



## GENERAL SESSION

February 1, 2012

**Program Topic:** **SB32 Breast Cancer Prevention Amendments;  
Health Care Legislation Update**

**Presented by:** Education Committee  
**Director:** Chris Bray  
**Chair:** Donna Murphy

**Speakers:** **Judy Hillman – CEO, Utah Health Policy Project**  
**Sen. Karen Mayne (D) – Dist. 5, Salt Lake County (West Valley)**

**Judy Hillman** described her organization as one that seeks to bring about healthcare reform in a financially sustainable way. Medicaid, she said, is constantly caught up in the uneasy interface between federal and state reform efforts. It is a program for the poor. The federally mandated level at which someone qualifies for Medicaid is 138% of the poverty level. Some Medicaid reform is built into the federal Patient Protection and Affordable Care Act (PPACA), which has been dubbed “ObamaCare” by the public.

Insurance laws have undergone change recently as PPACA has begun to go into effect. For example, no one can currently be denied care for pre-existing conditions. If the bill survives constitutional challenges and/or an administration change in Washington, Ms. Hillman continued, the whole notion of “ineligibility” will go away. However, she said, the federal Supreme Court will probably uphold the mandate provision and Medicaid reforms in the bill. Utah is at odds with some of the Medicaid mandates. The state has traditionally

preferred to explore business-oriented incentives rather than government ones.

Fortunately, there is a strong commitment by both parties in the state legislature to address the healthcare issue. Medicaid needs are swallowing up more state healthcare dollars each year. As a case in point, tracking reveals Medicaid care is being dispensed as much as uninsured care in hospital Emergency Rooms. She suggested the state should restore dental coverage to Medicaid, since there are so many dental-related problems being treated in the Utah’s Emergency Rooms.

Ms. Hillman said responsible Medicare reform at the state level would require a change in the governor’s budget with regard to providers’ Medicaid allocations. This would support the concept of “Accountable Care,” which she believes is the best solution. Accountable Care emphasizes prevention rather than treatment only. It stresses communication between providers, and treatment options based on what will work best for each patient.

**SB111 Health Amendments for Legal Immigrant Children** is being sponsored by Sen. Luz Robles (D), Dist. 1, Salt Lake County. Ms. Hillman called it an encouraging step in the direction of Accountable Care.

Responding to questions, Ms. Hillman stated her belief that “healthcare federalism,” or the policy of relying on the private sector to provide solutions, hasn’t resulted in much meaningful reform in Utah. She cited Massachusetts and Vermont as having offered creative, somewhat successful solutions. We need, she said, more “guardrails” around a state’s flexibility, so that it doesn’t too narrowly limit its responsibility for healthcare. To this end, she stated her opposition to the Health Care Compact (as yet unnumbered) now being considered by the state legislature.

**Sen. Mayne** gave background on the motivation for her bill **SB32 Breast Cancer Prevention Amendments**. She had confronted her doctor regarding an unclear reading found on her mammogram. He wasn’t going to check it further. She wasn’t comfortable with that, and requested an ultrasound. The ultrasound located a tumor (benign), and placed a “marker” on the questionable area for subsequent identification.

As a result of her experience, Sen. Mayne said she is concerned that only two facilities in the state currently alert women to the fact that their mammogram results indicate dense tissue. There is a 1-5 density rating; 1 being the least dense. A woman would not be notified as to where she is on that scale; only that she has dense tissue. The senator’s bill amends the Mammogram Quality Assurance Chapter of the Utah Health Code. It “*encourages* a facility that performs screening or diagnostic mammography

to provide a patient who has dense breast tissue with notice of options for additional screening.” The American Medical Association (AMA) resisted the original wording of the bill. An accord was reached by substituting the word “*encourages*” for “*requires*.” Sen. Mayne has received verbal assurance from the AMA that it will introduce the notice with this wording into their Code of Practice.

The following information may also be included in mammography results sent to a patient with dense breast tissue: “ . . . *Because your mammogram demonstrates that you have dense breast tissue, you may benefit from supplementary screening tests, depending on your personal risk factors and family history . . . A copy of your mammography report has been sent to your health care provider’s office. Please contact your healthcare provider if you have any questions or concerns about this notice.*”

Armed with information about her breast density, a woman can then consult with her doctor as to what options are available to her, should she wish to obtain a more specific reading. Sen. Mayne’s bill is now in the House. It has no fiscal note.

Responding to questions, Sen. Mayne said she opted for crafting **SB32** as a bill, rather than a resolution, because “a bill has more ‘juice’ than a resolution.” Also, when asked, she acknowledged that dense breast tissue is a naturally occurring characteristic, rather than a disease. However, she maintained **SB32** has the potential to save lives by empowering women to take what may be, for some, an important next step in the diagnostic process.

**Reported by Pam Grange**

# General Session II

**Program Topic:      SB119 Alcoholic Beverage Control Act  
                                  Sampling Amendments**

**Presented by:      Education Committee**  
                  **Director:           Chris Bray**  
                  **Chair:                Donna Murphy**

**Speakers:           Sen. Ross Romero (D) – District 7, Salt Lake County**  
                                  **(S.L. east bench); sponsor, SB119**  
                  **David Valentine – Intern/representative for**  
                                  **Sen. John Valentine (R) District 14, Utah County**

**Sen. Romero** introduced his bill, **SB119 Alcoholic Beverage Control Act Sampling Amendments**. He began by explaining his reason for bringing it forth. Wine brokers attempting to do business in Utah appealed to him with their frustrations trying to provide quality wines to high-end restaurants in the state. These restaurants are interested in particularly servicing their wine connoisseur guests, who are often out-of-state visitors.

In Utah, restaurants and hotels aren't allowed to sample the wines before investing hundreds, sometimes thousands of dollars in the wines. The bill allows wines to be sampled on restaurant premises so they can be matched with the meals the restaurant serves. Several years ago, wines could be sampled at the Department of Alcoholic Beverage Control (DABC) stores. Even this method, Sen. Romero said, is no longer allowed.

However, the DABC onsite tastings were themselves difficult and inconvenient, as restaurant staff often had to take time off for the travel time involved. Also, they could not actually taste the wine with the food it would be paired with, which is, the senator said, the way it should be done. DABC personnel didn't want to oversee the sampling of wine, either. So, the senator argued, even the old program no longer in effect didn't work particularly well.

The bill would allow a broker to go into a restaurant to offer a sampling to the chefs, allowing the wine to be sampled correctly with

the corresponding food. Proper wine tasting doesn't involve "drinking," as swallowing is not involved. The senator said the state would also control the number of samples per restaurant per year. Restaurants would need to report all the wines sampled. He affirmed that only a restaurant's designated wine taster does sampling; it doesn't include customers. The broker would pay the full markup price on his opened bottle, so the state wouldn't lose money. No fiscal note is likely on the bill.

Sen. Romero sees **SB119** as an economic development issue, as this approach to sampling is authentic and customary in most other states. When the bill was run last year, some people expressed concerns about the possibility of a "wine fest." The senator decided that people needed to be educated over the interim, so is running the bill again this year. Wine sampling is not about consumption, he stressed. It is about allowing Utah's high-end restaurants to provide the best dining experience to their clientele. The bill's language was modeled after others in neighboring states. Then, with a nod to Utah's existing cultural reality, it was tightened be more restrictive, while preserving the original intent of the bill.

Sen. Romero mentioned a more controversial bill (not yet numbered) he is running that would increase the number of alcoholic beverage permits available, remove the requirement for the "Zion curtain," and allow a return to the practice of "drink specials."

**David Valentine**, intern to (and son of) Sen. John Valentine, presented the senator's views on **SB119**. Sen. Valentine agrees there should be responsible allowances made for wine tasting to be done in Utah. However, he disagrees with having the sampling done in retail establishments. He believes the state liquor stores would be a better place to have the selling and sampling done.

His concerns with having the sampling done at retail establishments include the possibility of wine samples "disappearing," and the possibility of having customers illegally in attendance during samplings. Another concern is that large wineries would have an unfair advantage, in that smaller wineries wouldn't be as able to service the various restaurants at different locales.

A better idea, Mr. Valentine said, would be to have all brokers use the centralized DABC facilities for the sampling procedures. The principle issue is for the state to retain responsible control of the sampling procedures, including the ability to effectively track the samples.

Responding to questions, Mr. Valentine said (with a blush) that, yes, he is old enough to drink. He also indicated the senator would probably be willing to support a bill that reinstates the practice of sampling at DABC stores.

Sen. Romero responded by saying rumor has it that sampling is being done "under the table" already at restaurants. Consequently, law-abiding restaurateurs are at a disadvantage. The idea is not to change a law because it's being broken, he added. But we should try to balance practicality with cultural reality.

He compared the proposed method of sampling using a measured dispenser with the current method of pouring drinks at the restaurant. The amount of alcohol is measured by a standard "shot." Free pouring is not allowed because it allows too much discretion. The amount of samplings poured from a bottle would be recorded and held in a journal for over a year. This would allow the bottle to be audited.

The senator also noted that a wine broker makes appointments at several restaurants on the same day, using a bottle for multiple samples. **SB119** stipulates a wine bottle would stay in the possession of the broker, who has no financial incentive to offer, say, a \$200 bottle of wine to a restaurateur to drink at his pleasure. Sen. Romero added that the bottle would be corked after the sampling and transported to the next restaurant. Carrying a corked bottle in a car is currently allowed under state law.

**Reported by Stuart Gygi**

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