

The meeting was called to order at 10:10 am on Thursday, January 25, 1979 with Senator Keith Ashworth in the Chair.

PRESENT: Chairman Keith Ashworth
Vice-Chairman Joe Neal
Senator Rick Blakemore
Senator Clifton Young
Senator Wilbur Faiss
Senator Jim Kosinski

GUESTS: Susan Haase, Governor's Advisory Board for Mental Hygiene and Mental Retardation
Dr. Ralph DiSibio, Director, Department of Human Resources
Dr. Bing Oberle, Acting Administrator, Division of Mental Hygiene/Mental Retardation

Chairman Ashworth opened the hearing on S.B. 24 which broadens access to clinical records on mental patients.

Ms. Susan Haase began the testimony by stating the bill, as written, could present some problems as far as confidentiality of client records depending upon the selection and qualifications of the authorized personnel that are asked to review the records.

Senator Kosinski stated the bill was a product of the sub-committee studying the administration of Mental Hygiene/Mental Retardation and, after much deliberation, the term "qualified staff member" or a "qualified person" was left broad because the administrators responsible for the programs would have an obligation, under this bill, to object to "qualified" persons selected by either the director of the department or the legislature if they did not think those people should have access to the records.

Senator Kosinski said that even after numerous review before the sub-committee, 3.(b) does not correctly indicate the intent of the committee. The committee had intended to provide the director of the Department of Human Resources with the power to appoint an evaluation team in addition to providing the legislature with the right to appoint an evaluation team. Senator Kosinski presented the following qualified language beginning with Line 16:

(b) A qualified person appointed by the director of the Department of Human Resources to evaluate the performance of the division.

(c) A qualified person, who shall work in cooperation with the director of the Department of Human Resources, appointed by a committee of the legislature or legislative commission to evaluate the performance of the division.

Senator Kosinski stated that implicit in this language is the right of the mental health professionals, administrators, to object to the persons appointed if they feel that they may not be qualified for one reason or another.

Senator Blakemore questioned if Lines 20, 21 and 22 would remain as the safeguard and Senator Kosinski said paragraph 3 would read as (a), (b) and (c) with lines 20, 21 and 22 remaining flush as they are now. Also, Line 20 would read (a), (b) and (c) rather than (a) and (b) as it presently reads.

Ms. Haase said that Senator Kosinski's proposed amendment would take care of the problems she had foreseen in the bill.

Senator Blakemore asked Senator Kosinski if the basic rationale for the bill was because it was difficult to evaluate properly, and Senator Kosinski responded it was and that under the existing language, the director is charged not to permit anybody in.

Senator Young questioned the meaning of the word "qualified" which covers quite a wide spectrum of areas. Senator Kosinski said that was the only language they could come up with that would be broad enough but at the same time take care of the concerns without being cumbersome or with too many limitations.

Senator Neal questioned the new language in respect to the privacy rights of an individual's records. Senator Kosinski stated that due to the two counter-balancing public policies, the right to privacy and the right of government to evaluate its programs to ensure effective and efficient operation, the purpose of S.B. 24 is to find the line.

Senator Faiss asked if this could be done without the permission of the patient and Senator Kosinski said it could.

Dr. DiSibio testified that they view the bill to be one of good intent and with Senator Kosinski's changes, a viable one.

Senator Neal questioned what members of the legislature would be looking at in regard to evaluation. Dr. DiSibio stated that evaluation would not be in names so much as treatment procedures, amount of treatment, numbers of personnel staff, expenditures on personnel, effectiveness of the programs, and so forth.

Senator Kosinski stated that the bill would not allow individual legislators to view records but rather, as in the instance of his sub-committee, eliminate the difficulties encountered by the sub-committee's professional task force.

Senator Young said he still had a problem with the word "qualified" and felt the term should be defined. Dr. DiSibio said he felt it would be a matter of intent and, as a responsible administrator, evaluate the individual's qualifications wishing to review the records.

Dr. Bing Oberle testified that the position of the Division of Mental Hygiene/Mental Retardation regarding this legislation with the proposed amendment is one of support. He further stated that they feel that it is the responsibility and right of the legislature to look at any public agency in the State of Nevada and would cooperate fully with any such investigation or evaluation.

There being no further testimony, Chairman Ashworth closed the hearing on S.B. 24. Chairman Ashworth announced that a nurse from Las Vegas wished to testify but was unable to get to Reno due to weather conditions so the committee would hold any action on S.B. 24 until further testimony is taken.

Chairman Ashworth presented BDR 38-142 for a committee introduction which was requested by Senator Sloan making district attorneys responsible for the collections of certain amounts owed to the county hospitals.

Senator Young moved that BDR 38-142 be introduced as a Committee Introduction (SB 118)

Senator Faiss seconded the motion.

The motion carried.

Chairman Ashworth presented BDR 34-227 requested by Senator McCorkle which revises provisions relating to immunization of children.

Senator Young moved that BDR 34-227 be introduced as a Committee Introduction (SB 117)

Senator Kosinski seconded the motion.

The motion carried unanimously.

Chairman Ashworth presented BDR 33-784 requested by Senator Gibson regarding federal funds previously tied up until the end of the fiscal year.

Senator Young moved that BDR 33-784 be introduced as a Committee Introduction (SB 116)

Senator Neal seconded the motion.

The motion carried unanimously.

Chairman Ashworth stated he would not like to take final action on S.B. 24 pending testimony from Southern Nevada but entertained a motion on Senator Kosinski's amendment.

Senator Kosinski said there was another aspect to the bill and requested that further discussion be held over until the next hearing. He said there is a repealer in the bill that he would

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like to have deleted. He requested that the bill be made effective on passage and approval. Senator Kosinski also stated that the Health Department has some problem with the repeal of NRS 449.200 if the bill is made effective on passage and approval so he would like to delete provisions of Section 2 (Line 8) and amend it to be effective on passage and approval. He stated that there is another bill introduced last week for the Division of Health that repeals NRS 449.200 effective on July 1, 1979. He said there may be some federal privacy act problems repealing this effective on passage and approval.

Chairman Ashworth said he does have the bill referring to the repeal of NRS 449.200 and asked if the problem could be handled in that bill. Senator Kosinski said it could.

Senator Young suggested the word "professional" to be used in conjunction with the word "qualified."

Senator Kosinski moved that the amendments be drafted for presentation to the committee at the next hearing on S.B. 24.


Senator Young seconded the motion.

The motion carried.


Chairman Ashworth set the hearing date of January 29, 1979 to further consider S.B. 24.

There being no further business, the meeting adjourned at 10:50 am.

Respectfully submitted,


Roni Ronemus
Committee Secretary

Approved:


Chairman
Senator Keith Ashworth