

ASSEMBLY HEALTH AND WELFARE COMMITTEE MINUTES  
Wednesday, February 23, 1977

MEMBERS PRESENT: Chairman Chaney; Mr. Weise;  
Mr. Bennett; Mr. Kissam;  
Mr. Robinson; Mr. Dreyer

MEMBERS ABSENT: Mr. Ross;  
Mrs. Gomes;  
Mr. Schofield (excused)

GUESTS: Jack Middleton, Mentally Retarded, Health Div.,  
Dave Edwards, " " " "  
Linda Johnson, Health Division; Vital Statistics  
Ace Martell, Welfare;  
Bob Norton, "  
Glen Rock, "  
Robert Holland, Counsel, Welfare;  
Richard Bentinck, MD, Welfare;  
Fred Hillerby, Nevada Hospital Assn.,  
Bill LaBadie, Social Services,  
George Miller, Welfare,  
Milo Terzich, Amer. Health Insurance Assn;  
Minor Kelso, Welfare,  
Ellen Pope, Nev. Licensed Practical Nurses;  
Chris Lanphere, Rehabilitation;  
Ann Hibbs, Nev. Nursing Assn.  
Sue Morrow, Nevada Appeal newspaper

Chairman Chaney called the meeting to order at 9:45 a.m. He asked for testimony on SB 96. Mr. Jack Middleton stated that this bill was introduced to bring into conformity and reduce the age of majority for mentally retarded clients from 21 to 18 as was done on all other matters in the State except drinking and gambling two years ago. He stated the fiscal impact would be approximately \$4,600 the first year and \$5,300 the second from the loss of revenue from parents of institutionalized mentally retarded clients.

Mr. Bennett asked Mr. Middleton about the money collected for care of the mentally retarded. Mr. Middleton stated that the account was non-reverting for community placements and that the loss of revenue would be just a loss to that account, not the State. Mr. Weise asked if the division has the right to detain juveniles without parental permission. Mr. Middleton said that if the client is under 21, (18 if SB 96 is passed) either parental or guardian permission or a court order is required. If the client is over the age of majority, he may either commit himself, if competent, or be committed by order of a court.

Susan Haase representing the Nevada Association of Retarded Citizens stated that her organization supports the bill on the basis that it brings the age of majority into conformity with that existing in the State on all other matters, except drinking and gambling.

Regarding AB 242, Linda Johnson of Vital Statistics, proposed an amendment to Section 2, subsection 2: "'Record' means information recorded pursuant to Section 3 of this act and not otherwise required by law to be recorded". She also suggested amending Section 3: "For those records required by the National Center of Health Statistics of the Public Health Service, the Board may adopt regulations requiring that records be collected and kept by the State Health Officer, and designating how the records are to be used." (Exhibit "A"). The reason for amending Section 2 was to enlarge the definition of "record", making it more specific. She said the Health Division now receives \$25,000 from the National Center and would be eligible for more if this bill is passed.

She said Nevada lacks health statistics and is unable to measure their impact. Mr. Kissam asked if the bill is passed, would there be any benefit since we are already participating in the National Center of Health Statistics. Ms. Johnson stated that this would allow for additional funding for additional statistics; that Nevada now only participates in birth and death records.

Mr. Dreyer expressed concern over Federal authorities pulling out of the program in the future and leaving the cost burden to Nevada. Ms. Johnson stated that more importance is now being placed on justification of existing programs to see if they are accomplishing the purpose for which they were originally established. She also pointed out that there are very few State dollars being spent on health statistics.

Mr. Weise stated his objection to Section 4 where the board may authorize the State Health Officer to require the "full cooperation of any state or local governmental agency, ..." in obtaining statistics. He felt the bill was "just too open-ended" and that Section 3 is insufficient for the protection of the public. Ms. Johnson stated that she would prepare amendments to Section 3.

Mr. Robinson pointed out that no where in the bill is mention made of reimbursement of costs incurred by those requested for information. Ms. Johnson said that this could also be added to the bill.

Mr. Fred Hillerby of the Nevada Hospital Association brought out three points relative to AB 242: 1) What specific information will be requested? He also stated that the bill was too open-ended; 2) Information requested by Federal agencies is already being handled by State agencies and any further statistics requested by the Federal agencies won't necessarily be that which is collected by the State; 3) He questioned Section 10 which allows the State Health Officer to charge a reasonable fee for any work performed.

Mr. Weise asked Mr. Hillerby if these statistics would extend to minors and gonorrhoea and to the area of alcoholism. Mr. Hillerby stated that they would but that there are very definite guidelines set up by the Federal authorities as to collection of this information.

Mr. Chaney asked Mr. Hillerby if he felt the bill could be worked out and still be serviceable. Mr. Hillerby stated that he felt it could because there is a specific need for health data. He asked Mr. Weise to act as a subcommittee to work with Mr. Hillerby and Ms. Johnson to assist with amendments to AB 242 and report back to the committee.

Mr. Milo Terzich representing the American Health Insurance Association and Life Insurance Association stated that the bill was too broad and open-ended; that the State health officer will have the prerogative to invade other State agencies; that the State health officer can obtain the necessary statistics from the Insurance Commission as well as other State agencies. He was concerned with the harsh penalties in the bill and the obliteration of professional privileges such as doctor-patient, attorney-client, etc. He also felt the fiscal impact would involve additional personnel and facilities, none of which has been brought up. Mr. Weise asked Mr. Terzich if he could see any reasonable remedies to the problems with the bill. Mr. Terzich stated that the way the bill is now written, he could not and that the language must be very specific as to what information will be disclosed.

Mr. Vergiels testified on AB 153 stating that the changes are mostly housekeeping within the podiatry profession; that hospital and other groups have approved the changes. He felt there was a possibility of removing "(f) Assist in foot surgery" under Section 7, but would check further on it. He said it updates license fees to meet increased costs. Mr. Weise asked Mr. Vergiels if 6 months or more training in a podiatrist's office was sufficient training to qualify as a podiatry hygienist, as specified in Section 3 of the bill. "Training in a podiatrist's office" could also include clerical training. Mr. Vergiels stated that the groups he had contacted felt this was adequate but he didn't think they would object if it was changed. The intent, of course, was meant as actual podiatry training.

Mr. Kissam questioned the use of X-ray by a podiatry hygienist since one handling X-ray should have considerable training. Mr. Vergiels stated that this is what the podiatrists themselves wanted and he was sure the use of X-ray would be under supervision. Mr. Robinson suggested adding the words: "performed in podiatrist's office" to (f) of Section 7.

Ellen Pope of the Nevada Licensed Practitioner Nurses stated that they found no fault with the bill. Regarding the use of X-ray

Ms. Pope stated that the nurses only take X-rays and do not read them. She also felt (f) should be amended to "performed in podiatrist's office."

Regarding AB 299, Mr. Minor Kelso, Medical Services Chief of the Welfare Department, stated that the proposed bill aims at fraud not only on the recipient but also the provider of care and will give the Department more strength to be able to pursue fraud cases under Title 19. To Mr. Dreyer's question, Mr. Kelso stated that the Department is now investigating 65 fraud recipient cases; fraud in providers of care include double billing, billing for services not rendered, etc., and involve ten cases with pharmacists, 3 optometrists, 3 psychologists, 9 dentists and 4 nursing homes. One case is presently in court now in Las Vegas. At least half of these cases have been received in the past three months.

To Mr. Chaney's question, Mr. Holland, counsel for Welfare, stated that the penalties included in the bill would be similar to those existing in criminal law. Dr. Bentinck, Chief of Medicaid Fraud and Abuse stated that they have the nucleus in the process of organization, but that they need the teeth with which to enforce it. Mr. Kissam asked Dr. Bentinck if AB 229 would duplicate anything that Federal authorities are already doing. Dr. Bentinck said it would not. Mr. Robinson felt that the penalties provided in the bill are quite serious. If a provider such as a doctor is convicted of a felony, he is subject to the loss of his license to practice. Mr. Kelso stated that Nevada does not have the degree of fraud found in other states.

Regarding AB 314, Mr. Ace Martell of the Welfare Department, stated that the major intent and purpose of the bill is to allow the State to prosecute fraud cases under the Food Stamp Program. He continued by saying that the Department must now go through the United States Attorney General's Office which doesn't work very well. He said the most common cases of fraud in food stamps involve individuals giving false social security numbers and misrepresenting their actual income. He felt the bill will give the State a tool that will be a deterrent to potential violators. He said Nevada presently has claims of \$389,529 and has recovered \$39,258.00. Wages are garnished and if the violator is caught, he is compelled to repay the amount of money fraudulently taken in food stamps. Five positions in his office have already been transferred to a fraud investigative unit.

To Mr. Weise' question, Mr. Martell stated that at present, the Department is prosecuting under Federal regulations. If AB 314 is passed, they will work with the Attorney General's Office. Mr. Dreyer asked the difference between the intent in Section 2 and Section 3. Mr. Holland stated that the main difference is in the penalties. Section 3 involves intent and is more serious; section 2 allows for mitigating circumstances wherein

the court may assess a lower penalty. The penalties are patterned after the Federal Food Stamp law and some California law. Mr. Martell gave an example of one case where an individual would apply for food stamps with a false name and social security number as compared to a case where an individual purchased \$2 worth of food stamps from somebody else. The penalty in the first case would naturally be more severe than in the second case.

Mr. Weise suggested amending subsection 3 to make it a more specific act, such as a third time offense or a dollar amount. Mr. Martell asked the Committee to allow their office to clarify the bill and submit the changes to the Committee.

Chairman Chaney asked for Committee action on AB 153 regarding revisions on podiatry. Mr. Robinson moved DO PASS; Mr. Bennett seconded the motion. The motion was unanimously approved.

Regarding SB 96 which lowers maximum age for detention of mentally retarded persons, Mr. Dreyer moved DO PASS; Mr. Bennett seconded the motion. The motion was unanimously passed.

Chairman Chaney adjourned the meeting at 11:00 a.m.

Respectfully submitted,

PHYLLIS BERKSON, Secretary

Statement on AB242  
given by  
Linda Johnson  
Nevada State Division of Health

The primary purpose of this bill is to allow Nevada to participate in the National Center for Health Statistics (NCHS) information system. Nevada is presently participating in the National Center for Health Statistics program on a limited basis. The National Center for Health Statistics is a federal health data gathering organization.

The benefits of being associated with the National Center for Health Statistics include:

Standardized data collection methods to enable data comparison with other states.

Technical assistance provided by the Center.

Federal funds to support Health Data Systems.

Health data needs to be gathered in Nevada to accomplish the following:

Health Statistics are required by federal funding sources.

The Health Systems Agency requires health statistics for health planning.

Health Statistics are required to justify new health programs and to retain existing programs.

Health Statistics are required to evaluate a program's effectiveness and to set program priorities.

Section 5 - Section 7 - Protects the provider of the data right to privacy. This is consistent with the Federal Right to Privacy Act. It provides for very careful handling of the data to avoid any abuses and will protect the personal rights of the individual or the agency that provides the data.

Section 8 - This allows the health care professionals to participate without violating patient confidentiality.

Section 9 - Provides for a report to the public which will clearly explain what data is to be collected, from whom, and for what purpose. This would allow the public to be aware of our data collection activities and to address their concerns to the Board of Health.

Section 10 - Allows for the health officer to charge for data processing services. In some instances we will be providing data processing services to other agencies and this will allow those agencies to reimburse the data processing budget for the expenditures incurred in providing services.

Section 11 - Provides for the penalty for violation of this act.

SUMMARY—Provides for collection and dissemination of health information. (HDR 40-149)

FISCAL NOTE: Local Government Impact: No.  
State or Industrial Insurance Impact: No.

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to public health; providing for the collection and dissemination of health information; providing penalties; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. Chapter 440 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

3 SEC. 2. *As used in sections 2 to 11, inclusive, of this act, unless the*  
4 *context otherwise requires:*

5 1. *"Data" means the separate items of information which make up*  
6 *a record.*

7 2. *["Record" means information recorded pursuant to a regulation of*  
8 *the board and not otherwise required by law to be recorded.]*

"Record" means information recorded pursuant to Section 3  
of this act and not otherwise required by law to be recorded.

9 3. *"System of records" means a group of records from which individ-*  
10 *ual records can be retrieved by some identifying particular.*

11 SEC. 3. *[The board may adopt regulations which designate records*  
12 *to be collected and kept by the state health officer and how they*  
13 *are to be used.]*

For those records required by the National Center of  
Health Statistics of the Public Health Service, the  
Board may adopt regulations requiring that records be  
collected and kept by the State Health Officer, and  
designating how the records are to be used.

14 *Any records so designated must be found by the board*  
15 *to be necessary for the protection and promotion of the public health, for*  
16 *the proper evaluation of programs under the board's control, or for the*  
17 *proper evaluation of methods of providing health care.*

18 SEC. 4. *The board may require the full cooperation of any state or*  
19 *local governmental agency, business or nonprofit organization or natural*  
20 *person in obtaining any records or information required to be collected*  
21 *by the state health officer.*

22 SEC. 5. 1. *The state health officer shall collect and keep all records*  
23 *and disseminate any information designated by the board in accordance*  
24 *with the regulations of the board.*

2. *Before obtaining any record, the state health officer shall inform*