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# ASSEMBLY COMMITTEE ON JUDICIARY



## WORK SESSION DOCUMENT

APRIL 10, 2003

ASSEMBLY JUDICIARY

DATE: 4/10/03 ROOM: 3138 EXHIBIT C of 32

SUBMITTED BY: KEVIN COMBS.

## WORK SESSION

### ASSEMBLY COMMITTEE ON JUDICIARY

April 10, 2003

(Please note the list of speakers and summary of the discussion on each measure contained within this document do not represent an official record of the referenced meetings. For an official record, please see the minutes from the meetings of the Assembly Committee on Judiciary, which are available through the Legislative Counsel Bureau.)

The following measures will be considered for action during the work session:

- ASSEMBLY BILL 250** (BDR No. 15-49 was requested by Assembly Speaker Richard D. Perkins). The bill was heard in committee on March 19, 2003, and no action was taken.

**Assembly Bill 250 makes various changes regarding certain acts relating to terrorism, weapons of mass destruction, biological agents, chemical agents, radioactive agents and other lethal agents, toxins and delivery systems and requires resort hotels to adopt emergency response plans.**

Proponents/those testifying in support of the bill: Speaker Perkins; Sheriff Bill Young, Las Vegas Metropolitan Police Department; Ellen Knowlton, Federal Bureau of Investigation; former Sheriff Jerry Keller, Las Vegas Metropolitan Police Department; Chief Mike Mayberry, Henderson Police Department; Lieutenant Dave O'Leary; Las Vegas Metropolitan Police Department; Stan Olsen, Las Vegas Metropolitan Police Department and Nevada Sheriffs and Chiefs Association; Richard Gammick, Washoe County District Attorney; Dave Roger, Clark County District Attorney; Jim Nadeau, Washoe County Sheriff's Office; Assistant Sheriff Jim Lopez, Washoe County Sheriff's Office; Tim Crowley, Nevada Resort Association; Lucille Lusk, Nevada Concerned Citizens; Benjamin Blinn.

Opponents/those testifying in opposition of the bill: Laura Mijanovich, American Civil Liberties Union; Gary Peck, American Civil Liberties Union; James Tate, National Alliance Against Racist & Political Oppression; Peter Ediger, Coalition to Prevent the Erosion of Human Rights.

Those testifying with a neutral position on the bill: Janine Hansen, Nevada Eagle Forum.

Discussion: Testimony noted the importance of the measure following the September 11, 2001, terrorist attacks in the United States and that the bill would enable state law enforcement officers to take a more active role with federal law enforcement to investigate and prosecute terrorist-related crimes. Concerns focused on the definition of an "act of terrorism."

Proposed Amendments: Attached on blue paper is a mock-up of proposed amendments prepared by Assemblyman William Horne, who was asked by Chairman Bernie Anderson to coordinate the amendments on Assembly Bill 250.

- ASSEMBLY BILL 441** (BDR No. 19-1139 was requested by Assembly Speaker Richard D. Perkins). The bill was heard in committee on April 1, 2003, and no action was taken.

**Assembly Bill 441 enacts provisions relating to ensuring the security of the State of Nevada and its residents with respect to acts of terrorism and related emergencies.**

Proponents/those testifying in support of the bill: Speaker Perkins; Stan Olsen, Las Vegas Metropolitan Police Department and Nevada Sheriffs and Chiefs Association; Clay Thomas, Department of Motor Vehicles; Michael Hillerby, Office of the Governor; Judy Stokey, Nevada Power/Sierra Power; Janine Hansen, Nevada Eagle Forum; Dr. David E. Slattery and Kathy Denel, American Heart Association; Andy Belanger, Sierra Nevada Water Authority and Las Vegas Valley Water District.

Opponents/those testifying in opposition of the bill: Jeff Page, Lyon County; Kent Lauer, Nevada Press Association; Steve Walker and Mark Foree, Truckee Meadows Water Authority; Rick Bareuther, City of Sparks; Richard Morgan, Douglas County; Laura Mijanovich, American Civil Liberties Union of Nevada.

Those testifying with a neutral position on the bill: Cheryl Runyon, National Conference of State Legislatures; Fergus Laughridge, Health Division, Nevada's Department of Human Resources.

Discussion: Testimony discussed the importance of the measure following the September 11, 2001, terrorist attacks in the United States. Concerns included the definition of an "act of terrorism," the need for various entities to provide confidential documents, and the provisions in the bill limiting access to certain records.

Proposed Amendments: Attached on green paper is a mock-up of proposed amendments prepared by Assemblyman William Horne, who was asked by Chairman Bernie Anderson to coordinate the amendments on Assembly Bill 441 and Assembly Bill 462.

- ASSEMBLY BILL 462** (BDR No. 19-1282 was requested by the Committee). The bill was heard in committee on April 1, 2003, and no action was taken.

**Assembly Bill 462 limits access to records related to homeland security.**

Proponents/those testifying in support of the bill: Stan Olsen, Las Vegas Metropolitan Police Department and Nevada Sheriffs and Chiefs Association; Ron Dreher; Janine Hansen, Nevada Eagle Forum.

Opponents/those testifying in opposition of the bill: Lucille Lusk, Nevada Concerned Citizens; Kent Lauer, Nevada Press Association; Steve Walker, Truckee Meadows Water Authority; Laura Mijanovich, American Civil Liberties Union of Nevada.

Discussion: Testimony indicated the measure was directed at certain records that should be maintained confidentiality in the interests of protecting homeland security. Concerns were raised for the broad application of the bill and the procedures for granting or limiting access.

Proposed Amendments: Assemblyman William Horne was asked by Chairman Bernie Anderson to coordinate the amendments on Assembly Bill 462 and Assembly Bill 441. The proposed changes relating to Assembly Bill 462 are addressed in the proposal for Assembly Bill 441.

- ASSEMBLY BILL 320** (BDR No. 57-868 was requested by the Committee). The bill was heard in committee on April 4, 2003, and no action was taken.

**Assembly Bill 320 makes various changes regarding malpractice.**

Proponents/those testifying in support of the bill: Assemblywoman Barbara E. Buckley; Dr. John Ellerton; Matt Sharp and Bill Bradley, Nevada Trial Lawyers Association; Dr. John Wilkerson and Larry Matheis, Nevada State Medical Association; Larry Spitler, American Association of Retired Persons.

Opponents/those testifying in opposition of the bill: Jim Wadhams, representing multiple insurance companies; Mr. Kerry Kovick, PIC Wisconsin; Alice A. Molasky-Arman, Commissioner, Division of Insurance, Nevada's Department of Business and Industry.

Those testifying with a neutral position on the bill: Phil Nowak, Division of Health Care Financing and Policy, Nevada's Department of Human Resources.

Discussion: Testimony reviewed the development of the State's recent crisis with regard to medical malpractice insurance. Proponents reviewed the provisions in the bill designed to address circumstances leading up to the crisis and prevent such events from occurring in the future. Proponents also noted the measure is designed to improve and strengthen the contractual relationship between physicians, patients, and insurance companies.

Proposed Amendments: Assemblywoman Buckley offered to coordinate the amendments presented for Assembly Bill 320, which are summarized below.

1. **Fees Charged Providers for Inclusion on a Panel** – Amend the bill to specify that hospitals are also prohibited from charging such fees. (Section 1 and Section 40).

2. **Clarification on Requirements with Regard to Ability of Physician who has been Terminated to Continue Care for a Patient** – Amend the bill to resolve conflicts raised with federal programs in the sections of Assembly Bill 320 allowing a physician to continue caring for a patient under certain conditions after termination of the contract to provide such services.

The Division of Health Care Financing and Policy testified with a neutral position on the bill and requested that the State's Medicaid program and State Children's Health Insurance Program (SCHIP) under Health Maintenance Organization (HMO) contracts be exempt from these provisions of the bill.

A copy of the supporting testimony and amendment proposed by the Division during the hearing on Assembly Bill 320 is attached on pink paper.

3. **Provision of Schedule of Payments to the Provider** – Revise the bill to specify that if an insurer contracts with a provider of health care to provide health care to an insured, the insurer shall provide to the provider a copy of the schedule of payments:
  - a. At the time of contract, if the provider requests a copy of the schedule of payments applicable to the provider; or
  - b. Within seven (7) days after the provider requests a copy of the schedule of payments that is applicable to the provider.

**ASSEMBLY BILL 350** (BDR No. 40-971 was requested by Assemblywoman Genie Ohrenschall). The bill was heard in committee on April 7, 2003, and no action was taken.

**Assembly Bill 350 prohibits the State Board of Health from requiring certain residential facilities for groups to purchase or maintain a policy of liability insurance.**

Proponents/those testifying in support of the bill: Assemblywoman Ohrenschall; Marty Hilario, Adult Care Association of Nevada; Theresa Burkfield, Adult Care; Wendy Simons, Coalition of Assisted Residential Environments (CARE) and Assisted Living Advisory Council (ALAC); Larry Fry, CARE.

Opponents/those testifying in opposition of the bill: Pamela Graham, Health Division, Nevada's Department of Human Resources.

Discussion: Testimony focused on the difficulty currently facing residential facilities for groups with regard to obtaining liability insurance, which may result in the closure of many of these types of facilities.

Proposed Amendments: Assemblywoman Ohrenschall offered to coordinate the proposed amendments to this measure. Attached on yellow paper are the amendments and explanation submitted by Assemblywoman Ohrenschall.

AJWS-04-10-03

**PROPOSED AMENDMENT TO ASSEMBLY BILL 250**

*Makes various changes regarding certain acts relating to terrorism, weapons of mass destruction, biological agents, chemical agents, radioactive agents and other lethal agents, toxins and delivery systems and requires resort hotels to adopt emergency response plans. (BDR 15-49)*

PRESENTED TO

THE ASSEMBLY COMMITTEE ON JUDICIARY

BY

ASSEMBLYMAN WILLIAM HORNE

APRIL 3, 2003

- 1. Amend Section 1, on page 2, to read as follows:

**Sec. 1.**

~~1. The tragic events of September 11, 2001, have refocused our attention on the importance of domestic preparedness for a terrorist attack.~~

~~2. The events not only impacted our homeland, but also the way of life of all Nevadans. The events of September 11, 2001, have focused our nation's attention on the importance of preparedness in preventing, investigating, and prosecuting acts of terrorism.~~

2. The Legislature further finds that, to be effective, this effort requires a partnership among the federal, state, and local governments. In furtherance of this partnership, it is the Legislature's intent to strengthen the laws of the State of Nevada to better protect the health and safety of Nevada and its residents from acts of terrorism.

3. It is also the intent of the Legislature that this act be interpreted to provide the greatest measure of protection and safety for the people of this state and to preserve and protect their constitutional rights, including the right to petition their governments and to exercise their rights under the First Amendment to the United States Constitution, and corresponding Articles of the Nevada Constitution.

New subsections 1, 2, and 3 are proposed by Speaker Perkins. [Subsections 3 through 6 are retained and renumbered subsections 4 through 7].

New language referencing the Nevada Constitution and added to the end of new subsection 3 in an attempt to incorporate, in part, an amendment proposed by Janine Hansen, Nevada Eagle Forum.



2. Amend Section 7, page 7, to read as follows:

Sec. 7. "Act of terrorism" means any act that involves the use ~~or the threatened~~ or attempted use of sabotage, ~~fear~~ extortion or violence ~~and which~~ is intended to:

- ~~1. Intimidate or coerce a civilian population;~~  
~~2. Disrupt, affect or influence the conduct or policy of a governmental entity by intimidation or coercion; or~~  
~~3. Retaliate against a governmental entity or cause widespread panic or civil unrest through the substantial destruction, contamination, impairment or disruption of:~~ cause great bodily harm or death to the general population, or substantial structural damage to any public or private building, or the substantial destruction, contamination or impairment of:

(a) 1. Public or private infrastructures, communications, transportation, utilities or services; or

(b) 2. Any Nnatural resources or the environment.

3. Amend subsection 2 of Section 8, page 8, to read as follows:

**Sec. 8.**

2. Substantial deterioration or contamination of food, water, equipment, supplies or material of any kind;

4. Amend Section 10, page 8, to read as follows:

**Sec. 10.** As used in Section 15 of this Act, "~~M~~material support" means:

1. Currency, securities, negotiable instruments or financial services, or assistance, ~~or support~~ of any kind.

5. Amend subsection 7 of Section 11, page 9, to read as follows:

**Sec. 11.**

7. An item of electronic mail, a ~~modem,~~ computer, system or network ~~or the Internet~~, or any other similar means of communication.

6. Amend subsection 2 of Section 12, page 9, to read as follows:

**Sec. 12.**

2. Substantial deterioration or contamination of food, equipment, supplies or material of any kind;

New language is proposed by Asm. Horne as a compromise to proposed amendments suggested by Speaker Perkins, Lucile Lusk, and Ms. Mijanovich and Dr. Siegel.

New language is proposed by Asm. Horne to include substantial contamination of food or water.

Proposed by Asm. Horne to conform to other references in NRS [e.g., NRS 201.560] re: computerized communication and to ensure provision is not overly broad or otherwise violative of First Amendment protections.

New language is proposed by Asm. Horne to include substantial contamination of food or water. [See paragraph 3, above].

7. Amend Section 13, page 9, to read as follows:

**Sec. 13.** "Terrorist" means a person who intentionally commits, causes, aids, furthers or conceals an act of terrorism or attempts to commit, cause, aid, further or conceal an act of terrorism.

8. Amend subsection 1 of Section 15, page 9, to read as follows:

**Sec. 15.**

1. A person shall not knowingly or intentionally:

9. Amend subsection 4 of Section 15, page 10, to accomplish the following intent:

**Sec. 15.**

4.

Revise the provisions of subsection 4 to ensure or otherwise indicate that the contemplated separate prosecutions for the same acts under different statutes are not in violation of the constitutional protection against Double Jeopardy.

10. Amend subsection 1 of Section 16, page 10, in two ways:

First, amend subsection 1 of Section 16 by adding the following language before "a terrorist:"

**Sec. 16.**

1. Except as otherwise provided in subsection 4, a person shall not knowingly hinder, delay or obstruct the prosecution of a person being prosecuted as a terrorist.

Second, amend subsection 1 of Section 16, page 10, to achieve the following intent:

**Sec. 16.**

1.

Formulate language to substitute in the place and stead of "hinder, delay or obstruct" that specifies what actions are prohibited, or otherwise and considered "obstruction," without relying upon the use of the words "hinder, delay or obstruct."

Proposed by  
Asm. Horne in  
place of  
"knowingly" as  
proposed by  
Lucile Lusk.

Proposed by  
Asm. Horne to  
ensure that the  
current language  
does not, and  
cannot be  
construed, to  
violate Double  
Jeopardy  
protections.

Proposed by  
Asm. Horne to  
avoid implication  
that a person  
being prosecuted  
is guilty of being  
a terrorist before  
they have been  
convicted.

Proposed  
by Asm.  
Horne to  
strengthen  
this  
provision,  
which  
primarily  
speaks of  
intentional  
acts.

Proposed by  
Asm. Horne  
to avoid use  
of terms  
subject to  
interpretatio  
n, and not  
otherwise  
defined in  
the NRS.

11. Amend subsection 4 of Section 16, page 10, to read as follows:

**Sec. 16.**

4. The provisions of section do not apply to such acts of an attorney ~~as are necessary and reasonable~~, a legal defense organization or association, a civil rights organization or association, or a humanitarian group, organization or association, performed in the defense of a client who is being prosecuted as a terrorist.

12. Amend subsection 2 of Section 18, page 10, to read as follows:

**Sec. 18.**

2. Substantial deterioration or contamination of food, equipment, supplies or materials of any kind; or

13. Amend subsection 5 of Section 21, page 12, to read as follows:

**Sec. 21.**

5.

Revise the provisions of subsection 5 to ensure or otherwise indicate that the contemplated separate prosecutions for the same acts under different statutes are not in violation of the constitutional protection against Double Jeopardy.

14. Amend subsection 2 of Section 22, page 13, to accomplish the following intent:

**Sec. 22.**

2.

Revise the language in this provision so that there is no need to include a "reasonable person standard."

15. Amend subsection 4 of Section 22, page 14, to accomplish the following intent:

**Sec. 22.**

4.

Revise the provisions of subsection 4 to ensure or otherwise indicate that the contemplated separate prosecutions for the same acts under different statutes are not in violation of the constitutional protection against Double Jeopardy.

Proposed by Asm. Horne to also protect legal defense organizations, civil rights organizations, and humanitarian groups in addition to attorneys defending persons being prosecuted as a terrorist.

Proposed by Asm. Horne to ensure that the current language does not, and cannot, be construed to violate Double Jeopardy protections [See paragraph 9, above].

Proposed by Asm. Horne to ensure that the current language does not, and cannot, be construed to violate Double Jeopardy protections [See paragraphs 9 and 13, above].

New language is proposed by Asm. Horne to include substantial contamination of food or water [See paragraphs 3 and 6, above].

**PROPOSED AMENDMENT TO ASSEMBLY BILL 441**

*Enacts provisions relating to ensuring security of State of Nevada and its residents with respect to acts of terrorism and related emergencies. (BDR 19-1139)*

PRESENTED TO

THE ASSEMBLY COMMITTEE ON JUDICIARY

BY

ASSEMBLYMAN WILLIAM HORNE

APRIL 10, 2003

1. Amend paragraph (d) of subsection 6 of Section 2, page 2, to read as follows:

**Sec. 2.**

6. It is therefore within the public interest that the Legislature enact provisions to: . . .

(d) Develop policies providing for effective communication and interoperability among state, local and federal law enforcement and other first responders.

2. Amend Section 5, page 3, to read as follows:

**Sec. 5.** "Act of terrorism" means any act that involves the use ~~or the threatened~~ or attempted use of sabotage, ~~fear~~ extortion or violence ~~and which~~ is intended to:

- ~~1. Intimidate or coerce a civilian population;~~
- ~~2. Disrupt, affect or influence the conduct or policy of a governmental entity by intimidation or coercion; or~~
- ~~3. Retaliate against a governmental entity or cause widespread panic or civil unrest through the substantial destruction, contamination, impairment or disruption of; cause great bodily harm or death to the general population, or substantial structural damage to any public or private building, or the substantial destruction, contamination or impairment of:~~

~~(a)~~ 1. Public or private infrastructures, communications, transportation, utilities or services; or

1. New language is proposed by Denice Miller, Jones Vargas, on behalf of a communications client [state and local] and Mr. Horne [federal].

2. New language is proposed by Mr. Horne to conform with new language defining "act of terrorism" in A.B. 250.

~~(b)~~ 2. Any ~~N~~natural resources or the environment.

3. Amend Section 10, page 3, to accomplish the following intent:

**Sec. 10.** Include the Nevada National Guard as a response agency under this provision.

4. Insert a new section between existing Sections 10 and 11, on page 4, to read as follows, and re-number all subsequent section numbers:

**Sec. 11. "System of communication" means, without limitation, public safety radio systems and telecommunication systems.**

5. Amend Section 11, page 4, to accomplish the following intent:

**Sec. 11.** Include pipelines with the definition of a "utility" under this provision.

6. Amend subsection 2 of Section 11, page 4, to add a new paragraph thereto to read as follows:

**Sec. 11.**

2.

**(e) A water facility that is regulated by the Environmental Protection Agency.**

7. Amend Section 12, starting at page <sup>4</sup>~~9~~, to read as follows:

**Sec. 12. 1.** The Nevada Commission on Homeland Security, consisting of a Chairman and ~~12~~ at least 14 or more members, is hereby created.

2. The Senate Majority Leader shall appoint two ~~voting~~ members of the Commission:

~~(a) One of whom is a member of the Senate; and~~

~~(b) One of whom possesses prevention of acts of terrorism or responding to related types of emergencies; both of whom shall be members of the Senate;~~

3. The Speaker of the Assembly shall appoint two ~~voting~~ members to the Commission:

~~(a) One of whom is a member of the Assembly; and~~

~~(b) One of whom possesses expertise in the field of law enforcement, firefighting, prevention of acts of terrorism or responding to related types of emergencies; both of whom shall be members of the Assembly;~~

4. The Governor shall appoint at least ~~seven~~ ten ~~voting~~ members to the Commission.

3. Inclusion of the Nevada National Guard is proposed by the Governor.

4. New language proposed by Ms. Miller and her client, as the term appears in a few sections of the bill but is undefined.

5. The inclusion of pipelines is proposed by the Governor.

6. New language is proposed by Steve Walker with the Truckee Meadows Water Authority.

7. New language is proposed by the Governor to increase the membership of the Commission, make all members voting members (and remove all other references to "voting" members thereafter), to require appointment of members of the Legislature to both positions afforded to each house of the Legislature, and to further identify the fields of expertise of the ten or more members appointed by the Governor.

~~(a) One of whom is nominated by the Nevada Association of Counties or its successor;~~

~~(b) One of whom is nominated by the Nevada League of Cities or its successor;~~

~~(c) One of whom possesses expertise in the field of responding to releases of nuclear, biological and chemical agents;~~

~~(d) One of whom possesses expertise in the field of law enforcement;~~

~~(e) One of whom possesses expertise in the field of prevention of acts of terrorism; and~~

~~(g) One of whom possesses expertise in the field of providing medical treatment to traumatically injured persons, who will possess expertise in the following fields:~~

~~(a) Critical infrastructure and key assets;~~

~~(b) Law enforcement;~~

~~(c) Firefighting;~~

~~(d) Public health;~~

~~(e) Hospital administration;~~

~~(f) Nevada National Guard;~~

~~(g) Emergency management;~~

~~(h) Information technology;~~

~~(i) Transportation;~~

~~(j) Agriculture;~~

~~(k) Counter-terrorism intelligence; and~~

~~(l) Business and industry~~

~~and at least one of whom is a representative of the private sector.~~

~~5. The Governor or his designee is a nonvoting member of the Commission.~~ The Governor or his designee shall serve as Chairman of the Commission.

6. The ~~voting~~ members of the Commission shall elect from among their membership a Vice Chairman. The term of office of an officer elected pursuant to this subsection is 1 year.

8. Amend subsection 2 of Section 13, page 5, to read as follows:

**Sec. 13.**

2. The term of office of each ~~voting~~ member of the Commission who is not a Legislator is 3 years and commences on July 1 of the year of appointment. The ~~voting~~ members of the Commission shall continue in office until their successors are appointed. ~~Voting m~~Members of the Commission are eligible for reappointment, ~~except that no voting member may serve for any part of more than two consecutive terms.~~ Vacancies among the ~~voting~~ membership of the Commission must be filled for the remainder of the unexpired term in the same manner as the original appointment.

8. The removal of term limits is proposed by the Governor.

9. See Text Box 7, above.

9. Amend subsection 2 of Section 14, page 5, to read as follows:

Sec. 14. 2. A majority of the ~~voting~~ members of the Commission constitutes a quorum for the transaction of business, and a majority of those ~~voting~~ members present at any meeting is sufficient for any official action taken by the Commission.

10. New language is proposed by the Governor to provide that the members of the Commission are compensated for their service.

10. Amend Section 15, page 5, to read as follows:

Sec. 15.

1. ~~Members of the Commission serve without salary or compensation for their travel or per diem expenses.~~ Each member of the Commission who is not a Legislator is entitled to receive a salary of \$80 for each day's attendance at the meeting of the Commission, and may be paid the per diem allowance and travel expenses provided for state officers and employees generally, as the budget of the Commission permits.

2. For each day or portion of a day during which a member of the Commission who is a Legislator attends a meeting of the Commission or is otherwise engaged in the work of the Commission, except during a regular or special session of the Legislature, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the Legislature during the first 60 days of the preceding session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses provided pursuant to NRS 288.2207.  
The compensation, per diem allowance and travel expenses of the legislative members of the Commission must be paid from the Legislative Fund.

11. Amend subsection 3 of Section 17, page 6, to read as follows:

Sec. 17.

3. With respect to buildings, facilities, geographic features and infrastructure that must be protected from acts of terrorism and related emergencies to ensure the safety of the residents of this state and visitors to this state, including, without limitation, airports, the Capitol Complex, casinos, courthouses, dams, highways, hotels, information technology infrastructure, lakes, power lines, places of worship, public buildings, public utilities, reservoirs, rivers and their tributaries, and water ~~treatment~~ facilities.

11. New language is proposed by Mr. Horne after considering proposed amendments to other sections of the bill by Kent Lauer with the Nevada Press Association. Deleted language is proposed by Mr. Walker.

12. Mr. Horne is proposing that Legislative Counsel attend the meetings of the Commission and provide necessary assistance to the legislative members of the Commission.

13. Mr. Lauer's proposed amendments to Section 21 have been distributed to the Committee.

12. Amend Section 19, page 7, to accomplish the following intent:

**Sec. 19.**

Revise the provisions of Section 19 to additionally require that Legislative Counsel, or a designee, attend the meetings of the Commission and provide necessary assistance to the legislative members of the Commission.

13. A decision concerning the use of proposed amendments to Section 21 received from Kent Lauer of the Nevada Press Association, and to be used in lieu of the original language of Section 21 appearing in the bill, could not be made, nor a compromise arrived at, as the competing language does not appear to be reconcilable. The Committee is therefore welcome to consider Mr. Lauer's proposed amendments independently from this report of proposed amendments.

If the Committee is so inclined to retain the original language of Section 21 of the bill, it is recommended that paragraphs (a) and (c) of subsection 2 of Section 21, page 7, be amended to read as follows:

**Sec. 21.**

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) ~~Documents, records or other items of information pertaining to information technology.~~ Records assembled, prepared, maintained, or overseen by the Department of Information Technology, consisting of:

(i) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs; access codes for secure software applications, security procedures and processes and security and service recovery plans;

(ii) Specific and unique security vulnerability assessments or specific and unique response plans, including compiled underlying data collected in preparation of or essential to the assessments or to the response plans; and

(iii) Security test results to the extent that they identify specific system vulnerabilities.

(b) ...

(c) Drawings, maps, plans or records that reveal the architecture, design or internal structure of buildings, facilities and other structures, including, without limitation, airports, arenas, the Capitol Complex, casinos, courthouses, dams, highways, hospitals, hotels, facilities for transmitting electricity, natural gas or other forms of energy, places of worship, stadiums and water ~~treatment~~ facilities.

21. New language is proposed by Mr. Horne to reflect an amendment to similar language found in Senate Bill 175 and amended by the Senate Committee on Judiciary at the request of the Department of Information Technology.

21. Same changes as are being proposed to similar language found in Section 17, above.



14. New language is proposed by the Governor to provide that response plans are filed with the DEM, not the Commission.

14. Amend subsection 1 of Section 22, page 8, to read as follows:

Sec. 22. 1. Each political subdivision shall adopt and maintain a response plan. Each new or revised plan must be filed within 10 days after adoption or revision with:

(a) ~~The Commission;~~

~~(b)~~ The Division of Emergency Management of the Department of Public Safety; and

(c) Each response agency that provides services to the political subdivision.

15. Confirmation of the use of the term "unusually hazardous substances" is proposed by the Governor.

15. Amend paragraph (d) of subsection 2 of Section 22, page 8, to accomplish the following intent:

Sec. 22.

2. (d)

Confirm that the use of the term "unusually hazardous substances" is used in other provisions of the *Nevada Revised Statutes* (NRS) speaking to hazardous substances or materials; substitute a similar term used in existing statutes.

16. New language is proposed by Judy Stokey with Sierra Power/Nevada Power to recognize assessments and plans already prepared by utilities per the requirements of federal and regional agencies. Ms. Stokey's proposed amendments also prevent the receipt of such plans by the Public Utilities Commission of Nevada, which presently does not require this information [the PUCN presently does require and receive emergency operating plans from utilities, which are completely different].

16. Amend Section 24, page 11, to read as follows:

Sec. 24. 1. Each utility shall:

(a) Conduct a vulnerability assessment ~~which must consist of a comprehensive evaluation and review of its operations, systems, assets, infrastructure and personnel to assess any vulnerabilities of the utility to potential unlawful acts involving terrorism or sabotage and to determine the potential consequences that could result from such acts; and~~ consistent with federal and regional governing agencies for that utility in accordance with the requirements of the federal and regional governing agencies; and

(b) Prepare and maintain an emergency response plan ~~that addresses the manner in which the utility will respond to potential unlawful acts involving terrorism or sabotage and the potential consequences that could result from such acts.~~ consistent with federal and regional governing agencies for that utility in accordance with the requirements of the federal and regional governing agencies.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit ~~its vulnerability assessment and emergency response~~ the plans required by paragraphs (a) and (b) of subsection 1 of this section to the ~~Commission~~ Division of Emergency Management, Department of Public Safety, and, if the

16. Deleting the term Commission and inserting the DEM in its place is consistent with changes to Section 22, in paragraph 14, above.

~~utility is regulated pursuant to Chapter 704 of NRS, to the Public Utilities Commission of Nevada, and~~

(b) At least once each year thereafter, review ~~its vulnerability assessment and emergency response~~ the plans required by paragraphs (a) and (b) of subsection 1 of this section and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its ~~emergency response~~ plans to the ~~Commission~~ Division of Emergency Management, Department of Public Safety and, ~~if the utility is regulated pursuant to chapter 704 of NRS, to the Public Utilities Commission of Nevada.~~

3. ~~Each vulnerability assessment and emergency response plan of a utility~~ The plans required by paragraphs (a) and (b) of subsection 1 of this section, and any other information concerning a utility that is necessary to carry out the provisions of this section, ~~is~~ are confidential and must be securely maintained by each person or entity that has possession, custody or control of such information.

4. A person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility as determined by the Division of Emergency Management, Department of Public Safety; or

(c) As is reasonably necessary in the case of an emergency involving public health or safety as determined by the Division of Emergency Management, Department of Public Safety.

16. New language is proposed by Ms. Stokey to provide the DEM determines the conditions giving rise to the exceptions to disclosure provided for under subsection 4.

17. Amend Section 25, page 12, to accomplish the following intent:

**Sec. 25.**

Revise Section 25 in its entirety to clarify that if an underage person is attempting to gamble, buy liquor or cigarettes, for example, with false documentation of personal identifying information, the penalty for same remains a misdemeanor.

18. Amend subsections 1, 2, and 3 of Section 27, page 14, to read as follows:

**Sec. 27.** Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On and after July 1, ~~2003~~ 2004, a governing body or its authorized representative shall not purchase an information system or system of communication, or any component thereof, for use by a response agency unless the system or component complies with the plan established pursuant to subsection 5 of Section 17 of this act.

18. 2004 is suggested by Speaker Perkins and the Governor as a more reasonable date or deadline for governing bodies to be bound by.

2. On or after July 1, ~~2003~~ 2004, any grant or other money received by a local government from the Federal Government for the purchase of an information system or system of communication, or any component thereof, for use by a response agency must not be used to purchase such a system or component unless the system or component complies with the plan established pursuant to subsection 5 of Section 17 of this act.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in Section 8 of this act;

(b) "Response agency" has the meaning ascribed to it in Section 10 of this act; and

(c) "System of communication" has the meaning ascribed to it in Section 11 of this act.

19. Amend subsections 1, 2, and 3 of Section 28, page 14, to read as follows:

Sec. 28. Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

1. On or after July 1, ~~2003~~ 2004, the Chief, the Purchasing Division or a using agency shall not purchase an information system or system of communication, or any component thereof, for use by a response agency unless the system or component complies with the plan established pursuant to subsection 5 of Section 17 of this act.

2. On or after July 1, ~~2003~~ 2004, any grant or other money received by the Chief, the Purchasing Division or a using agency from the Federal Government for the purchase of an information system or system of communication, or any component thereof, for use by a response agency must not be used to purchase such a system or component unless the system or component complies with the plan established pursuant to subsection 5 of Section 17 of this act.

3. As used in this section:

(a) "Information system" has the meaning ascribed to it in Section 8 of this act;

(b) "Response agency" has the meaning ascribed to it in Section 10 of this act; and

(c) "System of communication" has the meaning ascribed to it in Section 11 of this act.

20. Amend subsection 3 of Section 33, page 19, to read as follows:

Sec. 33.

3. The Department may refuse to accept an ~~an driver's license~~ identification card issued by another state or the District of Columbia if the

18. New language is consistent with new Section 11 proposed in paragraph 4, above.

19. New language is consistent with proposed amendments to Section 27 reflected in paragraph 18, above.

20. New language is proposed by the Department of Motor Vehicles to change the term driver's license to identification card.

Department determines that the other state or the District of Columbia has less stringent standards than the State of Nevada for the issuance of an driver's license identification card.

21. The addition of language from Section 31 be added to Section 33 is proposed by DMV to ensure consistency by the Department in issuing both driver's licenses and identification cards.

21. Amend Section 33, page 19, by adding thereto new subsections to read as follows:

**Sec. 33.**

4. With respect to document furnished as proof of age as described in subsection 1 of this section, the Department may:

(a) If the document has expired, refuse to accept the document or refuse to issue an identification card to the person presenting the document, or both; and

(b) If the document specifies a date by which the person presenting the document must depart from the United States, issue to the person presenting the document an identification card that expires on the date on which the person is required to depart from the United States.

5. The Director shall adopt regulations setting forth criteria pursuant to which the Department will issue or refuse to issue an identification card in accordance with this section to a person who is a citizen of a foreign country. The criteria must be based upon the purpose for which that person is present within the United States.

22. The deletion of Sections 35 through 45 is proposed by Ms. Stokey consistent with proposed amendments to Section 24 reflected in paragraph 16, above.

22. Delete Sections 35 through 45, commencing on page 21, in their entirety.

23. Amend Section 47, page 26, to read as follows:

**Sec. 47:** As soon as practicable after July 1, 2003:

1. The Senate Majority Leader will appoint to the Nevada Commission on Homeland Security\*

~~(a) One legislative member pursuant to paragraph (a) of subsection 2 of section 12 of this act to a term that expires on June 30, 2005.~~

~~(b) One member pursuant to paragraph (b) of subsection 2 of section 12 of this act to a term that expires on June 30, 2006~~ two members of the Senate, each to a term that expires on June 30, 2005.

2. The Speaker of the Assembly shall appoint to the Nevada Commission on Homeland Security\*

~~(a) One legislative member pursuant to paragraph (a) of subsection 3 of section 12 of this act to a term that expires on June 30, 2005.~~

~~(b) One member pursuant to paragraph (b) of subsection 3 of section 12 of this act to a term that expires on June 30, 2006~~ two members of the Assembly, each to a term that expires on June 30, 2005.

23. New language consistent with proposed amendments to Section 12 reflected in paragraph 7, above, is proposed by the Governor.

3. The Governor shall appoint to the Nevada Commission on Homeland Security pursuant to subsection 4 of Section 12 of this act:

~~(a) Four members to terms that expire on September 30, 2005.~~

~~(b) Three members to terms that expire on September 30, 2006 at least ten members, each to a term that expires on June 30, 2006.~~

24. Later effective dates for certain provisions are proposed by DMV.

24. Amend Section 48, page 27, to read as follows:

Sec. 48. This act becomes effective July 1, 2003, except for the provisions of paragraph (b) of subsection 6 of Section 31, paragraph (b) of subsection 4 of Section 33, and paragraph (b) of subsection 5 of Section 34, which become effective January 1, 2004.

W33778

## **KENT LAUER/NEVADA PRESS ASSOCIATION**

**Amendments to Assembly Bill 441. Purpose of amendment is to specify what kinds of records related to homeland security are confidential and to create a system for tracking access to other records related to homeland security.**

**Delete Sec. 21 of the bill and replace it with a new section as follows:**

- Sec. 21. 1. "Record related to homeland security" means a record that is assembled, prepared or maintained to prevent, mitigate or respond to terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety.**
- 2. Records related to homeland security consisting of:**
- a. Specific tactical plans by public safety and public health agencies;**
  - b. Specific emergency response plans or development plans by public safety and public health agencies;**
  - c. Records that reveal radio transmission frequencies used by public safety agencies;**
  - d. Records that reveal specialized equipment for covert, emergency or tactical operations of public safety agencies, except that records relating to the expenditures for such equipment shall be open;**
  - e. Specific emergency and tactical training plans of public safety and public health agencies;**
  - f. Plans that would reveal vulnerabilities of fire and police stations to acts of terrorism; and**
  - g. Plans that reveal critical infrastructure of principal facilities for transmitting electricity, water, natural gas or other forms of energy**
- are confidential.**
- 3. Records related to homeland security consisting of blueprints or plans of schools, places of worship, airports, hotels, casinos, courthouses, federal buildings or other potential targets for terrorist attacks are governed by subsections 4-11.**
- 4. A public officer or employee who is the custodian of a record related to homeland security described in Section 3 shall establish a log to track inspection of any such record, the persons requesting to inspect the record, and the purpose of the inspection. The log must include, without limitation:**
- a. The name of the person who inspects the record;**
  - b. The name of the employer of each person who inspects the record, if any;**

- c. The citizenship of each person who inspects the record;
  - d. The date and time that the record was inspected;
  - e. A copy of the photographic identification, issued by a governmental entity or a federal agency, of the person who inspects the record; and
  - f. Except as otherwise provided in subsection 6 of this section, the purpose for inspecting the record.
5. A public officer or employee shall not allow a person to inspect a record related to homeland security unless the person seeking to inspect the record provides all of the information required for the log maintained pursuant to subsection 4 of this section.
6. A person is not required to indicate the purpose for inspecting a record related to homeland security if the person presents satisfactory documentation that he is an employee of a public safety agency.
7. The log maintained pursuant to subsection 4 of this section is not a public record and may only be inspected by:
- a. A representative of a law enforcement agency of the federal government, the state, or any of its political subdivisions; or
  - b. A reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station.
8. A record related to homeland security must not be copied, duplicated or reproduced in any way except:
- a. When necessary during an emergency;
  - b. To protect the rights and obligations of a governmental entity or members of the general public;
  - c. Pursuant to a court order;
  - d. For a journalistic use by a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station;
  - e. For use by a registered architect or licensed contractor, or a designated employee of any architect or contractor in their professional capacity.
9. A public officer or employee who allows a person to inspect a record related to homeland security shall inform the person that, except as authorized in this subsection, copying, duplicating or reproducing the record in any way is prohibited.
10. A public officer or employee shall not allow the unsupervised inspection of a record related to homeland security. Such a record may only be inspected in an area that may be monitored by employees of the public agency. A public officer or employee shall supervise the inspection of the record to the extent necessary to ensure

that the person inspecting the record does not reproduce or otherwise misuse the record.

11. Nothing in this section prevents a public officer or employee from contacting a law enforcement agency to report a suspicious or unusual request to inspect a record related to homeland security.

12. The provisions in Section 21 shall sunset on June 30, 2007.



**TESTIMONY****BILL: Assembly Bill 320      BDR # 57-868****HEALTH CARE FINANCING & POLICY DIVISION****CONTACT: PHIL NOWAK****PHONE: 684-3691****EMAIL: pnowak@dhefp.state.nv.us**

Good Morning Chairman Anderson and members of the Judiciary Committee. I am Phil Nowak, Chief of Business Lines of the State of Nevada Health Care Financing & Policy Division.

I am here today to provide testimony regarding Assembly Bill 320, which proposes various changes in public policy regarding malpractice issues. The Division is very aware of the difficulties that many Nevada providers of health care encountered as a result of last summer's malpractice insurance crisis and is supportive of efforts to find lasting solutions to the precipitating causes. It is in the best interest of all Nevada residents to establish public policies that result in the provision of quality health care. It is the Division's responsibility to ensure that Nevada's Medicaid and State Children's Health Insurance Program (SCHIP) recipients have access to the medically necessary covered services required by both federal law and their respective State Plans. In order to assure access to care, there must be a stable and adequate health care provider base from which Medicaid providers can be recruited.

The Division's position regarding AB 320 is neutral regarding implications it may pose for the commercial health maintenance organization (HMO)

community. However, the Division opposes the application of this legislation to the State Medicaid and SCHIP programs. I would propose that the Medicaid/SCHIP business line of HMO contracts be exempt from the provisions of this bill for the following reasons:

1. HMOs that provide managed care to the Medicaid/SCHIP population in Nevada operate under even more stringent regulations than commercial HMOs. Contracted Medicaid HMOs must comply with additional Federal and State regulations regarding enrollee income and location of residence, access to and continuity of care standards, availability of services, and other provisions and limitations that do not apply to commercial HMOs. Provisions in this bill conflict with stipulations in the contract between the HMOs and the Division.
2. The Division is committed to provide quality health care to Medicaid and SCHIP recipients. This bill would allow providers who have been terminated by the HMO to continue provision of medical care to Medicaid/SCHIP recipients for up to 180 days after contract termination or, in the case of pregnancy, for 45 days after the date of delivery or the date the pregnancy ended. This stipulation conflicts with the Medicaid HMO requirement to transition recipients, in the event of provider termination or closure, to another Medicaid provider in a timely manner. The proposed timeframe of 180 days for retention of care for most acute medical conditions is excessive. Furthermore, these timeframes could be construed as a severance clause for terminated providers.

3. Reimbursement provisions in this bill are problematic when applied to the Medicaid/SCHIP managed care programs. If a patient treated by a terminated provider should become ineligible for Medicaid during the course of treatment, an HMO cannot be held financially liable for medical services provided after the determination date. Further, Medicaid recipients can and do change HMOs during the course of eligibility. Financial responsibility for care provided during the 180 day, or in the case of pregnancy, the 45 day time extension is not clarified for cases involving a recipient's decision to choose another HMO during of the course of care rendered by the terminated provider.
4. Termination rights provided in this bill are also troublesome when applied to the Medicaid/SCHIP managed care programs. In order to be a member of a Medicaid HMO network, a provider must first be a qualified Medicaid provider. If the provider application is terminated due to Federal or State mandate, the HMO is required to conclude its contractual relationship with the provider as well. Under terms of this bill, it is not clear whether the HMO would still be required to allow a provider terminated at the behest of the State to continue to provide care to Medicaid/SCHIP recipients.
5. The HMO's ability to provide case management and to monitor care through prior authorization of services would be severely diminished as this bill does not stipulate that the terminated provider would continue to be bound by the HMO's prior authorization policies and procedures. HMOs contracted with the Division are required to develop utilization review policies and procedures that maximize access to quality health

care in a cost-effective manner. Provisions in this bill severely restrict the HMO's obligation to monitor and control provision of health care to Medicaid/SCHIP recipients.

6. A significant portion of the TANF/CHAP Medicaid population are at-risk pregnant women who require both medical and social case management services in order to more fully assure the most positive birth outcome. The Division's contract with the HMOs requires that a pregnant woman in the first two trimesters of pregnancy be transitioned to the care of a network provider in order to ensure that the required case management services are available and provided to her. A pregnant woman in the third trimester of pregnancy may elect to maintain the medical relationship with a non-network provider to allow continuity of care in the final stage of pregnancy. Retention times for terminated providers in this bill conflict with provisions in the contract between the Division and the HMOs that recognize and provide for differences in the patient/provider relationship that result from different requirements due to stage of pregnancy.
  
7. Section 30 of AB 320 includes provisions that control various aspects of contract development between private entities. These provisions raise a question regarding whether passage of this bill would constitute good public policy. The bill incorporates specific items that must be included and excluded in contract terms and provides conditions under which the contract must be amended. An HMO could plausibly argue that a private enterprise has the right to exercise reasonable controls over its own contracting process, particularly in regard to inclusion of

internal documents such as manuals, policies, and procedures that must be referenced in the contract. Pursuant to this bill, any change in the references would necessitate amendment of each provider contract affected by the change.

Provider payment schedules have also been stipulated for inclusion in the contract. Since many HMO provider contracts may be linked to the Medicaid rates established by the State, any change in the State rate schedules occurring during the term of the private contract would result in amendment to all HMO contracts with providers. Amending all health care provider contracts would necessitate significant expenditure of HMO time and expense. Such expenditures ultimately increase the cost to the State for HMO contracts to provided managed health care to Medicaid/SCHIP recipients. Additional State staff time would also be required to ensure HMO contact compliance.

It can be argued that this bill represents an implicit increase in the contractual rights of the health care provider relative to the contracting entity (HMO). While the HMO's right to terminate a provider is restricted and regulated, the provider's right to terminate the contract is unqualified.

For the reasons stated above, I again propose that the Medicaid business line of HMOs be exempt from the provisions of this bill. The HMOs contracted to manage and provide health care services to the Medicaid/SCHIP recipients must comply with federal and State regulations that often conflict with provisions in this bill. Once again, the most important conflict involves

**Medicaid eligibility determination which is significantly different from commercial HMO enrollment verification. Medicaid eligibility determination is not within the HMOs' control. The contracted Medicaid HMO cannot be held accountable for the provision of services to a person who is not eligible to receive medical care under terms of the Medicaid or SCHIP programs.**

**I respectfully propose the following language be added to this bill to eliminate the impact on Nevada Medicaid.**

**Thank you for the opportunity to provide testimony regarding Assembly Bill 320. I would be pleased to answer any questions the committee may have.**

**PROPOSED AMENDMENTS TO A.B. 320  
DRAFT DATED APRIL 2, 2003**

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**THE AMENDED LANGUAGE BELOW FOR A.B. 320, SECTIONS 28, 32 AND 42 IN PINK BOLD TYPE RESOLVES CONFLICTS WITH MEDICAID:**

**Sec. 28.** NRS 695C.050 is hereby amended to read as follows:

**695C.050 1.** Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

**2.** Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

**3.** Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

**4.** The provisions of NRS chapter 686A, 695C.110, 695C.170 to 695C.200, inclusive, 695C.250 and 695C.265, subsections 2, 3, 4, 6 and 7 of 695C.125 and section 27 of this act do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Human Resources. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

**5.** The provisions of NRS 695C.1694 and 695C.1695 ~~and section 27 of this act~~ apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

...

**Sec. 32.** NRS 695C.330 is hereby amended to read as follows:

**695C.330 1.** The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the

...

**(j)** *The health maintenance organization fails to provide the coverage, if required by section 27 of this act; or*

...

**Sec. 42. NRS 695G.090 is hereby amended by adding thereto a new subsection to read as follows:**

**3. Subsections 2 through 9 of section 695G.270 of the NRS and section 33 of this act shall not apply to any managed care organization that provides health care services to recipients of Medicaid under the state plans for Medicaid or the children's health insurance program pursuant to a contract with the division of health care financing and policy of the department of human resources. This section does not exempt an organization from any provision of this section for services provided pursuant to any other contract.**



**Proposed Amendment by Assemblywoman Ohrenschall  
for Assembly Bill No. 350**

**Goal:** Delete all the sections in the bill and replace with the following concept based on the current regulations of the State Board of Health.

**Suggested Amendment:**

1. Add a provision that requires the State Board of Health (which regulates residential facilities for groups) to require as a condition of licensure that residential facilities for groups maintain a policy of liability insurance for the facility.
2. Authorize the Board to grant waivers from this requirement under appropriate circumstances, such as lack of availability of such coverage, financial hardship for the facility, or an established record of safety.



**Existing Regulation of State Board of Health:**

**NAC 449.204 Financing; insurance.** (authority: NRS 449.037)

1. **A residential facility must:**
  - (a) If it is a new facility, have a reasonable expectation of sufficient money to carry it through the first 3 months of operation and furnish evidence to that effect;
  - (b) Maintain a recognized system of financial accounting; and
  - (c) **Maintain a contract of insurance for protection against liability to third persons in amounts appropriate for the protection of residents, employees, volunteers and visitors to the facility.**
2. In determining the money required pursuant to paragraph (a) of subsection 1, the facility must not include money:
  - (a) Held on behalf of a resident of the facility; or
  - (b) Received or expected to be received from a resident for the costs of his residency and care received at the facility.
3. **A certificate of insurance must be furnished to the division as evidence that the contract pursuant to paragraph (c) of subsection 1 is in force and a license must not be issued until that certificate is furnished. Each contract of insurance must contain an endorsement providing for a notice of 30 days to the bureau before the effective date of a cancellation or nonrenewal of the policy.**

[Bd. of Health, Group Care Facilities §§ 5.1-5.4, eff. 12-18-75]—(NAC A 3-6-86; R003-97, 10-30-97)