on this issue. Just like all other health care providers in our state, Planned Parenthood's physicians and advanced practice clinicians cannot see our patients without professional liability insurance. And just like our colleagues here today, providing that coverage is one of our most significant operating costs. The increases we would see in our insurance premiums should A.B. 209 pass would make it just that much more difficult for us to see everybody who seeks our services regardless of their ability to pay.

Apart from Planned Parenthood, OB/GYNs are a critical part of the safety net of care in Nevada. The increase in insurance cost A.B. 209 will no doubt make it more difficult for hospitals and health care practices across our state to recruit and retain providers in a highly competitive national environment. We are not unfamiliar with the health care crisis of 2002 which caused the University Medical Center's trauma unit to close and led to the need for a special session addressing this very issue. For those reasons, Planned Parenthood urges you to oppose A.B. 209 today.

Ursula Inge Ferguson, Private Citizen, Las Vegas, Nevada:

I came to Nevada around 20 years ago in the physician user-friendly years. I recently came out of retirement in order to train new doctors for Nevada. I am here speaking on behalf of myself, but also new doctor trainees and the patients we will be seeing. I am internal

medicine, so my patients have at least ten problems each visit that they want to talk to me about and they are persons, but the other "persons" in that room are their health insurance. We do not want the lawyers to be the fourth person in that exam room. We want time with patients, less time documenting. We do not want to add to the documentation to please the lawyers. Our documentation is for patient continuity of care, and that is the time that we want to preserve, that time and that privacy, those moments that we have with that person face-to-face. Thank you.

Katherine Turpen, Private Citizen, Las Vegas, Nevada:

I am a lawyer and a partner of the law firm of John H. Cotton and Associates. I have been practicing law in Nevada since 2004, exclusively in the arena of professional liability and medical malpractice defense. My clients are Nevada's health care providers. They are the doctors, the nurses, and the medical clinics that provide care to Nevada's families. I am here today to testify in opposition to A.B. 209. I would first like to touch on quickly a question raised earlier that was not fully addressed. The Nevada Supreme Court has, in fact, ruled on the constitutionality of the noneconomic damages cap. The case is *Tam v. Eighth Judicial District Court*, and it has been controlling case law in Nevada since 2015.

The costs and risks associated with medical malpractice litigation operate as a function of continuing access to care. Specifically, I would like to talk with the Committee regarding the importance of maintaining NRS 41A.045, which provides for several liability for health care providers. Practically speaking, as the law stands right now, if a medical malpractice provider proceeds to a jury trial, that provider is only responsible or liable for the percentage of fault the jury attributes to that provider. If you were to abolish several liability, that would turn malpractice cases into a little more than car accident or general liability slip and fall cases, and they deserve more protection than that. If you were to abolish several liability, an individual provider could be held liable for damages caused by a codefendant or by a provider who has not been named as a defendant in the lawsuit. This is not holding an industry accountable but has actual real-world implications to individual doctors and providers who provide care here in Nevada. Thank you.

Deborah Kuhls, Private Citizen, Las Vegas, Nevada:

I am assistant dean for research and professor of surgery at the Kirk Kerkorian School of Medicine at the University of Nevada, Las Vegas. I am a trauma surgeon and I practice at University Medical Center, Nevada's only Level I adult trauma center and Nevada's only pediatric trauma center for 23 years. I was practicing here two decades ago when the original health care access crisis occurred. I witnessed doctors leaving. I heard about patients dying because our trauma center needed to close and they were treated at non-trauma centers, and I heard cases of patients being told, Oh, you are going to go home in 15 minutes, and because those doctors were not properly trained, those patients died. I trained at one of the top trauma surgery fellowship programs in the country, and I came to Nevada to help Nevada citizens. I want to say that I also was one of only two trauma centers left standing at UMC and I took 24-hour call every other day in order to help the injured people. I needed to transfer patients out of our state for orthopedic and other specialty care that I had never, ever done before in my career. Luckily, I have never done so since.

I want to really tell you that to roll back the progress that was made in the emergency legislation is really going to jeopardize the health and well-being of Nevadans. You have already heard that we are actually forty-fifth in terms of active physicians per 100,000 population. That has improved somewhat in my 23 years here. We are really trying to educate medical students, residents, and keep doctors in Nevada, and I apologize that I ran over.

Chair Miller:

It happens. It is difficult. The ones you will see who are getting it in that two minutes, it is because they are very experienced in doing it and they are practiced at it. We appreciate that there is a lot of information and passion that everyone has, but we also want to make sure we have the opportunity to hear from everyone individually as well. Thank you, your comments are appreciated. We will hear from the two at the table in Las Vegas, and then we will come back to Carson City or to the phones for a little bit and rotate through again to give everyone an opportunity.

Wolfgang G. Gilliar, Dean, College of Osteopathic Medicine, Touro University Nevada:

I am speaking in opposition to A.B. 209. Touro medical school graduates are the majority of new doctors in the state of Nevada. This and last year reflect the record number of Touro medical graduates, over 100, who are remaining in Nevada for their specialty training. Our mutual and dedicated goal as educational institutions is to collaboratively stand with the other medical schools, with Deans Hauptmann and Kahn and Dr. Kuhls, whom you have just heard, to help positively improve the state's physician and health care workforce. We are working on this together. This bill, if passed, will reduce the motivation of our graduates who are so dedicated to apply to Nevada residency programs, thereby reducing the likelihood of Nevada-trained physicians to remain in Nevada after they graduate their medical education. As said before, we want to be a magnet for the best medical care and best medical education and a role model in the United States.

This bill will have an adverse, yes, a potentially disastrous impact on access and equity to medical care in the state of Nevada. The cost of this provision will raise the cost of medical care altogether for all Nevadans, and the unintended consequences are expected to ultimately result in significant barriers to access and health equity of care in the state of Nevada. We are all in this together for better and more equitable health outcomes. Since 2004, professional liability insurance has been stable and affordable. Assembly Bill 209 will reverse that situation. For these reasons, Nevada should be very cautious about changing a system that is working. Thank you for your sincere consideration of these thoughts and sentiments on this bill.

Kimberly Bates, Program Director, Internal Medicine Residency Program, Dignity Health-St. Rose Dominican; and Interim Chief Medical Officer, Dignity Health Medical Group, Nevada:

I am a relatively new physician here in Nevada, having moved my family, including my elderly mother and my high school son to Nevada a little over a year and a half ago. I have spent the last 20 years of my career training internal medicine physicians and working to

bring additional primary care physicians to areas in need like southern Nevada. I moved here for a purpose. I moved here to actually help create more physicians for Nevada. I have been proud and happy to be here and happy to actually be training some of Dr. Gilliar's students coming in July. As a two-time breast cancer survivor, I have also been a patient and I understand how traumatic that can be. I appreciate the talk and the presentation of the patients who spoke earlier. However, I stand in opposition to this bill.

Dignity Health-St. Rose Dominican is the only not-for-profit, faith-based health care system in southern Nevada, and we will be adversely affected by this bill. Our independent community physician colleagues will be hurt even more. The bill will further damage Nevada's already fragile health care system. I am a practicing physician, and I see this every day in my practice in North Las Vegas: patients with life-threatening, chronic conditions with poor access to health care due to clinician shortages and inadequate insurance coverage. Patients wait months to see me as a physician for just routine health care. Nevada has a grossly insufficient number of physicians in the state, and this change will result in losing even more physicians. In my role as a chief medical officer, I hire physicians as well, and I know how difficult it is to recruit excellent physicians to the state. This bill will make my job exponentially harder.

Chair Miller:

With that, we will move to the phones for the first six callers we have now. We will then move back to in-person testimony in Carson City.

Wiz Rouzard, Deputy State Director, Americans for Prosperity:

We are coming in opposition to A.B. 209. I do first want to acknowledge the bill sponsor for bringing forward a major issue, and we feel very sorry for those who have experience and those who have lost their life due to medical malpractice. However, in terms of the solution to this problem, we feel that this bill does not address it appropriately. There are already measures in place, such as the license of the individuals that have incurred these types of infractions to be a remedy for those type of issues. More importantly, when we are talking about an industry such as health care, we recognize that more government regulations have distorted the market to where it only protects bad actors, and it penalizes the good ones as you have heard here throughout the entire hearing with great doctors who continuously contribute.

As everyone has expressed, this will also lead to a less attractive state for health care providers, which will lead to our health care being even more diminished. With that said, we do believe there are solutions in place and tools that we can utilize to effectively target those individuals who are wrongly caring for our Nevada patients while also not penalizing the entire industry. We thank the bill sponsor again for bringing this problem forward, and we thank the Chair for running a great meeting and giving everyone a balanced time to express their thoughts, and thank you, Committee members.

Justin J. Sonderegger, Private Citizen, Reno, Nevada:

I am a board-certified emergency physician and third-generation Nevada physician. I would like to oppose A.B. 209. I watched my dad go through the crisis back 20 years ago when he was a family physician and trying to figure out how he was going to meet his malpractice premiums while continuing to serve as a private physician in the state. Now 20 years later, we are again looking at a bill that will upset the insurance premiums and likely increase all of our medical malpractice drastically to the point where we may have to decide whether or not we can stay in the state and provide good medical care. I would really urge the Committee to oppose this and come up with a better solution. Thank you.

Katrin Ivanoff, Private Citizen, Las Vegas, Nevada:

I am calling in opposition of this bill. For everything that was just said, I will say "ditto."

Jiashou Jimmy Xu, Private Citizen, Las Vegas, Nevada:

I am a general surgeon here in Las Vegas. My first day on-call was actually the night of the October 1 shooting, and I was able to serve the many patients who came into our ER at that time. I am super proud to be a general surgeon; it is the only job I can see myself doing. I am proud to be here in Nevada to serve the community as I really feel like there is a need. Since becoming a general surgeon here, I have hired four more general surgeons including a subspecialist in surgical oncology, which we desperately need here in Las Vegas and Nevada as well. I am proud of what we do, but I think A.B. 209 would not complete the goals of improving access of care to Nevada.

Just my own experience in my own lawsuit: I was sued a year and a half out and into my own practice, where I felt I did everything correct. I checked with the senior partner because I was still a new physician, but the jury found me liable and awarded \$10 million against me. For me, I was devastated. I was devastated by the fact that the patient had a bad outcome, and I took that to heart because I am proud of what I do, and I hated seeing a horrible complication like that. It was not my patient, but I was just filling in for one of my other partners at the time, but the jury found me fully at fault. For me, I do not know what to tell young surgeons who come out and they are not as experienced or do not have the experience and have not seen as many cases as they should have. Even the young doctor coming out may not be as comfortable with everything. To say, Be careful and do not make any mistakes, this is the reality of being a physician; there are going to be mistakes made. We need to find ways to prevent these mistakes and improve care overall, but this is not the way to do it. I just hope the Committee takes into account that we physicians take these cases personally as well. It was a double hit that the jury found me liable as well. Sorry for going over.

Chair Miller:

Thank you, doctor. It is unimaginable for us to imagine that your first day working here in Nevada was on 1 October. Thank you so much for your service. We have one more testifier on the phone, and then we will return to Carson City for opposition testimony.

Susan B. Proffitt, Private Citizen, Las Vegas, Nevada:

I am the vice president of the Nevada Republican Club. I just want to let you know that I agree with everything these doctors and attorneys have been talking about and for the first time, I actually agree with Planned Parenthood. When we moved here five years ago, I was assigned to a pediatrician because there were not enough doctors in Summerlin. I am 67 years old, and I have specialty needs. I have disabilities, and none of the doctors would cover that Silver State Health Insurance Exchange. You should be doing things that would attract these doctors to come back. They have been leaving since the COVID-19 lockdown, and I am also a retired executive recruiter, but I can tell you, you are going to need to pay some people some sign-on bonuses and an awful lot more to get them to move here unless you fix our education system and our medical infrastructure as soon as possible. No one is going to want to move here. Thank you very much for your time and consideration.

Chair Miller:

With that, we will return to Carson City.

Sandra Koch, representing Nevada Section, American College of Obstetricians and Gynecologists:

I am speaking today in opposition to A.B. 209. I am concerned that if this bill passes in any form, we will be in the same situation that we were in 2002. Research has shown that the cap on noneconomic damages does not reduce access to the courts for individuals with meritorious claims. But if you remove it and the rest of the changes that you have here, we are certainly going to see a significant increase in frivolous lawsuits. Medical malpractice is a very personal matter for health care providers. We all live and die by our complications, with maybe a few exceptions in there, but in general, we care so deeply about what we are doing. We do this because we want to take good care of our patients. When we have a complication, we do not forget it. It stays with us for our entire careers.

As a health care provider and OB/GYN, I have had experience with medical liability. Seventy-five percent of OB/GYNs will be sued during the course of their careers; seventy-five percent of OB/GYNs will have a lawsuit filed against them during their careers. What does that tell you? I think it is really important to think about making changes that will increase the number of lawsuits that are coming at such an underserved community already. I think that A.B. 209 will disproportionately affect OB/GYNs and their patients. Providers will leave the state if it becomes more difficult to cover a very arduous OB/GYN call, and increasing cost to providers will cause a shrinking and even more difficulty in accessing longer waiting lists for seeing patients. The impact of lawsuits on OB/GYNs has been studied. The average OB/GYN who is sued sees fewer patients, stops delivering babies sooner, is less likely to take care of more complicated cases. There is a lot of emotional stress that comes along with it too. I ask you all to vote no on this bill. Thank you very much.

Florence Jameson, Private Citizen, Las Vegas, Nevada:

When I was a young girl, my family was left without access to health care. I have been an obstetrician in Las Vegas for 38 years. I am the past president of the Clark County Medical Society, the Nevada State Medical Association, the Nevada delegate to the American Medical Association, and currently chairwoman of the Silver State Health Insurance Exchange. My husband and I founded the largest free health care clinic in Nevada, Volunteers in Medicine of Southern Nevada, serving the underserved poor people such as I was. Access to health care is my passion, and I pray that you understand that this bill is really about access to health care. You are well aware of the unintended consequences of bills in requesting large amounts for pain and suffering or getting rid of joint and several liability. You might as well tell physicians like me to quit and retire. In requesting volunteer doctors to carry a \$1.3 million policy, they will not volunteer to care for the poor. Is that what you really want at a time when almost a quarter million people, Nevadans, are being dropped off Medicaid?

We do not want a replay of 2002, a time I lived through with great agony. My insurance went up to \$3,200, and I thought I would never practice obstetrics again. Twelve of the seventeen insurers left the state due to excessive lawsuits. Many of the doctors could not get insurance, creating a health care crisis, and in a short period of time, 20 percent of my colleagues gave up delivering babies, decreased the number of deliveries, left town, and retired. Women traveled to another state and without prenatal care. Our infrastructure was collapsing. And in 2004, the people overwhelmingly passed the people's initiative. They shouted, Yes on 3, with an almost 2-to-1 victory, to maintain access to health care.

Right now, in Nevada, we have a shortage of obstetricians. One in four women in Nevada do not get prenatal care. Instead of focusing on increasing awards, we should think more about how we can get prenatal care to those women and their babies, the unborn children, and reduce Nevada's high maternal deaths. This bill is in the wrong direction, and I know you do not want to see access to health care for you or your constituents decrease. If you support A.B. 209, say goodbye to many doctors and the new medical school we worked so hard to bring doctors. Yes. Really, do you want to see decreasing access to health care for your Nevadans? Health care is a right for everyone, and if you believe that, oppose A.B. 209.

Sallyanne Miles, Private Citizen, Carson City, Nevada:

I have been a northern Nevada resident for the past 26 years, and I am here this morning as a wife and a mom to speak in opposition to A.B. 209. My concern is that this bill will impact not only access to health care but also impact the ability to receive care and treatment in a timely manner. This past year, a member of my family was referred to a specialist. It took us roughly five months to get that appointment scheduled, and the first three providers we had contacted we were turned away from. One was retiring and the other two simply were not accepting patients at the time. As a mother, five months is a long time to wait simply just to get in and be evaluated for a medical issue. As a patient, five months is a significant amount of time to wait for answers and to be in treatment. Here in northern Nevada, we already need more providers. My concern is that this bill will again drive out existing providers and deter new providers from coming to our state to help fill these medical needs.

With limited health care providers, our families of Nevada will be faced with fewer options for care and with fewer options, they will fail to receive timely intervention and treatment. I would ask this Committee to consider the impact of this bill and oppose A.B. 209 in its current form. Thank you.

James Breeden, M.D., President, Carson Medical Group:

Carson Medical Group is an independent, physician-owned—not insurance-owned, not hospital-owned—medical group in northern Nevada. I am a member of the board of directors of Carson Tahoe Regional Medical Center and past president of the American College of Obstetricians and Gynecologists. I came to Carson City in 1976 and joined two other physicians to practice obstetrics and gynecology. I was here during the liability crisis. I was trying to hire physicians. I saw the marked decrease in access to care. I saw physicians decrease their scope of practice. I saw physicians stop delivering babies. I saw urgent centers close, the trauma center close, and physicians retire early. We do not want this again.

At the time of the liability crisis, Carson Medical Group had grown to 16 physicians, but the threat of lawsuits and the high cost of liability insurance made it very difficult to recruit new physicians, especially in the field of obstetrics and gynecology. Then Ballot Question No. 3 was passed in 2004 with over 60 percent of the vote. Our liability insurance rates stabilized, and it became markedly easier to recruit physicians. Carson Medical Group now has 35 physicians and 15 advanced practitioners specializing in family practice, pediatrics, and obstetrics and gynecology with offices in Carson City, Reno, and Minden. Our ability to bring new physicians to Nevada has markedly increased patient access to care.

Unfortunately, Assembly Bill 209 will recreate the liability insurance crisis of the early 2000s, and we will have the same result, a decreased access to health care, especially for our most underserved and vulnerable patients. I would urge you to please vote against Assembly Bill 209. If I can be of any service or answer any questions, you have my contact information and thank you very much for listening.

Chair Miller:

Just so you know, members do have a tendency of reaching out. We appreciate your offer as well.

Andrew Pasternak, Private Citizen, Reno, Nevada:

I am a family physician and owner of Silver Sage Center for Family Medicine. I am also the medical director for Access to Healthcare Network and the past president of the Nevada State Medical Association. I am opposed to A.B. 209. In 1998, my wife, an anesthesiologist, and I moved to Nevada partly because we love the outdoors. Nevada's incredible outdoor landscapes are a joy to explore. Unfortunately, we have also discovered a less appealing desert, Nevada's lack of health care professionals.

In 2005 I opened my own family medicine office in Reno. A big reason why I waited until 2005 was the malpractice crisis at the time. It scared me away from leaving the hospital system where I was employed. Only after the 2004 legislation did I feel comfortable taking that plunge. Every day my office gets desperate phone calls from Nevadans who have an insurance card but cannot find a family physician. When I do have to refer a patient, wait times for certain specialties can be months. In the past few years, if patients have insurance that allows it, I am referring them to specialists in California or other neighboring states where they can be seen faster. Unfortunately, my wife's anesthesia group continues to have difficulty recruiting enough anesthesiologists.

We heard earlier that increasing malpractice is going to cause physicians to practice differently and improve care. Like so many of the incredible physicians testifying today, I know that when I am seeing a patient, I am dedicated to providing them the best care that I can. I care deeply about my patients. Changing the malpractice caps is not going to result in physicians caring any more. During this legislative session, I applaud the Senate and Assembly for proposing bills that will turn Nevada from the health care desert into a fertile ground to attract physicians. Passing A.B. 209 will be like cutting off the water we need to create an environment to attract physicians. Thank you.

Laura Thompson, Private Citizen, Reno, Nevada:

I am a native Nevadan, born and raised in Elko, Nevada. I was educated at the University of Nevada School of Medicine. Ultimately, I chose in 2007 to come back and practice as an OB/GYN in Reno. I have been here for 16 years now. I could not be happier to be back in the state of Nevada. But I am here in opposition of A.B. 209. I was in medical school and residency at the time of the malpractice crisis. I had mentors in medical school who basically told me not to come back to Nevada because of the malpractice situation at the time. I ended up joining a practice in the state of Washington, but I am a desert girl and a Nevada girl and ultimately wanted to be closer to my family, which drew me back in 2007. I did contact those mentors at that time and said, Hey, what does it look like for me? Will I be able to succeed? Will I be able to support my family? Will I be able to go to work every day and not be worried that I am going to have to leave in a year, 5 years, or 10 years; and here we are at 20 years.

I fully support a patient's right to a malpractice suit and to fair and equitable treatment. I practice every day in order to avoid ever being in that situation. I am passionate about the people and the patients of Nevada. I want to continue to be able to recruit. I am right in the heart of my practice where I see ten years down the road, I hope I can retire because there are enough physicians here. But I am also in the process of recruiting young physicians, and I want to make it as great an opportunity as I have had to be here in Nevada and raise my family and provide good care to the people of Reno and the state of Nevada. Thank you.

Patrick D. Kelly, President & CEO, Nevada Hospital Association:

Nevada's hospitals oppose this bill. We have submitted a detailed letter [[Exhibit N](#)] outlining those and in exchange for not going through it point by point, I would ask that you take a look at it and read it. We have talked a lot about the crisis of 2004, but we had a crisis in

the 1970s as well, and so it seems like we are on this path of every 20 years having a medical malpractice crisis in the state of Nevada. Unfortunately, 2024 is the twentieth anniversary. Let us try to avoid that. Many of our hospitals are struggling financially. Nearly half of Nevada's acute care hospitals had a negative operating margin during calendar year 2022. If medical malpractice rates soar, hospitals will be faced with difficult decisions to make on the services they offer or whether they can keep their doors open. Maternity and obstetrical services will be most at risk.

One provision of the bill related to joint and several liability encourages lawyers to name as many parties as possible in medical malpractice cases. This takes health care providers away from their patients and unnecessarily adds cost. It makes all the defendants jointly liable for damages. Health care providers should not be required to pay for the negligence they did not commit. I am sympathetic to the people who testified here today, but I also think about the tens of thousands of Nevadans who experience pain and suffering every day. They do not have a lawyer and they do not get \$350,000 for their suffering. They need access to affordable health care. If this bill passes, they lose; costs will increase, and access will be jeopardized. When you vote on this bill, please keep in mind the interest of all Nevadans, whether they testified today or not. Thank you.

[[Exhibit O](#) and [Exhibit P](#) were submitted in opposition to [Assembly Bill 209](#) but not discussed and will become part of the record.]

Chair Miller:

We will finish with those at the table right now and then switch back to Las Vegas and then the phones.

Will Bradley, Private Citizen, Las Vegas, Nevada:

I am a retired military officer and a consumer of health care. I oppose this bill. The damage has already been done, though. It is keeping these doctors away from their patients just to be here and testify. They should be back in the office. Keep that in mind; this should not have gotten this far. I am in the middle. My brother is a pulmonologist in Cincinnati whom I am trying to get to move here, and my cousin is the former partner of the now infamous Alex Murdaugh, whom some of you may have kept up with. One thing that came out in that trial is their average pay in a small town in South Carolina for medical malpractice for attorneys was \$1.3 million a year. The average pay for an ER doctor is \$250,000 year. Talk about inequality, here you go. We have to stop, frankly, people like my cousin from suing more and more often and higher.

I want to point out the slide [page 8, [Exhibit K](#)] is wrong. If you go to Medicare.gov, there are three hospitals in southern Nevada with a three-star rating: MountainView Hospital, St. Rose Dominican Hospital, and Southern Hills Hospital & Medical Center. I do not know who did the slide, but it is not proper to put up wrong information on such an important bill like this. So go to Medicare.gov, search hospitals, and you will see a much different story than this slide show. Thank you for your time and your service, and please oppose this bill to allow people like me to effectively consume what these talented people are offering.

Connor Cain, representing Sunrise Hospital and Medical Center; Sunrise Children's Hospital; MountainView Hospital; and Southern Hills Hospital and Medical Center:

We are in opposition to Assembly Bill 209. As a preliminary matter, we appreciate the sponsor's open-door policy and willingness to listen to our concerns. I would also, as many have before me, like to acknowledge the patients in the room. Thank you for being here to tell your story. Sunrise is our state's largest safety-net hospital, providing critical services to the most vulnerable members of our community who often have nowhere else to go. Many of you have visited Sunrise and you have seen this with your own eyes. I would respectfully disagree with one of the proponents of Assembly Bill 209 who characterized some of the changes under this bill as not really having any kind of consequence. On the contrary, A.B. 209 is a proposal that was deliberately construed and unfortunately threatens access to critical services for our most vulnerable patients and communities. We urge you to oppose this bill.

Joan Hall, representing Nevada Rural Hospital Partners:

We represent 13 critical access hospitals in rural and frontier Nevada. I remember the medical malpractice insurance issue in the early 2000s as I was the CEO at Yerington Hospital. At that time, we had obstetricians who did a rural route and provided prenatal care to our community members. During this malpractice initiative, they determined they could no longer continue to provide that care. I fear that history is going to repeat itself by stripping the safety-net protections currently in statute. This will cause increased malpractice insurance premiums—it surely will—and that, in turn, will cause providers to leave the state. Access to care in rural and frontier areas will be negatively impacted. We already struggle with recruiting and retaining specialists such as OB/GYNs, pediatric doctors, and ER physicians. This legislative body has many bills attempting to correct our poor rankings. Passage of this bill will do the exact opposite. Please do not pass A.B. 209. Thank you.

Chair Miller:

With that, we will go back to Las Vegas for the last two testifiers in opposition.

Rebecca Herrero, Private Citizen, Las Vegas, Nevada:

I am a board-certified OB/GYN who has been practicing in Las Vegas for the last 25 years. For the last three years, I have also had the pleasure of being the CEO of Women's Health Associates of Southern Nevada. We are an 82-provider health care organization that includes 42 physicians and 40 advanced practice providers who serve the women in southern Nevada. Based on the 2021 vital statistics from the Southern Nevada Health District, we delivered about one in three babies in 2021. I was practicing as an OB/GYN in the medical malpractice crisis in 2002. At that time, I was in a group of three physicians, and one of my partners had to stop practicing obstetrics. It was devastating for me personally, and for my other partner. At the time, I had a 3-, 5-, and 6-year-old in the house and was trying to be both a doctor and a mother. After a few months of doing grueling OB call every other night and every other weekend, I turned to my husband and I said, I just cannot do this anymore. Thankfully, an end came to it and the third partner was able to practice obstetrics again and we remained.

Fast forward to today, our state still suffers from a continuous shortage of women's health care providers. Access to health care for women in our state is very difficult. As the leader of my organization, I am constantly being called, saying we have waits of two to four months for patients to get in for routine gynecologic care. Obviously, in a pregnancy situation to wait two to three months to start prenatal care is untenable. Patients need care sooner than that for both the safety of themselves and for the safety of their newborns. Anything that has the possibility of increasing our medical malpractice rates will exacerbate the access issue that we currently suffer from. The medical malpractice rates for OB/GYNs are already extraordinary. Further increases will most probably cause a repeat of the early 2000s in which physicians either ceased practicing, had to cut off their obstetrical practices, retired, or left the state. Thank you.

Keith Brill, Private Citizen, Las Vegas, Nevada:

In 2002, I was a board-certified OB/GYN physician at Nellis Air Force Base here in Las Vegas. I got to watch the malpractice crisis here from a unique perspective, and having a shortage back then of providers, I was recruited pretty heavily to try to stay here in Nevada. The first thing I said is, Why in the world would I stay here? There are so many places I trained on the East Coast, I can go elsewhere and not have to deal with the crisis. But fortunately, things have changed, and I stayed here, and I am so happy I did. I ended up heading the Clark County Medical Society, the Nevada State Medical Association, the American College of Obstetricians and Gynecologists in Nevada, and am the current chief of medical staff at Henderson Hospital. Most importantly, I am on call right now for my practice and I have people I probably need to run to any minute here, but I am doing my best to make my statement in opposition.

I can tell you that as an OB/GYN, one of our most dreaded days is a Monday morning because we expect phone calls from patients who went to the ER over the weekend because they could not access any OB/GYNs at all. They show up late in pregnancy with miscarriages, ectopic pregnancies, ovarian tumors—people who had no access to medical care and then they call us on Mondays to try to get in because we cover so many emergency rooms here. I can tell you that nowadays we cover these emergency rooms every day and we get these phone calls every day, and it is sad to see the lack of access. I can tell you that if this kind of a bill went through, the situation would worsen again. I wish I could say it was as simple as saying that these caps alone would increase doctors coming to Nevada. But as we have heard, it is multifactorial, and overworked doctors do not exactly encourage other doctors to come here and do the same exact job. We are in such a situation now where we are overworked and we need so many more doctors, that this kind of bill will just negatively impact our ability to recruit.

I also want to make a comment that I am unaware of any medical malpractice insurance companies owning practices or owning hospitals. That was a question to the attorney earlier. The last thing is that bad outcomes happen unfortunately to every physician no matter the best physicians in our community or the country. But that does not equate to malpractice or negligence, and without some limitations on frivolous lawsuits and a need for meritorious claims, this will deter doctors from coming here. Thank you.

Julie Hereford, Co-Founder, NevadansCAN:

I am not a health care professional. I am just a regular, retired citizen who is concerned about our health care standing in the country. It has been in the bottom, and I hear all the horror stories from friends and neighbors whom I know who have to wait months to get care. I will not waste any more time to repeat all the great, excellent points made by the health care experts and professionals. We would like to echo their opposition and ask for you to vote no on A.B. 209. Thank you very much for the time to voice our concerns.

Pauline Lee, Private Citizen, Las Vegas, Nevada:

I am a physician's spouse and come from a family of physicians. Both my siblings are physicians, and one is married to another physician. I have uncles and cousins who are physicians, and my own father was a medical school professor of biochemistry. I am speaking on behalf of my husband who is working today and expected to work on about eight procedures to provide comfort and care for eight patients. My husband graduated from a top-ten medical school in a top residency program in Texas. He also finished his training at Cedars-Sinai Medical Center as the top cardiology fellow. We chose to move to Nevada in 1997 so he could start his cardiology practice. Less than four years into his new cardiology practice, the St. Paul Insurance Companies, which ensured 60 percent of the state's doctors, began canceling its malpractice insurance policies. We had to make a decision. Should we move? Should we recalibrate and move back to California? He wanted to make a huge difference in this new state of his. We had adopted Nevada as our home.

Thankfully, in 2004, Nevadans responded by overwhelmingly passing the Keep Our Doctors in Nevada ballot initiative, which helped our doctors to recalibrate and decide that yes, we do want to continue practicing in Nevada. Assembly Bill 209 will eliminate valuable medical malpractice reforms which allowed the state to retain its physicians. This is not a threat. It is a current reality. Assembly Bill 209 is an insult to all physicians because it is meant to punish the few bad apples in the cadre of wonderful doctors here in Nevada. But the problem is punishing the very few bad apples ruins the entire apple cart. Without a medical legal panel which we had before 2004, and without a reasonable cap on pain and suffering, A.B. 209 will drive all physicians out of the market. Simply put, with Medicare and health insurance reimbursements at all-time lows, it is simply too expensive to practice medicine. It is too frustrating to be in a market which fosters and encourages frivolous lawsuits. Thank you.

Chair Miller:

Is there anyone else in Las Vegas who would like to testify in opposition? [There was no one.] We will move back to Carson City.

Bryan Wachter, Senior Vice President, Retail Association of Nevada:

We do represent several different varieties and delivery methods of health care including doctors' offices, veterinarians, and pharmacies. In fact, we have been supportive of this Legislature's intent and ability to increase access to health care by allowing new, different, and effective services to be had in these alternative health care facilities. We are strongly

concerned that this bill, if you pass it, will reverse that trend. We believe that would do a disservice to our Nevada citizens and constituents who are located in areas of our state that are health care deserts.

The second concern we have on A.B. 209 is that medicine and health care is a logistical supply chain. Anytime you are increasing the cost or inputs along that supply chain, you are inevitably going to end up with a reflective increase in cost. While we have heard today that many of these physicians might leave, it is certainly not the case of all of them, but those that are here are going to have to reflect those increased costs as well as the potential liability down the road as they are pricing themselves in this market. Lastly, we would suggest that because this was done by a vote of the people, and ultimately, it was their will that we are currently operating under, we would strongly consider perhaps moving this and allowing the voters to have a say in this during the next election. For those reasons, we would urge you to oppose A.B. 209.

Paul J. Moradkhan, Senior Vice President, Government Affairs, Vegas Chamber:

The Chamber is opposed to the provisions of A.B. 209. We believe the repeal of the standards that have been proposed will cause significant damage to our health care system throughout our state. As many of you know, the Chamber is the state's largest business association and we have over 70 different sectors in our membership that employ over 200,000 Nevadans who rely on our state's health care system throughout our communities. We believe that this legislation will impact those families in a negative way and cause exasperation that already exists in our health care system.

We believe that if passed, A.B. 209 will create a similar situation that we had over 20 years ago, and we believe that this is not the right approach for our state and our community. It will add additional challenges to our labor shortages we have in health care. As we know, every single state in this country needs more doctors and nurses, and we are constantly in competition with those other neighboring states and throughout the country. Your legal climate does impact those decisions where doctors go, where businesses relocate, and whether to expand, grow, or not. Those are all real economic factors in this conversation, but there is also the human side. You have heard this from those physicians who have testified in opposition to the bill. There are those heroes on the front line every single day helping our Nevada families. We urge this body to oppose A.B. 209.

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

I have been working in the health care field in this building for about five legislative sessions now and every session, the bills that we are working on are the bills that are going to advance and make a pathway for physicians to want to come here, whether it is licensure, the way they practice—all of those places that we know will make Nevada the state that doctors will want to come to and practice regardless of what field, especially in dermatology. The passage of A.B. 209 will eliminate all of that work that we have been doing. That scares me,

because there is a lot of really good legislation currently being heard that is intended to do just that, to make it so that Nevada is a place where doctors want to practice. We urge your opposition to this bill. Thank you, Chair.

Patricia Fries:

I want to go against the bill about the nurses. I am a retired registered nurse. I have medical malpractice insurance of \$1 million, \$3 million. As a retired nurse, I am still paying \$85 a year, not working. I am afraid that if the nurses' name stays in there, that the nurses have to have it, that the licensed practical nurses and registered nurses will not be able to afford it. I do not know what it would be now if I were still working. I would definitely like to see that taken out. I oppose A.B. 209.

Elliot Malin, representing Nevada Osteopathic Medical Association:

We, too, are in opposition. Instead of echoing a lot of what my colleagues have said, which we agree with, I want to share with you about one of our board members. He is a doctor of osteopathic medicine in Washoe County. He is also a part-time physician in Mineral County because we do not have access to physicians and care in that county. We fear that if this bill were to go through, we will lose that access to care in Mineral County and many other of our rural counties as well as in our urban areas. Ditto to everything else, and thank you for the time today.

Jerry Matsumura, Private Citizen, Reno, Nevada:

I am a past president of the Nevada State Society of Anesthesiologists in opposition to A.B. 209. I was going to ditto, but I wanted to add one comment to previous testimony that stated there are errors in that slide [page 8, [Exhibit K](#)]. If you go to *Las Vegas Review-Journal*, August 23, 2022, the report states that rather than 94 percent of Nevada hospitals having a one-star ranking, it is really 30 percent. I am not going to say that is outstanding because that is still the highest in the country, but it is certainly far from 94 percent having a one-star rating. Seventy percent of the hospitals in Nevada have greater than one-star ratings instead of just one. Thank you.

Timothy McFarren, Private Citizen, Carson City, Nevada:

I am an OB/GYN. As you can see by the gray hair, I have been practicing for a long time. First of all, my heart goes out to those who spoke earlier about their medical care. I am truly sorry for the grief and pain that they and their families have suffered. Secondly, Ms. Hall, I was the OB/GYN who went to Yerington every other Wednesday to serve that population but had to stop because Carson City did not have any OB/GYNs either. Our medical liability system is broken. Assembly Bill 209 will not fix it and will not prevent any bad outcomes. In fact, passage of A.B. 209 will actually increase risk for patients by exacerbating the shortage of doctors and nurses. For the health of Nevada, please oppose A.B. 209 and instead, let us work together to fix the medical crisis. Thank you.

Chair Miller:

Is there anyone else here in Carson City who would like to testify in opposition? [There was no one.] Is there anyone in Las Vegas? [There was no one.] I will open up the lines for anyone else who wants to testify in opposition.

Cyrus Hojjaty, Private Citizen, Las Vegas, Nevada:

I oppose this bill; ditto the previous comments.

Peter A. Caravella, Private Citizen, Las Vegas, Nevada:

I think all the stories reverberate with all of us who have been in this community for as many years as I have. I think what it comes down to is the fact that we all understand that this is a numbers game and trial lawyers have much more money to throw at the Legislature than we do. That is great and all fine and dandy. But when we cannot afford to practice anymore and you are racing your kid to the ER with appendicitis and we are not available for you, you might as well just get their number off the billboard to see if they can come in and help you because that is what this is going to come down to. We are already stretched thin financially from a malpractice standpoint, and it is only going to continue to get worse.

I think we all understand what the politics are here and obviously I and my partners all oppose this. It is not going to be tenable to continue to practice here as others have said. Hopefully, we can come together. I think one thing that I think Ms. Lee said a while ago is that the screening panel would be a great idea to have back on to eliminate a number of these frivolous lawsuits. I have been involved in 10 to 12 lawsuits in my life. I have never paid a dime in indemnity, knock on wood, and none of them actually have ever gone to trial. Yet, my malpractice premiums go up every year because I am tagged with a frivolous lawsuit being misnamed and named incorrectly, never seen a patient, et cetera.

One of the things I think that needs to have to happen, irrespective of whether this bill passes or not, is get the screening committee back with both doctors and lawyers on it and have sensible measures to put in place so we can stop a lot of the frivolous suits that go on, on a daily basis. Thank you.

[[Exhibit Q](#), [Exhibit R](#), [Exhibit S](#), [Exhibit T](#), [Exhibit U](#), [Exhibit V](#), and [Exhibit W](#) were not discussed during the hearing but were submitted in opposition to [Assembly Bill 209](#) and will become part of the record.]

Chair Miller:

Is there anyone else who would like to testify in opposition? [There was no one.] Is there anyone who would like to testify in the neutral position?

Barry Cole, Private Citizen, Reno, Nevada

You have heard a lot about the past, you have heard a lot about the future, we have heard about the suffering that is occurring now, and we have heard about the future hardship. If you are fans of the *John Wick* franchise, you know that his nickname was the "Boogeyman." There is a "boogeywoman" we should actually be concerned about. Her

name is Haley Van Erem. She is a trial attorney with the United States Department of Justice who notified us we violated the Americans with Disabilities Act because we are shipping young kids and adolescents out of state for their mental health services. We are shipping them out because we do not have enough child and adolescent psychiatrists. We do not have enough beds to put them in.

In private conversations with the Nevada Psychiatric Association's Government Affairs Committee, she made it real clear what her agenda was. We get this year to sort this all out. Next year, she is hauling us into federal court to seek a consent decree. I witnessed that in Hawaii when I practiced there—first against the state hospital and then against Kaiser Permanente. When you are under a consent decree, they see everything. What little they thought they had, becomes a lot when they can look at everything. Whether or not we can resolve A.B. 209 positively or negatively, there is another agenda at the federal level, and I just want to remind us that the clock on that is also ticking, and it is not going away. I hope that was neutral enough.

Chair Miller:

It was very neutral, thank you. Is there anyone else who would like to testify in neutral to Assembly Bill 209. [There was no one.] I would invite the presenter back to the table for any concluding remarks.

Assemblywoman González:

Thank you so much for the opportunity to hear this important issue and to give victims and families their time and space required to tell their heartbreaking stories. Thank you for your willingness to step up and do the right thing by giving Nevadans the ability to hold the medical system accountable, ultimately protecting their quality of care. I would also like to thank Dr. Tony Alamo for being here today, for his long service to the state as Chairman of the Nevada Gaming Commission, Chairman of the Nevada Athletic Commission, and long-time reputation for serving our communities. His leadership will leave a lasting impression for Nevadans for years to come.

As for the rest of what we saw today, I want to thank each and every doctor for being here for their service. However, I want to be very clear: there is no correlation whatsoever between medical malpractice caps in the state and the number of doctors per capita in that state. Contrary to the opposition testimony you heard just recently, there are 23 states and the District of Columbia without medical malpractice caps at all. And in all of those, in fact, five states have medical malpractice caps lower than Nevada. Our caps are not the norm. In fact, they are significantly lower than the norm and yet doctors do not leave those states. There are insurance companies providing coverage in those states. And more importantly, it actually appears that care in those states is better than those with caps. As I said in my opening, we are fiftieth in the U. S. in primary care physicians per capita. We also ranked forty-ninth in specialists per capita. But what about the rest of the country? Four out of five states in specialists per capita are states without medical malpractice caps, without any caps.

Nine of those bottom ten states are states with caps. What does that mean? It is clear the concern that lifting the cap will result in physicians leaving Nevada, however, that is not supported by any data. In fact, the data suggests the opposite.

While we are short on doctors, today's hearing is not about that. Nationally there is absolutely no connection between doctors per capita and malpractice limits as the data has proved. To point this in another way, we have given up our rights and we have gotten nothing in return. It is very easy, and I am sure you have heard, sitting in this three-hour hearing to make this a fight about doctors and lawyers. But that is not why we are here today. We are here today for victims to seek justice. I am not a lawyer; I am not a doctor; I am simply a woman who ran for office to fight for justice, and it is why I am here before you today.

Chair Miller, your members asked great questions, and I really appreciate that. I think that makes us better lawmakers and better decision-makers when we ask those tough questions. But when we talk about holding people accountable, it is important to remember our role in this process. I really liked the metaphor of a teacher being sued for an IEP violation because for decades, we have talked about how to hold teachers accountable in this building, but a school district is much different than a health care system. We elect trustees to hold districts accountable to our needs as a community, and we have a say in that. We have a say here at the Legislature when we elect members of this Committee or people like me. However, citizens who oversee that system and try to bend and shape it to make sure it is delivering for all Nevadans is a work in progress and it is everything we do here. This is not about how the health care system works. Instead of it being run by citizens, the health care system is run by a complex network of corporations which you have heard from: insurance companies and hospital networks that move billions of dollars every day.

These are as much financial institutions as they are health care providers, as one of the members in this Committee pointed out during the hearing, and these populations do not get to elect people in these positions. Our community does not get to do that. Instead, this is a system that has gone so large that when we pass a new law, they make it a mere suggestion. We appoint a medical board to oversee doctors, but the medical board has had open cases for years leaving malpractice unchecked. We have had virtually no oversight in these massive institutions, hospitals and insurance companies. The court system, sadly, is how we as citizens have a check on corporate power. We do not get to elect hospital boards as I mentioned, we do not get to set their policies, but we do get to control who and how these cases get filed. These laws were passed when I was just ten years old and have basically been left untouched since. And what was the result? Did we get more doctors? No. Did we get better care? No.

All Nevada hospitals except for the three mentioned have the lowest rating Medicare can give. The real legacy of these 20-year-old laws is that the medical malpractice carriers in this state, as mentioned, the insurance companies, have appreciated an average of 45 percent profit margins in the last 15 years while still raising insurance premiums for health care

providers. You have heard from numerous doctors, whether they had an infraction or not, their rates continue to go up.

The cost of trial came up today, and I wanted to make sure that we address that. We have to understand, in all, a cost proceeding with a case like this runs in excess of \$200,000 before a trial even occurs. Depositions, consulting, retaining experts, and document review take time and energy. While the health care system can spend unlimited time and resources on this, the caps in place effectively cap how far a victim can go in seeking justice. Again, the system has put a cap on what they want, and victims have no choice in the matter. These insurance companies do not respond to pleas; they do not take a look in their patient's eyes or talk to the families whom they have denied. They speak in bottom line, in dollars and cents, and you have heard that today. Give Nevadans the ability to speak this language by allowing them access to the courts and justice. I urge your support for Assembly Bill 209.

Chair Miller:

First, I would like to release Assemblywoman Marzola as she has a committee to chair as well as Assemblyman Yurek and Assemblywoman Hardy, who need to get to their next committee. With that, I will formally close the hearing on Assembly Bill 209.

I will open it for public comment. [Public comment was heard.] We have accomplished all of the work today. Thank you, members, for the work session and for your questions and engagement during this hearing. Our meeting will start at 9 a.m. tomorrow. This meeting is adjourned [at 12:05 p.m.].

RESPECTFULLY SUBMITTED:

Traci Dory
Committee Secretary

APPROVED BY:

Assemblywoman Brittney Miller, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is the Work Session Document for [Assembly Bill 14](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit D](#) is the Work Session Document for [Assembly Bill 125](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit E](#) is the Work Session Document for [Assembly Bill 160](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit F](#) is the Work Session Document for [Assembly Bill 193](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit G](#) is the Work Session Document for [Assembly Bill 275](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit H](#) is the Work Session Document for [Assembly Bill 371](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit I](#) is the Work Session Document for [Assembly Bill 373](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit J](#) is the Work Session Document for [Assembly Bill 408](#), presented by Diane C. Thornton, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

[Exhibit K](#) is a copy of a PowerPoint presentation titled "[Assembly Bill 209](#): Fixing Nevada's Outdated Medical Malpractice Laws," submitted and presented by Assemblywoman Cecelia González, Assembly District No. 16.

[Exhibit L](#) is a booklet titled "Nevada Rural and Frontier Health Data Bank – 11th Edition, January 2023," published by the University of Nevada Reno, School of Medicine, Office of Statewide Initiatives, and submitted by Paul J. Hauptman, M.D., Dean, School of Medicine, University of Nevada, Reno, in opposition to [Assembly Bill 209](#).

[Exhibit M](#) is a letter signed by Ester Quilici, CEO, Vitality Unlimited, in opposition to [Assembly Bill 209](#).

[Exhibit N](#) is a letter dated April 10, 2023, signed by Patrick D. Kelly, President & CEO, Nevada Hospital Association, in opposition to [Assembly Bill 209](#).

[Exhibit O](#) is a document titled "Nevada Healthcare Legislative Guide 2023," published by the Nevada Hospital Association and submitted by Patrick D. Kelly, President & CEO, Nevada Hospital Association, in opposition to [Assembly Bill 209](#).

[Exhibit P](#) is a copy of an article published by the *Las Vegas Review-Journal* titled "Voters OK limits on awards," written by Paul Harasim, dated November 3, 2004, submitted by the Nevada Hospital Association in opposition to [Assembly Bill 209](#).

[Exhibit Q](#) is a letter dated April 6, 2023, submitted by Carson Tahoe Emergency Physicians, LLP, in opposition to [Assembly Bill 209](#).

[Exhibit R](#) is a letter dated April 6, 2023, submitted by Carson Tahoe Medical Group, in opposition to [Assembly Bill 209](#).

[Exhibit S](#) is a letter dated April 10, 2023, signed by Jeff Snyder, Volunteer Legislative Liaison for Nevada Medical Group Management Association; Executive Director, OB-GYN Associates, in opposition to [Assembly Bill 209](#).

[Exhibit T](#) is a letter dated April 10, 2023, submitted by Bret W. Frey, MD, FACEP, Legislative Liaison, Nevada Chapter of the American College of Emergency Physicians, in opposition to [Assembly Bill 209](#).

[Exhibit U](#) is a letter dated April 11, 2023, submitted by numerous business, insurance, and medical organizations, in opposition to [Assembly Bill 209](#).

[Exhibit V](#) is a collection of emails and letters submitted in opposition to [Assembly Bill 209](#).

[Exhibit W](#) is a letter dated April 6, 2023, from Kevin D. Halow, M.D., Chief of Medical Staff, Carson Tahoe Regional Medical Center, in opposition to [Assembly Bill 209](#).