

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

ASSEMBLY COMMITTEE ON JUDICIARY



WORK SESSION DOCUMENT

MAY 16, 2003 ~ A.M.

COPY OF ORIGINALS ARE ON FILE
IN THE RESEARCH LIBRARY

104

ASSEMBLY JUDICIARY

DATE: 5/16/03 ROOM: 3138 EXHIBIT C

SUBMITTED BY: AUSEN COMBS

WORK SESSION

ASSEMBLY COMMITTEE ON JUDICIARY

May 16, 2003 — A.M.

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

The following measure may be considered during the Committee's work session:

- SENATE BILL 97** (BDR 1-248 was introduced by the Senate Committee on Judiciary).
The bill was heard in Committee on May 13, 2003, and no action was taken.

Senate Bill 97 makes various changes relating to certain actions against providers of health care. The measure mirrors the initiative petition regarding medical malpractice that will appear on the 2004 ballot.

Proponents/those testifying in support of the bill included the following:
Larry Matheis, Nevada State Medical Association.

Opponents/those testifying in opposition of the bill included the following:
Bill Bradley, Nevada Trial Lawyers Association; Jan Gilbert, Nevadans for Quality Health Care; Larry Matheis, AARP; Mark Nichols, National Association of Social Workers, Nevada Chapter; Bobby Gang, Nevada Women's Lobby; Dianne Meyer; Len Marazzo; Jason and Britteny Phillips; Allen Triese; Rene Williams.

Discussion: Testimony emphasized the need for reforms to address the State's medical malpractice crisis and advocated revisions in Nevada's tort system to mirror the reform adopted by California (MICRA). Testimony also reviewed the differences between Senate Bill 97 and Assembly Bill 1 from the 2002 Special Session.

Proposed Amendments: The following amendment was submitted during the hearing:

- **Revise Senate Bill 97 to incorporate the provisions of Assembly Bill 1 from the 2001 Special Session, reinstate the screening panels, provide a mandatory insurance premium rollback, mandate investigation of certain physicians, and adopt an "any willing provider law," proposed by Jan Gilbert, Nevadans for Quality Health Care.**

A copy of the proposal submitted by Ms. Gilbert is attached on blue paper.

SUGGESTED AMENDMENT TO SENATE BILL 97

Proposed by:

Jan Gilbert, Nevadans for Quality Health Care

The following amendment is proposed to create the plan to "KEEP QUALITY MEDICAL CARE IN NEVADA," and is offered as the legislative alternative to the 2004 ballot question regarding medical malpractice.

1. **Effective Date of Senate Bill 97, as Amended:** Provide that Senate Bill 97, as amended by this proposal, will be presented to the voters at the 2004 General Election as the legislative alternative to the initiative petition proposed by "Keep our Doctors in Nevada." As an alternative, "Keep Quality Medical Care in Nevada" becomes effective if the voters adopt its provisions instead of the initiative petition.
2. **Remove all existing provisions of Senate Bill 97 and replace those provisions with all of Assembly Bill 1 from the 2002 Special Session.** The provisions of Assembly Bill 1 include the following:
 - *A \$50,000 cap on damages for certain emergency care.*
 - *Immunity for treatment in governmental or nonprofit facilities rendered gratuitously.*
 - *\$350,000 cap on noneconomic damages, with certain exceptions for gross negligence or exceptional circumstances.*
 - *Suggested Addition - Increase the cap on noneconomic damages to \$500,000 for seniors and children.*
 - *Mandatory pretrial settlement conferences with a judge and special training for trial judges involved in medical malpractice cases.*
 - *Suggested Addition - At the settlement conference, a doctor who wants to settle a case may convey his opinion without fear of reprisal under his contract with an insurance company.*
 - *Revised statute of limitations requiring cases to commence within 3 years after the date of the injury or 2 years after the discovery of the injury, whichever occurs first.*
 - *Stronger malpractice reporting requirements both to the State and to the physicians' licensing boards.*

C 3&4

- *Mandatory reporting of medical errors (“sentinel events”) and mandatory patient safety plans and committees in medical facilities.*
 - *Whistle-blower protections for employees of medical facilities and physicians who report medical errors.*
3. **Insurance Premium Rollbacks** – Require a reduction in premiums for medical malpractice policies based upon the savings achieved through the enactment of the reforms set forth in Senate Bill 97, as amended under this proposal. Premiums must be reduced by an amount determined by the Insurance Commissioner.
4. **Reinstate the Medical Malpractice Screening Panel** – Require a review of each case of medical malpractice by a panel of physicians and attorneys before the case may be filed in court. The panel should be modeled after the screening panel administered through the Division of Insurance, which was repealed in the 2002 Special Session. The following improvements are suggested:
- a. ***Composition of the panel*** – Reduce the numbers on the panels to two physicians (instead of three) and two attorneys (instead of three) who will serve on the panel.
 - b. ***Review of the record and expert testimony*** – Limits the panel’s review to the medical record. If there is any difficulty in reading a record, then the plaintiff may request that the record be deciphered. Expert testimony should only be allowed with regard to the content of the medical records. In addition:
 - No pleadings by the attorneys will be allowed.
 - No affidavits from any one other than an expert will be allowed. For the purposes of the screening panel, a defendant is not considered an expert.
5. **Mandatory Investigation for Multiple Cases of Medical Malpractice** – Require a physician to report to the licensing board any action for malpractice within 45 days after the physician receives service of a summons and complaint for the action. The State Board of Medical Examiners or the State Board of Osteopathic Medicine (as appropriate) must investigate any physician with three or more actions filed in court against the physician for malpractice. If the Board finds the physician is unfit, the Board must revoke the physician’s license.
6. **Enact an “Any Willing Provider” Law** – Prohibit health insurers from excluding any provider within the coverage boundaries when the provider is willing, qualified, and able to meet the plan’s conditions for participation. The providers should include hospitals, physicians, pharmacists, optometrists, and nurses.