

Legislative Committee on Senior
Citizens, Veterans and Adults
With Special Needs
(Nevada Revised Statutes 218E.750)

**WORK SESSION
DOCUMENT**

(Includes Attachments)



July 19, 2018

Prepared by the Research Division
Legislative Counsel Bureau



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Legislative Committee on Senior Citizens, Veterans
and Adults With Special Needs
(*Nevada Revised Statutes* [NRS] 218E.750)

July 19, 2018

The following Work Session Document (WSD) was prepared by the chair and staff of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. This document contains a summary of recommendations presented during public hearings, through communication with individual Committee members, or through correspondence or communications submitted to the Committee. The WSD is designed to assist the Committee members in making decisions during the work session. Actions available to the Committee members include: (1) legislation to amend NRS; (2) transitory sections that do not amend the statutes; (3) resolutions; (4) statements in the Committee's final report; and (5) letters of recommendation or support.

The Committee may accept, reject, modify, or take no action on any of the proposals. The recommendations contained herein do not necessarily have the support or opposition of the Committee. Rather, these recommendations are compiled and organized so the members may review them to decide whether they should be adopted, changed, rejected, or further considered. They are not preferentially ordered.

Legislative Counsel Bureau (LCB) staff may, at the direction of the chair, coordinate with interested parties to obtain additional information for drafting purposes or for information to be included in the final report. The recommendations may have been modified by being combined with similar proposals or by the addition of necessary legal or fiscal information. It should also be noted that some of the recommendations may contain an unknown fiscal impact.

The Committee may request the drafting of not more than ten legislative measures that relate to the matters within the scope of the Committee. The approved recommendations for legislation

resulting from these deliberations will be prepared as bill draft requests (BDRs) and submitted for introduction to the 2019 Legislature.

RECOMMENDATIONS

Proposals Relating Primarily to Veterans

1. Submit a BDR to amend subsection 7 of NRS 284.015 to remove the requirement that the meaning ascribed to “veteran” includes being a resident of Nevada. This proposal relates to Assembly Bill 309 (Chapter 510, *Statutes of Nevada 2017*) to provide that both in-state and out-of-state veterans who submit an application for state employment will receive ten additional points to the passing grade. This would make the provisions consistent between veterans and the widow or widower of a person killed in the line of duty while on active duty in the Armed Forces of the United States. Currently, only veterans who are residents of Nevada are eligible for the additional points.

(Recommendation proposed as a result of testimony received at the February 27 and April 12, 2018, Committee hearings relating to AB 309.)

2. Submit a BDR to:
 - A. Create a workforce development program where eligible veterans who have completed an undergraduate degree and have remaining federal benefits would be authorized to use the remaining federal benefits toward a postgraduate degree and have the remaining costs waived. In return for the waiver of fees, the eligible veteran would be required to seek a postgraduate degree in a science, technology, engineering, arts, and mathematics (known as STEAM) critical need occupation field. Critical need occupation fields would be determined by the Department of Employment, Training and Rehabilitation (DETR). (Program description of The Lieutenant Colonel Karen J. Wagner Act and supporting information.) **(See Attachment A.)**

(Recommendation proposed as a result of testimony received from the Rebel Veterans Organization, University of Nevada, Las Vegas, at the April 12, 2018, Committee hearing.)

AND/OR

- B. Appropriate state General Funds in the amount of \$250,000 in each fiscal year of the 2019–2021 Biennium to support the Adopt a Vet Dental Program (budget request). **(See Attachment B.)**

(Recommendation proposed as a result of testimony received from Linda J. Haigh, Cofounder, Adopt a Vet Dental Program, Northern Nevada Dental Health Programs, at the April 12, 2018, Committee hearing.)

Proposals Relating Primarily to Senior Citizens, Veterans and Adults With Special Needs

3. Submit a BDR to require a private employer that provides sick leave benefits to employees to allow the employees to use such accrued leave, in accordance with company policy, for absences due to illness, injury, medical appointment, or other authorized medical need of a member of the employees' immediate family. This would be a redraft of AB 394 (a failed measure from the 2017 Session). (See attachment C [1], [2], and [3].)

(Recommendation proposed as a result of testimony received from Barry Gold, Director, Government Relations, AARP Nevada, at the June 19, 2018, Committee hearing.)

Proposal Relating Primarily to Adults With Special Needs and AB 299 (Chapter 279, Statutes of Nevada 2017): Study of Standards of Training for Employees and Contractors Who Provide Care to Persons in Certain Health Care Settings

4. Submit a BDR to:
 - A. Clarify that the provisions of NRS 449.03005 (license to operate employment agency that contracts with persons to provide certain nonmedical services) applies anytime contracted services are provided in this state, regardless of where the employer resides.

(Recommendation proposed as a result of testimony received at the February 27, April 12, and June 19, 2018, Committee hearings. The Committee received a written proposal by Connie McMullen, Personal Care Association of Nevada (PCAN), at the June 19, 2018 Committee hearing.)

AND/OR

- B. Move community-based living arrangement services (CBLAs) (NRS 433.605) under Chapter 449 (“Medical Facilities and Other Related Entities”) of NRS. This would provide that the entities would be under the Division of Public and Behavioral Health (DPBH), Department of Health and Human Services (DHHS), for licensing, regulating, and monitoring by the Bureau of Health Care Quality and Compliance (HCQC), DPBH, DHHS. The training program would be specified by NAC. The transition would be effective upon approval.

(Recommendation proposed as a result of testimony received at the April 12 and June 19, 2018, Committee hearings by Connie McMullen, PCAN, and Helen Foley, lobbyist, Nevada Assisted Living Association (NALA). A response, dated July 3, 2018, from Jennifer Frischmann, Manager, Quality Assurance, ADSD, DHHS, and a response dated July 10, 2018, from Julie Kotchevar Ph.D., Administrator, DPBH, DHHS, are attached to the WSD.) (See Attachment D [1] and [2].)

AND/OR

- C. Require the Nevada 2-1-1 program, established pursuant to NRS 232.359, to specify the licensing status of all licensed or certified facilities or homes under Chapter 449 of NRS. The Nevada 2-1-1 program must be reviewed and updated at least quarterly.

(Recommendation proposed as a result of testimony received at the February 27, 2018, Committee hearing.)

AND/OR

D. Require the Committee to continue the study, as required by AB 299, to review and study the training programs implemented by certain homes and facilities. The goal of the study during the 2019–2021 Interim would be to compare and contrast the content of the training programs offered by supported living arrangement services (SLAs) (NRS 435.3315), CBLAs, and programs under Chapter 449. The goal of the study would be to determine whether a minimum set of competencies should be mandated in Nevada to be taught, measured, and monitored across all programs. In addition, the number of hours of annual continuing education would be determined. If the study determines that minimum competencies should be mandated, the Committee would determine which employees and contractors should not be subject to learning the competencies.

(Recommendation proposed as a result of testimony received at the April 12, 2018, Committee hearing.)

5. Submit a BDR to move SLAs under Chapter 449 (“Medical Facilities and Other Related Entities”) of NRS. This would provide that the entities would be under DPBH for licensing, regulating, and monitoring by HCQC. The training program would be specified by *Nevada Administrative Code* (NAC). The transition would require a plan to merge services provided by ADSD with those provided by DPBH. In addition, a new fee structure would be required to support HCQC’s services for which SLAs currently do not pay.

(Recommendation proposed as a result of testimony received at the April 12 and June 19, 2018, Committee Hearings by Connie McMullen, PCAN, and Helen Foley, lobbyist, NALA. A response, dated July 3, 2018, from Jennifer Frischmann, Manager, Quality Assurance, ADSD, DHHS, and a response dated July 10, 2018, from Julie Kotchevar, Ph.D., Administrator, DPBH, DHHS, are attached to the WSD.) (See Attachment D [1] and [2].)

6. Submit a letter to DPBH expressing the Committee’s desire for the DPBH’s webpages to include a user-friendly way for the public to determine the licensing status of a program.

(Recommendation proposed as a result of testimony received at the February 27, 2018, Committee hearing.)

7. Send a letter to the Governor of the State of Nevada to evaluate the adequacy of current Medicaid reimbursement rates and determine whether the rates should be raised during the 2019 Legislative Session. The letter should specify that low Medicaid reimbursement rates lead to high levels of staff turnover, which is a concern when it comes to adequately training staff. It should also be noted in the letter that rate studies indicate the reimbursement rate for vocational services and SLAs for persons with intellectual and developmental disabilities is up to 25 percent below other similar states.

(Recommendation proposed as a result of testimony received at the February 27, April 12, and June 19 Committee hearings. Additional testimony is scheduled for the July 19, 2018, hearing.)

8. Submit a BDR to:

- A. Expand the authority of the Office of the State Long Term-Care Ombudsman, ADSD, DHHS, to include advocating for recipients of CBLA services, certain SLA services, and adult day care centers. The BDR would authorize the Ombudsman or an advocate to: (1) investigate or review adult day care facilities and providers of certain CBLA services; and (2) enter and inspect such facilities or, with the consent of a recipient of living arrangement services, enter the recipient's residence. The BDR would require quarterly inspections of all CBLAs and SLAs. This would be a redraft of Senate Bill 97 (a failed measure), first reprint, 2017 Legislative Session that had a fiscal impact of \$2.1 million in each fiscal year. (See **Attachment E [1] and [2].**)

(Recommendation proposed as a result of testimony received at the April 12 and June 19, 2018, Committee hearings.)

AND

- B. Require all CBLAs and SLAs to post the Ombudsman's hotline number for reporting complaints, if any. The Office of the Ombudsman would address the complaints.

(Recommendation proposed as a result of testimony received at the June 19, 2018, Committee hearing.)

9. Send a letter to the Office of the State Long Term-Care Ombudsman that when reviewing its caseload ratio for submission of the biennial agency budget request, the Office should take into account the acuity and ability level of its consumers and adjust the current 1:60 ratio, as needed, to account for the potential of more challenging cases.

(Recommendation proposed as a result of testimony received at the April 12, 2018, Committee hearing.)

10. Send a letter to the Governor of the State of Nevada and copy the chair of the Interim Finance Committee urging an increase in funding to support the independent living needs of visually impaired adults. Increased funding of \$500,000 in each fiscal year of the 2019-2021 Biennium is estimated to be needed to support five key areas:

- Consumer service outreach;
- Orientation and mobility training;
- Assistive technology;
- Paratransit service areas; and
- Driver awareness training regarding the needs of visually impaired pedestrians.

(Recommendation proposed as a result of testimony received by Brian Patchett, President and Chief Executive Officer (CEO), Easterseals Nevada, and Jack Mayes, Executive Director, Nevada Disability Advocacy and Law Center (NDALC), at the June 19, 2018, Committee hearing.)

11. Send a letter to:

- A. The Governor of the State of Nevada urging that the Governor’s Executive Budget include sufficient state matching funds so that all federal funding allocated to the State of Nevada for vocational rehabilitation services for visually and/or hearing impaired adults may be drawn.

(Recommendation proposed as a result of testimony received by Brian Patchett, President and CEO, Easterseals Nevada, at the June 19, 2018, Committee hearing.)

AND/OR

- B. The Director’s Office of the LCB; the administrators of the Fiscal Analysis Division, LCB; and the Director of the Governor’s Office of Finance to review and revise the provisions of the measure that authorizes expenditures of state government. Further, the letter would request that consideration be given to revise the measure to authorize the Bureau of Services to Persons Who Are Blind or Visually Impaired and the Bureau of Vocational Rehabilitation, Rehabilitation Division, DETR, to expend state General Funds before all other non-General Fund sources in order to meet federal funding matching requirements. For example, Section 7 of SB 545 (Chapter 397, *Statutes of Nevada 2017*) would be revised to include the language below. (See attached Vocational Rehabilitation Federal Grant Executive Summary July 2018 for an explanation of the financial impact of this proposal.) **(See Attachment F.)**

Example: Proposed Revisions to Section 7 of the Authorization Bill,
Each Legislative Session

Money authorized for expenditure in Section X of this act for the Bureau of Services to Persons who are Blind or Visually Impaired and the Bureau of Vocational Rehabilitation of the Rehabilitation Division, Department of Employment, Training and Rehabilitation, that remains unexpended on June 30 of either fiscal year may be carried forward to the next fiscal year to augment client services.

For money authorized for expenditure in Section X of this act, for client services for the Bureau of Services to Persons who are Blind or Visually Impaired and the Bureau of Vocational Rehabilitation of the Rehabilitation Division, Department of Employment, Training and Rehabilitation, the Division may, with the approval of the Interim Finance Committee, transfer client services money between Bureaus to augment client services to populations of people with disabilities, as needed.

(Recommendation proposed as a result of testimony received by Shelly Hendren, Administrator, Rehabilitation Division, DETR, and Brian Patchett, President and CEO, Easterseals Nevada, at the June 19, 2018, Committee hearing.)

12. Submit a BDR to implement supported decision-making agreements as a recognized means to support and accommodate adults with a disability in making life decisions. The BDR would include provisions and direction for nonparties to the agreement, including, but not limited to, medical and financial professionals, to rely on the supported adult's decisions, not unlike provisions in laws governing powers of attorney.
(See Attachment G [1] and [2].)

(Recommendation proposed as a result of testimony received from Homa Woodrum, Chief Advocacy Attorney, ADSD, DHHS, at the June 19, 2018, Committee hearing.)

13. Submit a BDR to support parental rights for the blind. (See attached example of model legislation for a Blind Persons Right to Parent Act to prohibit discrimination against the blind in guardianship, adoption, custody, or visitation proceedings.) **(See Attachment H.)**

(Recommendation proposed as a result of information received by Dora Uchel, Parent Representative and Vice President, National Federation of the Blind of Nevada, Northern Nevada Chapter, on June 29, 2018. Testimony will be received at the July 19, 2018, Committee hearing.)

14. Submit a BDR to revise, primarily at NRS 159.0805 (Nevada Guardianship laws relating to sterilization of a protected person) to:
 - A. Require a burden of proof to establish when sterilization would benefit or prevent serious mental or physical impairments **(See Attachment I);**

AND/OR

- B. Require an appointment of either an attorney to represent the ward or a guardian ad litem **(See Attachment I);**

AND/OR

- C. Require an evidentiary hearing take place before the court orders an involuntary sterilization **(See Attachment I);**

AND/OR

- D. Require consideration of less irrevocable and intrusive means of contraception, other than sterilization **(See Attachment I).**

(Recommendation proposed as a result of information received by Janet Belcove-Shalin, Rights Attorney, NDALC, on June 27, 2018. Testimony will be received at the July 19, 2018, Committee hearing.)

15. Submit a BDR to revise, primarily at NRS 427A.896 (relating to the Nevada ABLE Savings Program), to remove the duties required or authorized of the ADSD and clarify that the State Treasurer is solely responsible for implementing certain duties as outlined below. Note that there would be a fiscal impact of \$75,000 per year to implement B. (See budget details.) **(See Attachment J)**. According to ADSD, there is no budget for outreach and education for the Nevada ABLE program. Therefore, there is no targeted outreach specific to the Nevada ABLE program, except through general presentations and outreach events sponsored by ADSD. The BDR would:

A. Revise subsection 5 of NRS 427A.896: The State Treasurer may employ personnel and contract for goods and services necessary for the effective and efficient operation of the program **(See Attachment J)**;

AND/OR

B. Revise subsection 6 of NRS 427A.896: The State Treasurer shall implement an outreach and education program designed to create awareness of and increase participation in the program. Any marketing plan and materials for the program would no longer require ADSD's approval **(See Attachment J)**;

AND/OR

C. Revise subsection 8 of NRS 427A.896: The State Treasurer may contract with certain qualified entities for certain services **(See Attachment J)**.

(Recommendation proposed as a result of testimony received from Grant Hewitt, Chief of Staff, Office of the State Treasurer, at the June 19, 2018, Committee hearing.)

Attachments

Attachment

A

Program Description of
The Lt. Col. Karen J. Wagner Act

1. Issuing Organizations

UNLV Rebel Vets

2. Title

Lieutenant Colonel Karen J. Wagner Act.

Lt. Col. Wagner was a 1984 graduate of the ROTC program at the University of Nevada–Las Vegas, killed on September 11, 2001, while serving in the U.S. Army at the Pentagon.

3. Description of the problem and proposition of the preferred policy:

Nevada has critical workforce shortages in clean energy engineering, mental health counseling, teaching, social work services and other fields. Many other states offer programs that offset or waive college tuition costs that enable veterans to graduate and fill these critical shortages. Nevada should consider legislation that would use workforce development funds to provide matching financial support for veterans, augmenting their remaining VA education benefits so they can complete graduate programs at a Nevada System of Higher Education (NSHE) institution and ultimately fill those identified shortages.

4. Presentation of selected policy options and discussion of their impact

- a. Fill critical workforce shortages of employment for the State of Nevada that require additional education beyond a bachelor's degree.
- b. Create a highly educated veteran workforce willing and ready to diversify Nevada's economy with income potential much higher than achieved with a bachelor's degree.
- c. Veterans are graduating at almost a 70% rate across America and would raise the educational attainment percentage of Nevada.
- d. Many veterans have remaining benefits after graduation, but not enough to complete a master's degree.
- e. This proposed bill could tap into those benefits and assist these veterans in completing a master's to fill these critical workforce needs.

5. Recommendations

- a. A workforce development-oriented bill that targets veterans with remaining federal VA education benefits who are graduating and living in Nevada.
- b. The Nevada Legislature during the 2019 Legislative Session should adopt a bill that would implement a partial fee waiver to assist veterans who choose to continue into a graduate degree designated within a STEAM (Science, Technology, Engineering, Arts, and Science) classification or a field of study in high demand in the State of Nevada. These high-demand fields would be those that Nevada Department of Employment, Training and Rehabilitation (DETR) has

identified as a critical need in the state. The proposed legislation would specifically target veterans who complete an undergraduate degree and still have federal benefits remaining but not sufficient to cover a graduate program of study. These veterans would be responsible for covering at least the initial 50% of the cost of the graduate degree, allowing them to utilize any remaining Federal VA education benefits (from any chapter). The purpose of this legislation is to have a workforce pool of highly qualified and educated veterans ready to continue to serve their country and the State of Nevada.

- c. This proposal recommends that DETR supplement some funding for the costs associated with the waiver of fees through grants or other sources allocated to address critical-need occupations in Nevada.
- d. The new “Forever GI Bill” will be offering many opportunities for veterans to attain a degree, specifically expanding the benefits for those seeking a degree in STEM fields—thus maximizing the opportunity the Lieutenant Colonel Karen J. Wagner Act would provide, surely bolstering the economic growth, skilled training and education of Nevada.”

6. Concluding remarks

Student veterans are leading in graduation rates across the Nation. Nevada is in need of professionals in critical fields that include STEAM, healthcare and education. Service members have real-world experience and advanced training in many of these fields. Creating a system that would benefit our state, our veterans and our workforce would be beneficial at all levels of economic prosperity. Furthermore, creating a pathway for veterans with undergraduate degrees to obtain graduate degrees in certain critically needed fields would improve our state’s economic future by increasing the population of well-trained and educated citizens that fill an economic gap.

Attachment

B

Budget Request—Adopt a Vet Dental
Program



**Request for Continued Appropriation Funds for the Adopt a Vet Dental Program,
a Program of the Northern Nevada Dental Health Programs, to the Legislative
Committee on Senior Citizens, Veterans and Adults with Special Needs**

On April 12, 2018, the Adopt a Vet Dental Program (AAVD) provided testimony on the successes of our veteran dental program since receiving appropriation funds starting July 1, 2017. AAVD demonstrated the need for continued sustainable funding to provide critical dental care services for low-income veterans who do not qualify for dental care at the VA and cannot afford to see a dentist.

Key Successes Identified in the Presentation

1. AAVD, who provides dental care for low-income veterans in Northern Nevada, was voted as the #1 Need in Northern Nevada by the Nevada Department of Veteran Services (NDVS).
2. Two key staff personnel, a Dental Manager and a Program Assistant (part-time), were hired and allowed AAVD to improve overall efficiency and dental care production of the program.
3. The number of low-income veterans treated for dental care increased from 48 to 150 for the same period a year ago.
4. A one-day a week AAVD dental clinic was started and provided dental care to an additional 62 low-income veterans who would otherwise still be waiting for treatment.
5. 24 of the 62 veterans required emergency dental care in our clinic and received critical treatment within a few days instead of typically two weeks with an AAVD community oral surgeon.
6. Veteran prescreening orientations were increased from 1 per quarter to every month. This doubled the placement of veterans with AAVD community dentists from 44 to 88 veterans.
7. AAVD recruited 17 new volunteer dentists for a total of 130 dentists who have donated over \$4.9 million in dental services to over 1,000 low-income veterans (over eight years). There are 87 veterans currently in progress and 155 veterans are on the waitlist.
8. Two Northern Nevada rural counties were added for a total of 12 counties now being served which accounts for 29% of veterans residing in Nevada.
9. AAVD expanded their offices by adding a larger two-person office which provides privacy while working on cases, talking to veterans, and doing visual oral exams.
10. AAVD has been providing assistance for the startup of a similar dental program like AAVD in Southern Nevada.

Critical Need for Dental Care

1. There is an epidemic of oral health disease among the veterans in Northern Nevada.
2. Less than 10% of the veterans enrolled at the Reno VA qualify for dental care because the requirements are so restrictive.
3. 98% of all referrals come from the Reno VA.





4. The University of Nevada, Reno has no School of Dental Medicine where veterans could access no-cost or low-cost dental care.
5. Numerous health benefits are achieved by providing dental care to low-income veterans:
 - Eliminates extreme pain from tooth decay, abscesses, and mouth infections which lead to or seriously complicate life-threatening diseases, such as heart disease, diabetes, dementia and other chronic illnesses.
 - Can eat and digest their food properly thus improving their diet and overall health.
 - Emergency dental care eliminates a life-threatening condition where infection can go to the heart or brain and kill them.

State Funding Increase from \$350,000 to \$500,000

AAVD is requesting a two-year appropriation of \$500,000 which is 37.3% of our total two-year budget which is included in this appropriation and was also submitted during testimony in April. The remaining average of approximately \$420K/per year will be raised through grants and fundraising events. The request for increased sustainable funding will allow AAVD to:

1. Add additional personnel including a part-time Dental Care Coordinator Assistant, a part-time Administrative Assistant, and increase the hours of the Assistant Director from part-time to full-time.
2. Increase the treatment of veterans from one day a week to three days a week with the completion of our new AAVD Dental Clinic at Truckee Meadows Community College (funded by the William N. Pennington Foundation) in May 2019. This will require the payment of a \$100 per day stipend to existing and additional retired dentists, as well as the hiring of additional Dental Assistants to staff the clinic three days a week. Other expenses include dental supplies, insurance for the dentists and additional dental lab services.
3. Recruit additional community dentists, especially in the rural areas which will allow significantly reduced driving time for our veterans residing in those areas.

Impact on Low-income Veterans in Northern Nevada

Providing dental care will allow veterans to become productive members of society.

- Full restoration dental care eliminates bad, few or no teeth and the stigma of not being able to smile which often leads to isolation and the inability to function in a job or in social settings.
- Gives veterans the confidence to seek employment and/or volunteer because they can now smile and feel better physically, mentally, and emotionally.

However, the greatest impact of this program is that we are both saving and transforming the lives of our low-income veterans. Receiving State funding has made an incredible impact on our ability to treat more veterans in a more-timely manner. Therefore, AAVD is requesting expanded state funding to address this epidemic and together we can continue being the solution to the overwhelming challenge of oral health disease among our veterans!

-2-



**Adopt a Vet Dental Program Budget for SFY 2019 to 2021
(7-1-19 to 6-30-21)**

<u>Description</u>	<u>Annual Expense</u>	
	<u>Year 1</u>	<u>Year 2</u>
Program Director (\$1040/wk)	\$54,080	\$55,702
Assistant Director (\$615/wk)	31,980	32,939
Dental Clinic Manager (\$1024/wk)	53,248	54,846
Dental Care Coordinator (\$615/wk)	31,980	32,939
Dental Care Assistant (P/T 20 hrs/wk @\$20/hr)	20,800	21,424
Dental Care Coordinator – CC&Rural (P/T 20hrs/wk@\$25/hr)	26,000	26,780
Administrative Assistant (P/T 20 hrs/wk@\$15/hr)	15,600	16,068
Veteran Intake Coordinator (P/T 20 hrs/wk @\$13.25/hr)	13,780	14,194
Payroll Taxes (@10.65%)	26,355	27,146
Fringe Benefits (4 x \$400/mo. X 12)	19,200	19,776
Licenses & Malpractice Insurance – Clinic	18,000	18,540
Dental Supplies – Clinic	30,000	30,900
Dental Equipment/Instruments – Clinic	15,000	15,450
Insurance – Liability & W/C – Clinic	4,080	4,202
Space Rental (\$250/wk x 48 wks/yr) - Clinic	12,000	12,000
Contracted Services – Clinic:		
Dental Professionals (4 DDS & 4 DA)	64,000	64,000
Dental Labs (dentures, partials, crowns)	52,000	53,560
Contracted Services – Community Dentists:		
Oral Surgeons (30 cases x \$1,000/case)	30,000	30,000
Dental Labs (dentures, partials, crowns)	48,000	49,440
Contracted Services – Professional Fees:		
NNDHP Admin. Asst./Liaison	14,000	14,420
PR & Community Awareness	24,000	24,720
Accounting and Legal	1,600	1,648
Payroll Services	2,240	2,307
Office Lease and Storage	20,325	26,025
Telephone/Internet	4,400	4,532
Mileage Reimbursement	5,408	5,570
Office Equipment (office furniture and computer)	2,000	2,060
IT/Computer Tech Support	4,500	4,635
Office Supplies	9,000	9,270
Printing (brochures and newsletters)	4,000	4,120
Office Insurance (Liability & W/C)	2,200	2,266
TOTAL	\$659,776	\$681,479

Explanation of Budget Items

Program Director – Responsible for the overall operations, financial control, statistics and fundraising

Assistant Director – Assists the Director but primary duties are grantwriting and fundraising

Dental Clinic Manager – Runs the entire operation of the AAVD Dental Clinic at TMCC

Dental Care Coordinator – Tracks and coordinates all veteran dental cases with 130 Community dentists and 16 dental labs, plus recruitment and retention of dental professionals

Dental Care Coordinator Assistant – Assists the Coordinator with dental cases and dental labs

Dental Care Coordinator – Carson City & Rural - Conducts screening, intakes and placement of vets

Administration Assistant – Assists staff with phone calls, intakes, filing, screening orientations, etc.

Veteran Intake Coordinator – Handles veteran phone calls and walk-ins, conducts intakes, manages waitlist, volunteers, and prescreening as a certified State Vet Advocate

Payroll Taxes – Employee payroll taxes @ 10.65% of gross wages

Fringe Benefits – Personal time off and health insurance for some full-time staff

Licenses and Malpractice Insurance – Clinic – Dental licenses and liability insurance for retired dentists

Dental Supplies – Clinic – Dental supplies needed to operate the clinic

Dental Equipment/Instrument – Clinic – Equipment or instruments needed for clinic

Insurance – Clinic – Liability and Workman's Comp

Space Rental – Clinic – Rental expense from TMCC for clinic operation

Contracted Services:

Dental Professionals – Clinic – DDS Stipends at \$250/day and \$25/hr for DA

Contracted Dental Labs - Clinic – Negotiated dental lab costs

Contracted Services – Community Dentists – Oral Surgeons receive \$1,000 stipend per case

Contracted Dental Labs – Community Dentists – Negotiated dental lab costs

Contracted Services – Professional Fees:

NNDHP Admin. Asst./Liaison – Handles payment of AAVD bills and accounting, Chairwoman of charity golf tournament for AAVD, prepares reports to Advisory Board and is a liaison between AAVD and Northern Nevada Dental Health Programs (NNDHP), the parent organization.

PR and Community Awareness – Promotes AAVD with media, social media, website, AAVD events, brochures and newsletters.

Accounting and Legal – Services for AAVD when needed

Payroll Services – Provides payroll services for AAVD

General Office Expenses:

Office Lease and Storage – Rental charge for 4 offices and cost for half of storage space with NNDHP

Telephone/Internet – Costs for telephone and internet services

Mileage Reimbursement – Covers costs for rural area travel and miscellaneous staff trips

Office Equipment – Purchase of office furniture and phones for additional staff

IT/Computer Tech Support – Computer and shared drive support for staff

Office Supplies – Supplies and petty cash for office

Printing – Expenses for brochures, newsletter and other collateral material

Office Insurance – Liability and Worker's Comp

Attachment

C (1)

AARP Nevada—Recommendation

June 22, 2018

Recommendation for Legislative Committee on Senior Citizens, Veterans, and Adults with Special Needs.

Nevada passed the CARE Act in 2015 giving needed assistance to “Family Caregivers” (unpaid) when their loved ones were admitted/discharged from a hospital.

AARP Nevada recommends that The Legislative Committee on Senior Citizens, Veterans, and Adults with Special Needs request the drafting of a bill to reconsider Assembly Bill 394 from the 2017 Legislative Session, which would require a private employer that provides sick leave benefits to allow an employee to use his or her accrued sick leave - in accordance with company policy - for an absence due to an illness, injury, medical appointment or other authorized medical needs of a member of the employee’s immediate family.

Adding this flexibility for employees in Nevada will not require employers to provide additional benefits or paid time off than they currently offer. It simply allows Nevada’s employees to use their earned paid time off to care for their loved ones. The State of Nevada and some employers already allow this flexibility – and it results in more productive employees who are able to more easily balance caregiving and job responsibilities.

Family Caregiver Statistics:

There are currently over 350,000 unpaid caregivers in the state of Nevada who struggle daily to juggle their full/part time jobs and the hours required to care for a loved one.

1 out of 4 workers age 25 or older say they currently provide unpaid care for a relative or a friend.

60% of family caregivers are employed full or part-time.

7 out of 10 family caregivers report making work accommodations – arriving late/leaving early, taking time off, cutting back on hours, changing jobs, or quitting a job – because of caregiving responsibilities.

40% of family caregivers who are still working are over 50 years old.

Lost income and benefits, on average, for family caregivers over age 50 due to providing unpaid caregiving is \$303,880 over a caregiver’s lifetime.

Who Will this Benefit - Impact of Recommendation:

Loved ones who want to remain at home, which is most likely facilitated by a caregiver, preventing premature institutionalization at a higher cost.

Nevada employees who care for immediate family – aging parents, adults with dementia, disabilities or other chronic conditions, children with disabilities or chronic medical conditions.

Employees who no longer would have to fear losing their job because they have to take an aging parent or disabled child to the hospital or medical appointments.

Employers will have employees who are more productive and able to concentrate on their jobs without distractions.

Nevada’s caregivers deserve this flexibility to care for their loved one without sacrificing the financial security of their families.

Respectfully submitted,
Barry Gold
AARP Nevada

Attachment

C (2)

AARP Nevada—AB 394 Fact Sheet

SUPPORT AB 394 TO HELP NEVADA'S 350K CAREGIVERS

FACT: The Silver State boasts over 350,000 caregivers, many who struggle daily to juggle their full-time jobs and the hours required to care for a loved one

FACT: 7-out-of-10 caregivers report making work accommodations – arriving late/leaving early, taking time off, cutting back on hours, changing jobs, or quitting a job – because of caregiving.

FACT: Employees, who are offered family-friendly benefits, and caregiver friendly benefits, are better able to stay in their jobs, earn a living income, and provide for their own families.

AB 394 proposes adding this flexibility for employees in Nevada and will not require employers to provide any additional benefits or paid time off than they currently offer. It simply allows Nevada's employees to use their earned paid time off to care for their loved ones.

Who Will This Benefit?

- Nevada employees who care for immediate family - aging parents, spouses, adults with dementia, disabilities or other chronic conditions, children with disabilities or chronic medical conditions.
- Loved ones who want to remain living at home which is most often facilitated by an in-home caregiver preventing premature institutionalization at a higher cost.
- Employees no longer would have to fear losing their job because they have to take an aging parent or disabled child to regular medical appointments.

The Impact of Caregiving on Work

- 60% of caregivers caring for adults were employed full or part-time, placing demands on their time.
- 1-in-4 workers age 25 or older say they currently provide unpaid care to a relative or friend – most commonly a parent or parent-in-law.
- 40% of caregivers in this category are ages 50 or over.
- Older workers – especially older women who are most likely to have eldercare responsibilities – are an increasing portion of the workforce.
- Because women now account for a more significant portion of their family's income, their jobs and the stability are even more important than before.
- Lost income and benefits, on average, for family caregivers over 50 due to providing unpaid caregiving is \$303,880 over a caregiver's lifetime.

Nevada's caregivers deserve this flexibility to care for their loved one without sacrificing the financial security of their families.



Attachment

C (3)

AB 394

ASSEMBLY BILL NO. 394—ASSEMBLYWOMAN
BILBRAY-AXELROD

MARCH 20, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing the use of sick leave by employees in certain private employment. (BDR 53-637)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; requiring private employers that provide paid sick leave benefits to employees to allow an employee to use such leave for an illness, injury, medical appointment or other authorized medical need of a member of the employee’s immediate family; providing an exception for certain employees and employers; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a private employer to pay an employee certain minimum
2 compensation and to provide certain benefits, including overtime compensation and
3 meal and rest breaks. (NRS 608.018, 608.019, 608.250) **Section 1** of this bill
4 requires a private employer that provides sick leave benefits to allow an employee
5 to use his or her accrued sick leave for an absence due to an illness, injury, medical
6 appointment or other authorized medical need of a member of the employee’s
7 immediate family. **Section 1** also provides an exception for certain railway and air
8 carriers from such requirements. Additionally, **section 1** also authorizes such an
9 employer to limit the amount of sick leave an employee may use for these purposes.
10 Finally, **section 1** requires the Labor Commissioner to prepare and post a bulletin
11 setting forth these benefits and requires employers that provide sick leave benefits
12 to post the bulletin in the workplace.
13 **Section 2** of this bill requires the Labor Commissioner to enforce the
14 provisions of **section 1**, and **section 3** of this bill makes a violation of the
15 provisions of **section 1** a misdemeanor and authorizes the Labor Commissioner to



16 impose, in addition to any other remedy or penalty, a penalty of up to \$5,000 for
17 each violation. (NRS 608.180, 608.195)

1 WHEREAS, More than 40 million Americans provide unpaid care
2 to someone who is over the age of 18 years and ill or disabled and
3 approximately 4 in 10 caregivers consider their caregiving situation
4 to be highly stressful and report difficulties with managing
5 emotional and physical stress, balancing work and family
6 responsibilities and finding time for themselves; and

7 WHEREAS, In 2013, 348,000 Nevada family caregivers provided
8 more than 324 million hours of unpaid care, estimated at a value of
9 \$4.27 billion; and

10 WHEREAS, According to a 2015 survey of registered voters in
11 Nevada, 58 percent of Nevada's family caregivers have been
12 employed full-time or part-time while providing care; and

13 WHEREAS, After surveying numerous studies, the United States
14 Equal Employment Opportunity Commission determined that
15 flexible workplace policies enhance employee productivity, reduce
16 absenteeism, lower costs, aid in retention and recruitment of the best
17 talent and may positively affect profits; now, therefore,

18
19 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
20 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
21

22 **Section 1.** Chapter 608 of NRS is hereby amended by adding
23 thereto a new section to read as follows:

24 *1. Except as otherwise provided in subsection 6, if an*
25 *employer provides paid or unpaid sick leave benefits for his or her*
26 *employees, the employer shall allow an employee to use his or her*
27 *accrued sick leave for an absence due to an illness, injury, medical*
28 *appointment or other authorized medical need of a member of the*
29 *employee's immediate family on the same terms and conditions*
30 *that the employee may use sick leave for his or her own illness,*
31 *injury, medical appointment or other authorized medical need.*

32 *2. An employer may limit the amount of sick leave an*
33 *employee may use pursuant to subsection 1 to an amount not less*
34 *than the sick leave benefits that the employee would accrue during*
35 *a 6-month period at the rate at which the employee is entitled to*
36 *accrue sick leave benefits.*

37 *3. The Labor Commissioner shall prepare a bulletin which*
38 *clearly sets forth the benefits created by this section. The Labor*
39 *Commissioner shall post the bulletin on the Internet website*
40 *maintained by the Office of the Labor Commissioner, if any, and*
41 *shall require the bulletin to be posted by an employer that provides*
42 *sick leave benefits in a conspicuous location in each workplace*



1 *maintained by the employer. The bulletin may be included in any*
2 *printed abstract posted by the employer pursuant to NRS 608.013.*

3 *4. The provisions of this section do not:*

4 *(a) Limit or abridge any other rights, remedies or procedures*
5 *available under the law.*

6 *(b) Negate any other rights, remedies or procedures available*
7 *to an aggrieved party.*

8 *(c) Prohibit, preempt or discourage any contract or other*
9 *agreement that provides a more generous sick leave benefit or paid*
10 *time off benefit.*

11 *(d) Extend the maximum period of leave to which an employee*
12 *is entitled pursuant to the Family and Medical Leave Act of 1993,*
13 *29 U.S.C. §§ 2601 et seq.*

14 *5. An employer shall not deny an employee the right to use*
15 *accrued sick leave benefits in accordance with the provisions of*
16 *this section or retaliate against an employee for exercising any*
17 *rights afforded by, or attempts to prosecute a violation of, this*
18 *section.*

19 *6. The provisions of this section do not apply to:*

20 *(a) An employee or employer subject to the provisions of the*
21 *Federal Employers' Liability Act, 45 U.S.C. §§ 51 et seq.;*

22 *(b) An employee or an employer subject to the provisions of*
23 *the Railway Labor Act, 45 U.S.C. §§ 181 et seq.;*

24 *(c) An employee or employer as defined in the Railroad*
25 *Unemployment Insurance Act, 45 U.S.C. §§ 351 et seq.;*

26 *(d) Any other person whose exemption is required to ensure*
27 *compliance with federal law; or*

28 *(e) Any other employee or employer expressly exempted under*
29 *regulations adopted by the Labor Commissioner as necessary to*
30 *carry out the provisions of this section in accordance with*
31 *applicable state and federal law.*

32 *7. Nothing in this section shall be construed to invalidate,*
33 *diminish or otherwise interfere with any collective bargaining*
34 *agreement or with the power of any party to collectively bargain*
35 *such an agreement.*

36 *8. As used in this section:*

37 *(a) "Immediate family" means the child, spouse, domestic*
38 *partner, sibling, parent, mother-in-law, father-in-law, grandchild,*
39 *grandparent or stepparent of an employee.*

40 *(b) "Sick leave benefits" means any paid or unpaid time*
41 *available to an employee as provided through an employment*
42 *benefit plan or policy of paid leave to be used as a result of*
43 *absence from work due to personal illness, injury, medical*
44 *appointment or other authorized medical need. As used in this*
45 *paragraph, "employment benefit plan or policy of paid leave" does*



1 *not include a long-term disability plan, a short-term disability*
2 *plan, an insurance policy or other comparable benefit plan.*

3 **Sec. 2.** NRS 608.180 is hereby amended to read as follows:

4 608.180 The Labor Commissioner or the representative of the
5 Labor Commissioner shall cause the provisions of NRS 608.005 to
6 608.195, inclusive, *and section 1 of this act* to be enforced, and
7 upon notice from the Labor Commissioner or the representative:

8 1. The district attorney of any county in which a violation of
9 those sections has occurred;

10 2. The Deputy Labor Commissioner, as provided in
11 NRS 607.050;

12 3. The Attorney General, as provided in NRS 607.160 or
13 607.220; or

14 4. The special counsel, as provided in NRS 607.065,

15 ↪ shall prosecute the action for enforcement according to law.

16 **Sec. 3.** NRS 608.195 is hereby amended to read as follows:

17 608.195 1. Except as otherwise provided in NRS 608.0165,
18 any person who violates any provision of NRS 608.005 to 608.195,
19 inclusive, *and section 1 of this act*, or any regulation adopted
20 pursuant thereto, is guilty of a misdemeanor.

21 2. In addition to any other remedy or penalty, the Labor
22 Commissioner may impose against the person an administrative
23 penalty of not more than \$5,000 for each such violation.

24 **Sec. 4.** This act becomes effective:

25 1. Upon passage and approval for the purpose of adopting
26 regulations and performing any other preparatory administrative
27 tasks that are necessary to carry out the provisions of this act; and

28 2. On January 1, 2018, for all other purposes.



Attachment

D (1)

ADSD July 3, 2018, Memorandum



DEPARTMENT OF HEALTH AND HUMAN SERVICES
AGING AND DISABILITY SERVICES
3416 Goni Road, Suite D-132
Carson City, NV, 89706
Telephone (775) 687-4210 • Fax (775) 687-0574
<http://adsd.nv.gov>

July 3, 2018

MEMORANDUM

TO: Mindy Martini, Principal Policy Analyst, Research Division, Legislative Counsel Bureau

FROM: Jennifer Frischmann, Quality Assurance Manager, Aging and Disability Services Division

CC: Dena Schmidt, Administrator, Aging and Disability Services Division

RE: Expanding Authority under NRS 449

This memo is in response to expanding current Nevada Revised Statute section 449 to include Supported Living Arrangement (SLA) providers.

SLA services are designed to ensure the health and welfare of the individual served through protective oversight and supervision of activities and direct supports to assist in the acquisition, improvement, retention and maintenance of the skills necessary for individuals to successfully, safely, and responsibly reside in their community. Currently, the Aging and Disability Services Division (ADSD) certifies providers of SLA, as well as performs ongoing monitoring, and oversight of these providers. This provider type falls under NRS and NAC 435.

While ADSD recognizes the work that the Bureau of Health Care Quality and Compliance (HCQC) performs, ADSD has the following concerns:

- HCQC collects fees when licensing providers. These fees are used to pay for the FTE's associated with licensing activities. ADSD does not collect fees for SLA

providers; therefore, there would be an additional associated cost to HCQC to perform these certifications.

- The certification process is performed by Quality Assurance staff that has extensive experience working with individuals with intellectual and/or developmental disabilities and the specific services that are offered. This differs from the Bureau of Health Care Quality and Compliance; as that entity utilizes Health Facilities Inspectors to perform licensure and compliance. The SLA services are non-medical, non-traditional services that are not always quantifiable yet are required to be reviewed at certification and recertification. Examples include, verification of facilitating community integration, behavioral supports, and individualized support and habilitation plans. The Quality Assurance staff are knowledgeable in understanding these requirements. (please see attached applications outlining differences between SLA and HCQC)
- When performing a recertification or looking into whether or provider may open a new home, ADSD looks at the history of the provider, not just a point in time, as HCQC does. The ADSD has resources to look at the number of incident reports filed, data from the human rights committee, and also the behavioral intervention committee to identify trends and areas of heightened scrutiny. If areas of improvement are identified, ADSD staff assist the provider to correct deficiencies and maintain compliance.
- When deficiencies are identified, ADSD has the ability to impose sanctions on providers. Sanctions include not permitting new individuals into their home, not allowing providers to open more homes, and up to termination. This process can be initiated immediately upon identification of deficiencies and assist in ensuring health, safety, and welfare of individuals served. Further, the Quality Assurance Staff participate in the person-centered planning activities when necessary and assist with staffing difficult cases as subject matter experts of knowing the providers. This would be administratively burdensome to HCQC.
- ADSD staff must complete an environmental review of each intermittent setting annually and each 24-hour setting every quarter. ADSD has intermittent settings, while HCQC does not license intermittent.
- Incident reports are reported by providers within 24 hours and are immediately assigned to developmental services staff to investigate. If found to be emergent, quality assurance staff immediately take action to prevent eminent danger, risk, or further harm.
- ADSD operates under the federal authority of a 1915(c) waiver. Part of the waiver requirements are that all willing and qualified providers have the opportunity to enroll as waiver service providers as prescribed in 42 CFR 431.51. ADSD has a process to ensure this. If an individual or entity is interested in providing services to waiver participants, they must contact the appropriate Developmental Services

Regional Center and request a provider application packet. The provider application must be returned with the specific documentation listed in the application. Application packets are screened, and applicants are interviewed by a screening panel. The panel determines whether the applicant is qualified. If qualified, the provider must meet all conditions of enrollment and enroll with DHCFFP's fiscal agent. New providers are initially accepted on provisional status with a Quality Assurance Review scheduled 9 to 12 months after beginning service provision. Based on the Quality Assurance Review, Developmental Services certifies new providers for up to a three (3) year period. Changing this process may delay implementation of services.

- Under 1915(c) authority, any changes to the operation of the waiver, including provider certification and quality assurance activities require a waiver amendment that will need CMS approval.
- ADSD service coordinators work very closely with Quality Assurance staff. When service coordinators are completing face to face visits with individuals served, they will often notice either environmental or program deficiencies while at a provider home. Service coordinators are able to quickly consult with the Quality Assurance staff to rectify the concerns. By moving the certification process to HCQC, this will cause a delay in correcting the issues and place an administrative burden on HCQC.
- Training requirements and application processes are much more intensive and stringent for SLA providers certified by ADSD. Please refer to attached applications and training requirements.
- The ADSD certification process evaluates a provider's systemic performance and certifies providers as "an entity." For providers with multiple 24-hour homes, a sample of all 24-hour homes, as well as any intermittent services, is reviewed, rather than just one targeted home. This has been found to be beneficial, as the provider must be prepared at all sites, not just one, and Quality Assurance staff can determine the effectiveness of a provider across their whole service system. In addition, there are SLA providers that do not operate any 24-hour homes and only provide intermittent services making it impossible to certify an individual 24-hour home.
- Information gathered during provider certification is used by Quality Assurance staff to further the development of the Regional Center's overall quality management practices and systems required by the 1915(c) Medicaid waiver. Previous quality management improvements include updates to the provider Standards for Service Provision, re-write of NAC 435, and enhancements to the Incident Management system.
- The ADSD QA staff complete more than "inspections"/certifications. The QA staff complete investigations, assist in system development and testing, develop policy, participate in multi-disciplinary teams, monitor rights restrictions (1,650 FY18), review all serious occurrence reports (4,978 FY18), investigate

abuse/neglect/exploitation (663 FY18), develop and review plans of correction, assist with provider applications and RFQ's, present provider trainings, drop in visits at SLA and jobs and day training providers to assess client health and safety, complete data analytics, provide technical assistance/internal trainings, participate in monthly waiver quality activities (federally mandated), complete federal evidentiary reporting (waiver requirement), complete financial audits of providers, complete all audits (PERM, TCM, LCB, etc.), attend provider meetings to inform about state and federal requirements, and complete NCI interviews (minimum 400/yr.).

- The SLA complaint process is taken very seriously. Each individual is given a Rights and Responsibilities booklet outlining the complaint process (attached). Individuals may also choose to by-pass this process and contact the Nevada Disability Advocacy and Law Center (NDALC) to assist in resolution. This is under the authority of 42 U.S. Code § 15043 – System Required – “the State shall have in effect a system to protect and advocate the rights of individuals with developmental disabilities.” NDALC was designated as Nevada’s protection and advocacy system by the Governor in March, 1995. This differs from the Long-Term Care Ombudsman Program (LTCOP). The LTCOP is required for all states by the Older Americans Act. Funds for the Long-Term Care Ombudsman program are provided by Nevada State General Funds and by the Title VII Federal Grant.
- The role of the Long-Term Care Ombudsman program can be expanded however, to do this, additional staff are needed to fulfill the demand and financial impact. The current maintenance caseload is 1:60 for the long-term care ombudsman program.
- SB 97 was proposed in the 2017 Legislative Session and a large fiscal note was attached. If a bill were to be proposed for next session, the fiscal note would be investigated to determine the fiscal note for this expansion of the Long-Term Care Ombudsman program.
- With the current long-term care facilities, there are several agencies involved with holding facilities and staff members accountable for upholding regulations. These include, but are not limited to, the Bureau of Health Care Quality and Compliance, the Board of Examiners for Long Term Care Administrators, and for skilled nursing facilities, the federal law (Code of Federal Regulations). Adding SLAs and CBLAs to the NRS 449, means the Long-Term Care Ombudsman program would be monitoring a “sister agency” within its own division. There are not the same outside resources available to help with accountability.
- In lieu of expanding the Long-Term Care Ombudsman program, the ombudsman helpline can provide SLA and CBLA residents with assistance and direct calls with concerns to Adult Mental Health Services and Regional Centers, as well as NDALC as mentioned above.

July 11, 2018
Page 5

Should you have any additional questions, please do not hesitate to contact Jennifer Frischmann at jfrischmann@adsd.nv.gov or 775-687-0528.

Attachment

D (2)

DPBH July 10, 2018, Memorandum

BRIAN SANDOVAL
Governor

RICHARD WHITLEY, MS
Director



JULIE KOTCHEVAR, Ph.D.
Administrator

LEON RAVIN, M.D.
Acting Chief Medical Officer

DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
4150 Technology Way
Carson City, Nevada 89706
Telephone (775) 684-4200 • Fax (775) 687-7570
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July 10, 2018

MEMORANDUM

TO: Mindy Martini, Principal Policy Analyst, Research Division, Legislative Counsel Bureau

FROM: Julie Kotchevar, Ph.D., Administrator Division of Public and Behavioral Health

RE: Movement of SLA/CBLA certification authority under NRS chapter 449

This memo is in response to your inquiry regarding discussion by the Committee on Senior Citizens, Veterans and Adults with Special Needs; of considering expanding the authority of the Division of Public and Behavioral Health (DPBH) to review certain living arrangements. Specifically, this responds to your questions as follows: if SLAs and CBLAs were to move under Chapter 449 – would this cause issues for your office? What would be the impact?

Functionally certification of CBLA services has already been moved to the agency responsible of enforcement of chapter 449 requirements, the Bureau of Health Care Quality and Compliance (HCQC). However, there are good reasons to also move the authority established in chapter 433 for CBLA services to chapter 449 as follows:

- All of the enforcement for both licensed/unlicensed operation of facilities under chapter 449 will apply to CBLAs.
- Uniform background check requirements in accordance with chapter 449 makes the processes much more efficient (DPS does determinations).
- Chapter 449 is where most of HCQC's authority resides and consolidating these facilities under this same chapter provides us proper authority for things like entry and inspection of premises that are not covered in chapter 433.

Movement of certification activities for SLAs from the Aging and Disability Services Division (ADSD) to DPBH requires a transition plan to accommodate more complicated logistics. The SLA program is well established and has functioned for many years under ADSD and the quality assurance (inspector) positions are currently occupied. In contrast the CBLA program regulations and statutory definition were newly established last year and the psychiatric case worker (inspector) positions were vacant.

July 11, 2018

Page 2

Moving authority of chapter 435 facilities (SLAs) under chapter 449 would require additional infrastructure within HCQC. HCQC doesn't have the capacity to incorporate another program without additional management and clerical staff. This will result in fiscal impact to the general fund monies that pay for SLA services/certification.

At this time, it would be difficult to calculate the actual fiscal impact as the SLA quality assurance team completes many activities that fall outside of the role typically assumed by HCQC. ADSD and DPBH would need to determine what part of the responsibility would move to HCQC before we could calculate the cost of any additional staff that would be needed. Typically, HCQC is funded through fees assessed to regulated facilities. Before calculating the fee, we would need to understand what responsibility would be transferred in order to calculate the staff cost and the resulting fees that would be assessed to cover those costs.

Attachment

E (1)

SB 97 Fiscal Impact Note

EXECUTIVE AGENCY
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: February 7, 2017

Agency Submitting: Department of Health and Human Services, Aging and Disability Services

Items of Revenue or Expense, or Both	Fiscal Year 2016-17	Fiscal Year 2017-18	Fiscal Year 2018-19	Effect on Future Biennia
Personnel (Expense)		\$1,414,404	\$1,923,565	\$3,847,130
Travel (Expense)		\$45,040	\$60,053	\$120,106
Operating (Expense)		\$98,543	\$120,653	\$241,306
Equipment (Expense)		\$58,400		
Information Services (Expense)		\$72,117	\$28,963	\$57,926
Total	0	\$1,688,504	\$2,133,234	\$4,266,468

Explanation

(Use Additional Sheets of Attachments, if required)

BDR 38-371 authorizes the ADSD to provide advocacy services for individuals residing in a facility for the care of adults during the day, supported living arrangements services and community-based living arrangements services. In order to fulfill the requirements detailed in the BDR, ADSD would need 25 new positions to create a standalone office.

Specifically, ADSD would need a Social Services Manager I to oversee the program which would include the development and compliance with program policy and procedure; training; and quality oversight to ensure that services provided assistance in protecting the health, safety, welfare and rights of residents.

ADSD would also need a Social Services Program Specialist II to develop and sustain program documentation for quality assurance purposes for this new program. This would include development and enhancement of data collection, tracking and reporting for program oversight.

This BDR would require 17 new Elder Rights Specialist II positions who provide the direct care for routine site visits and follow up on cases requiring advocacy services. In addition, ADSD would need 3 Administrative Assistants positions that would provide day to day program support. Lastly, 3 Elder Rights Supervisors would be required for the oversight of daily activities and supervision of the Elder Rights Specialist and Administrative Assistant positions.

This staffing proposal mirrors the current Long Term Care Ombudsman Program (LTCOP) operated by ADSD. The staffing pattern is based on the FY2015 LTCOP activities which includes routine site visits conducted 4 x per year and follow up required on cases opened for residents who needed advocacy services. This proposal reflects the caseload methodology approved in the 2015 Legislative session. It should be noted that it is estimated that approximately an additional 500 facilities will be visited and served as a result of this legislation.

Name Todd Myler

Title ASO 4

DEPARTMENT OF ADMINISTRATION'S COMMENTS

The agency's response appears reasonable.

Date Friday, February 03, 2017

Name Nikki Hovden

Title Exec Branch Budget Officer

Section A1: Line Item Detail by GL

Budget Account: 3151 HHS-ADSD - FEDERAL PROGRAMS AND ADMINISTRATION

Item No	Description	Actual 2015-2016	Work Program 2016-2017	W07 Year 1 2017-2018	W07 Year 2 2018-2019
E249	EFFICIENT AND RESPONSIVE STATE GOVERNMENT				
REVENUE					
2501	APPROPRIATION CONTROL	0	0	1,696,974	2,140,333
	TOTAL REVENUES FOR DECISION UNIT E249	0	0	1,696,974	2,140,333
EXPENDITURE					
01	PERSONNEL				
5100	SALARIES	0	0	1,022,958	1,408,285
5200	WORKERS COMPENSATION	0	0	24,249	21,838
5300	RETIREMENT	0	0	148,338	204,207
5400	PERSONNEL ASSESSMENT	0	0	6,267	6,498
5500	GROUP INSURANCE	0	0	167,175	222,275
5700	PAYROLL ASSESSMENT	0	0	2,115	2,074
5750	RETIRED EMPLOYEES GROUP INSURANCE	0	0	27,207	35,916
5800	UNEMPLOYMENT COMPENSATION	0	0	1,268	2,048
5840	MEDICARE	0	0	14,834	20,421
	TOTAL FOR CATEGORY 01	0	0	1,414,411	1,923,562
03	IN-STATE TRAVEL				
6200	PER DIEM IN-STATE	0	0	15,919	21,225
6210	FS DAILY RENTAL IN-STATE	0	0	2,645	3,526
6215	NON-FS VEHICLE RENTAL IN-STATE	0	0	1,087	1,449
6240	PERSONAL VEHICLE IN-STATE	0	0	6,401	8,535
6250	COMM AIR TRANS IN-STATE	0	0	18,988	25,318
	TOTAL FOR CATEGORY 03	0	0	45,040	60,053
04	OPERATING EXPENSES				
7020	OPERATING SUPPLIES	0	0	5,508	7,343
7040	NON-STATE PRINTING SERVICES	0	0	6,240	8,320
7041	PRINTING AND COPYING - A	0	0	1,042	1,389
7045	STATE PRINTING CHARGES	0	0	60	80
7050	EMPLOYEE BOND INSURANCE	0	0	38	38
7054	AG TORT CLAIM ASSESSMENT	0	0	2,464	2,427
705A	NON B&G - PROP. & CONT. INSURANCE	0	0	27	36
7110	NON-STATE OWNED OFFICE RENT	0	0	60,091	80,122
7255	B & G LEASE ASSESSMENT	0	0	491	768
7285	POSTAGE - STATE MAILROOM	0	0	1,175	1,566
7290	PHONE, FAX, COMMUNICATION LINE	0	0	1,720	2,293
7291	CELL PHONE/PAGER CHARGES	0	0	6,300	8,400
7292	EITS 18-19 ELIM (OLD EITS VOICEMAIL)	0	0	801	1,068

State of Nevada - Budget Division
 Line Item Detail & Summary
 2017-2019 Biennium (FY18-19)

Item No	Description	Actual 2015-2016	Work Program 2016-2017	W07 Year 1 2017-2018	W07 Year 2 2018-2019
7295	EITS 18-19 ELIM (OLD EITS STATE PHONE LINE)	0	0	3,015	4,020
7296	EITS LONG DISTANCE CHARGES	0	0	721	962
7460	EQUIPMENT PURCHASES < \$1,000	0	0	7,500	0
7980	OPERATING LEASE PAYMENTS	0	0	1,496	1,995
	TOTAL FOR CATEGORY 04	0	0	98,689	120,827
05	EQUIPMENT				
8241	NEW FURNISHINGS <\$5,000 - A	0	0	58,400	0
	TOTAL FOR CATEGORY 05	0	0	58,400	0
26	INFORMATION SERVICES				
7073	SOFTWARE LICENSE/MNT CONTRACTS	0	0	9,900	9,900
7222	DATA PROCESSING SUPPLIES	0	0	1,222	1,629
7533	EITS EMAIL SERVICE	0	0	3,278	4,368
7554	EITS INFRASTRUCTURE ASSESSMENT	0	0	4,897	5,289
7556	EITS SECURITY ASSESSMENT	0	0	2,362	3,217
7771	COMPUTER SOFTWARE <\$5,000 - A	0	0	16,962	8,712
8371	COMPUTER HARDWARE <5,000 - A	0	0	41,813	2,776
	TOTAL FOR CATEGORY 26	0	0	80,434	35,891
	TOTAL EXPENDITURES FOR DECISION UNIT E249	0	0	1,696,974	2,140,333
	TOTAL REVENUES FOR BUDGET ACCOUNT 3151	0	0	1,696,974	2,140,333
	TOTAL EXPENDITURES FOR BUDGET ACCOUNT 3151	0	0	1,696,974	2,140,333

2017-2019 Biennium (FY18-19)
W07 ADD OMBUDS

Section A: Position Detail

Budget Account: 3151 HHS-ADSD - FEDERAL PROGRAMS AND ADMINISTRATION

Type	Description	PCN	Class	Gd Step	Add Gd	Anv Mo	St	End	Ret Cd	FTE Actual	FTE WP	FTE Y1	FTE Y2 MI	2017-2018		2018-2019		
														Salary	Benefits	Salary	Benefits	
E249 EFFICIENT AND RESPONSIVE STATE GOVERNMENT																		
0001 ADMINISTRATION																		
4	SOCIAL SERVICES MANAGER 1	004055	12357	37-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	50,066	17,589	68,959	22,973
4	ADMIN ASSISTANT 2	004082	02212	25-4	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	26,342	12,581	36,176	16,836
4	ADMIN ASSISTANT 2	004083	02212	25-4	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	26,342	12,581	36,176	16,836
4	ADMIN ASSISTANT 1	004084	02213	23-4	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	24,288	12,148	33,347	16,241
TOTAL FOR LINE ITEM POSITION GROUP 0001										0.00	0.00	4.00	4.00		127,038	54,899	174,658	72,886
0004 LONG TERM CARE - ELDER RIGHTS SPECIALISTS																		
4	SOCIAL SERVICES PROGRAM SPEC 2	004056	12318	35-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	45,786	16,685	63,118	21,884
4	ELDER RIGHTS SPECIALIST 2	004057	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004058	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004059	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004060	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004061	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004062	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004063	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004064	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004065	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004066	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004067	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004068	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004069	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004070	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004071	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004072	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SPECIALIST 2	004073	12347	33-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	41,928	15,871	57,715	20,874
4	ELDER RIGHTS SUPERVISOR	004078	12346	35-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	45,786	16,685	63,118	21,884
4	ELDER RIGHTS SUPERVISOR	004079	12346	35-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	45,786	16,685	63,118	21,884
4	ELDER RIGHTS SUPERVISOR	004080	12346	35-7	0	10	10-17	6-20	1	0.00	0.00	1.00	1.00	Y SUM	45,786	16,685	63,118	21,884
TOTAL FOR LINE ITEM POSITION GROUP 0004										0.00	0.00	21.00	21.00		895,920	336,547	1,233,627	442,394
TOTAL FOR DECISION UNIT E249										0.00	0.00	25.00	25.00		1,022,958	391,446	1,408,285	515,280
TOTAL FOR BUDGET ACCOUNT 3151										0.00	0.00	25.00	25.00		1,022,958	391,446	1,408,285	515,280

BDR 38-371 authorizes ADSD to provide advocacy services for individuals residing in a facility for the care of adults during the day, supported living arrangements services and community-based living arrangements services. In order to fulfill the requirements detailed in the BDR, ADSD would need 25 new positions to fulfill the requirements of the bill.

In the 2015 Legislative session, the State Legislature approved a caseload for the Long Term Care Ombudsman Program (LTCOP). The definition of a caseload for the LTCOP includes the following:

- Total cases represent total new cases opened, total cases investigated and closed, ongoing cases, along with other program related activities required by the Older Americans Act.
- Activities include: regular outreach to long term care facilities and their residents, information and referral provided to consumers regarding resident rights and the long term care system, and training on best practices in the field of long term care provided to facility administrators and staff in long term care facilities.

Activities are weighted as follows: 5 activities = 1 case. Based on the data submitted by ADSD, a caseload was established for one staff member for every sixty cases.

In order to establish projections to fulfill the requirements of BDR 38-371, ADSD utilized data from the FY16 LTCOP. In FY16, LTCOP visited 278 unduplicated facilities (estimated 4 x per year) that resulted in a total caseload of 8,633. In order to establish an estimated caseload for BRD 38-371, ADSD took the FY16 total caseload of 8,633 and divided it by the 278 facilities visited which equaled 31.10 cases per facility.

Based on the criteria in BDR 38-371, the LTCOP expansion would visit approximately 395 facilities (estimated 4 x per year). In order to establish an estimated caseload for the expansion, ADSD took the 395 facilities multiplied by the 31.10 FY16 LTCOP caseload per facility, to determine a total estimated caseload of 11,890 for the LTCOP expansion. The following table provides a breakdown of the estimated facilities as of February 2017 per BDR 38-371.

Community-based living arrangement services:	45
Facility for the care of adults during the day:	21
Living arrangements services:	329
TOTAL:	395

ADSD then applied the 11,890 estimate caseload for the expansion program to the current formula utilized to project the number of FTE needed to meet the requirements of the LTCOP expansion.

Total estimate caseload:	11,890
Average estimated caseload per month:	991
LTCOP 1:60 caseload:	17 FTE Elder Rights Specialist needed to fulfill BDR 38-371

To maintain 1:60 caseload, ADSD would need the following staff members to fulfill the requirements of BDR 38-371. ADSD would need 17 new Elder Rights Specialist II positions who provide the direct care for routine site visits and follow up on cases requiring advocacy services.

In addition, ADSD would need 3 Administrative Assistants positions that would provide day to day program support. Furthermore, 3 Elder Rights Supervisors would be required for the oversight of daily activities and supervision of the Elder Rights Specialist and Administrative Assistant positions.

ADSD would also need a Social Services Manager I to oversee the program which would include the development and compliance with program policy and procedure, training, and quality oversight to ensure services provided assisted in protecting the health, safety, welfare and rights of residents.

Lastly, ADSD would also need a Social Services Program Specialist II to develop and sustain program documentation for quality assurance purposes for this new program. This would include development and enhancement of data collection, tracking and reporting for program oversight.

This staffing proposal mirrors the current Long Term Care Ombudsman Program (LTCOP) operated by ADSD. The staffing pattern is based on the FY16 LTCOP activities which includes routine site visits conducted 4 x per year and follow up required on cases opened for residents who needed advocacy services. This proposal reflects the caseload methodology approved in the 2015 Legislative session.

Attachment

E (2)

SB 97 R1

SENATE BILL NO. 97—COMMITTEE ON
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE SUBCOMMITTEE TO CONDUCT
A STUDY OF POSTACUTE CARE)

PREFILED JANUARY 30, 2017

Referred to Committee on Health and Human Services

SUMMARY—Expands the authority of the Office of the State
Long-Term Care Ombudsman. (BDR 38-371)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to the State Long-Term Care Ombudsman;
authorizing the Ombudsman to perform certain activities
to protect the health, safety, welfare and civil rights of a
recipient of services from a facility for the care of adults
during the day, certain supported living arrangement
services or certain community-based living arrangement
services; and providing other matters properly relating
thereto.

Legislative Counsel’s Digest:

1 Existing law establishes the Office of the State Long-Term Care Ombudsman
2 to advocate for the protection of the health, safety, welfare and rights of residents of
3 facilities for long-term care. (NRS 427A.125) The Ombudsman is authorized to
4 appoint and train advocates to perform certain duties, including: (1) receiving,
5 investigating and attempting to resolve complaints by residents of facilities for
6 long-term care; and (2) investigating acts, practices, policies or procedures of
7 facilities for long-term care and governmental agencies which relate to such care.
8 (NRS 427A.125, 427A.127) **Section 7** of this bill expands the authority of the
9 Ombudsman to include advocating for recipients of services from facilities for the
10 care of adults during the day and living arrangement services. Such a facility
11 provides care during the day for aged or infirm persons. (NRS 449.004) **Section 4**
12 of this bill defines the term “living arrangement services” to include certain
13 services provided in the home of a person with a mental illness, a person with an
14 intellectual disability or a person with a related condition.

15 Existing law authorizes the Ombudsman or an advocate to enter onto the
16 premises of a facility for long-term care to investigate or review any act, practice,



* S B 9 7 R 1 *

17 policy, procedure or condition that may adversely affect the health, safety, welfare
18 or civil rights of a resident of the facility. Such investigations may be conducted
19 periodically or pursuant to a complaint. (NRS 427A.125, 427A.135) In conducting
20 such an investigation or review, the Ombudsman or advocate may: (1) inspect the
21 facility and its records; (2) interview officers, directors, employees and residents of
22 the facility as well as legal guardians and families of residents and persons
23 designated as responsible for decisions concerning the care of residents; and (3)
24 obtain assistance and information from any agency of this State. (NRS 427A.145)
25 A person who interferes with such an investigation or review is subject to an
26 administrative fine of not more than \$1,000 for each violation. (NRS 427A.135)
27 **Sections 7, 8 and 10** of this bill additionally authorize the Ombudsman or an
28 advocate to: (1) investigate or review a facility for the care of adults during the day
29 or a provider of living arrangement services; and (2) enter and inspect a facility for
30 the care of adults during the day, a facility maintained by a provider of living
31 arrangement services, or, with the consent of a recipient of living arrangement
32 services, the residence of the recipient. **Section 10.5** of this bill makes a
33 conforming change to reflect the expanded authority of the Ombudsman and
34 advocates.
35 **Section 9** of this bill prohibits retaliation against a recipient of services from a
36 facility for the care of adults during the day or living arrangement services who
37 files a complaint with, or provides information to, the Ombudsman or an advocate.
38 A person who violates this prohibition is subject to an administrative fine of not
39 more than \$1,000 for each violation.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 427A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 5, inclusive,
3 of this act.
4 **Sec. 2. 1. “Community-based living arrangement services”**
5 **means flexible, individualized services, including, without**
6 **limitation, training and habilitation services, that are:**
7 (a) *Provided in the home, for compensation, to persons with*
8 *mental illness or persons with related conditions who are served by*
9 *the Division of Public and Behavioral Health of the Department;*
10 *and*
11 (b) *Designed and coordinated to assist such persons in*
12 *maximizing their independence.*
13 2. *As used in this section:*
14 (a) *“Mental illness” has the meaning ascribed to it in*
15 *NRS 433.164.*
16 (b) *“Persons with related conditions” has the meaning*
17 *ascribed to it in NRS 433.211.*
18 **Sec. 3. “Facility for the care of adults during the day” has**
19 **the meaning ascribed to it in NRS 449.004.**



1 **Sec. 4. “Living arrangement services” means:**

2 **1. Community-based living arrangement services that**
3 **include:**

4 **(a) Intensive services and overnight supervision of recipients**
5 **who require training concerning behavioral skills, self-care and**
6 **management of medications; or**

7 **(b) Services in the home for recipients with chronic medical**
8 **conditions and severe mental illness who require habilitation or**
9 **rehabilitation services; and**

10 **2. Supported living arrangement services, as defined in NRS**
11 **435.3315, that include 24-hour care.**

12 **Sec. 5. “Recipient” means a person who receives:**

13 **1. Services from a facility for long-term care or a facility for**
14 **the care of adults during the day; or**

15 **2. Living arrangement services.**

16 **Sec. 6. NRS 427A.020 is hereby amended to read as follows:**

17 427A.020 As used in this chapter, unless the context otherwise
18 requires, the words and terms defined in NRS 427A.021 to
19 427A.0295, inclusive, **and sections 2 to 5, inclusive, of this act**
20 **have the meanings ascribed to them in those sections.**

21 **Sec. 7. NRS 427A.125 is hereby amended to read as follows:**

22 427A.125 1. The Office of the State Long-Term Care
23 Ombudsman is hereby created within the Division.

24 2. The Administrator shall appoint the State Long-Term Care
25 Ombudsman to advocate for the protection of the health, safety,
26 welfare and rights of ~~residents of facilities for long-term care.~~
27 **recipients.** The Ombudsman is in the classified service of the State.
28 The Ombudsman shall, under direction of the Administrator:

29 (a) Train advocates to:

30 (1) Receive, investigate and attempt to resolve complaints
31 made by or on behalf of ~~residents of facilities for long-term care.~~
32 **recipients.**

33 (2) Investigate acts, practices, policies or procedures of any
34 facility for long-term care, **facility for the care of adults during the**
35 **day, provider of living arrangement services** or any governmental
36 agency which relates to such care **or services** and may adversely
37 affect the health, safety, welfare or civil rights of ~~residents of such~~
38 ~~facilities.~~ **recipients** and report the results of the investigations to
39 the Ombudsman and the Administrator.

40 (3) Record and analyze information and complaints about
41 facilities for long-term care, **facilities for the care of adults during**
42 **the day and providers of living arrangement services** to identify
43 problems affecting ~~their residents.~~ **recipients to whom they**
44 **provide services.**



1 (4) Provide for the support and development of ~~[resident]~~
2 *recipient* and family councils to protect the well-being and rights of
3 ~~[residents of facilities for long-term care.] recipients.~~

4 (5) Assist facilities for long-term care , *facilities for the care*
5 *of adults during the day and providers of living arrangement*
6 *services* to provide services to ~~[residents]~~ *recipients* in the manner
7 set forth in paragraph (b).

8 (b) Develop a course of training to be made available to officers,
9 directors and employees of a facility for long-term care , *a facility*
10 *for the care of adults during the day or a provider of living*
11 *arrangement services* to encourage such facilities *and providers* to
12 provide services to ~~[their residents]~~ *recipients* in a manner that
13 allows the ~~[residents]~~ *recipients* to follow their own routine and
14 make their own decisions concerning the daily activities in which to
15 participate. The course must also provide information concerning
16 how to provide services in that manner.

17 (c) Coordinate services within the Department which may affect
18 ~~[residents]~~ *recipients* and prospective ~~[residents of facilities for~~
19 ~~long-term care.] recipients~~ to ensure that such services are made
20 available to eligible persons.

21 (d) Recommend and review policies, legislation and regulations,
22 both in effect and proposed, which affect facilities for long-term
23 care ~~[.]~~ , *facilities for the care of adults during the day and*
24 *providers of living arrangement services.*

25 (e) Upon request, advise and assist the Governor, the Legislature
26 and public and private groups in formulating and putting into effect
27 policies which affect facilities for long-term care , *facilities for the*
28 *care of adults during the day and providers of living arrangement*
29 *services* and ~~[their residents.] the recipients to whom they provide~~
30 *services.*

31 (f) Provide information to interested persons and to the general
32 public concerning the functions and activities of the Ombudsman.

33 (g) Report annually to the Administrator.

34 **Sec. 8.** NRS 427A.135 is hereby amended to read as follows:

35 427A.135 1. The Ombudsman or an advocate may:

36 (a) Upon a complaint by or on behalf of a ~~[resident,]~~ *recipient*,
37 investigate any act or policy which the Ombudsman or advocate has
38 reason to believe may adversely affect the health, safety, welfare or
39 civil rights of any ~~[resident of a facility for long-term care;]~~
40 *recipient;* and

41 (b) Make periodic visits to any facility for long-term care ,
42 *facility for the care of adults during the day, facility maintained by*
43 *a provider of living arrangement services or, with the consent of a*
44 *recipient of living arrangement services, the residence of the*
45 *recipient* to provide information to ~~[the residents of the facility]~~



1 *recipients* and to review generally any act, practice, policy,
2 procedure or condition which may adversely affect the health,
3 safety, welfare or civil or other rights of any ~~resident of the~~
4 ~~facility.~~ *recipient*.

5 2. The Ombudsman or an advocate may enter ~~any~~ :

6 (a) *Any facility for long-term care , facility for the care of*
7 *adults during the day or facility maintained by a provider of living*
8 *arrangement services* and any area within ~~the~~ *such a* facility at
9 reasonable times with or without prior notice and must be permitted
10 access to ~~residents~~ *recipients of services from* the facility at all
11 times. Upon arrival at the facility, the Ombudsman or advocate shall
12 make his or her presence known to the staff of the facility and shall
13 present appropriate identification.

14 (b) *With the consent of a recipient of living arrangement*
15 *services, the residence of the recipient.*

16 3. A person shall not willfully interfere with the Ombudsman
17 or an advocate in the performance of any investigation or visitation
18 pursuant to this section. If any person is found, after notice and a
19 hearing, to have willfully violated any provision of this subsection,
20 the Director, at the request of the Administrator, may refer the
21 matter to the Division for the imposition of an administrative fine of
22 not more than \$1,000 for each violation.

23 4. Any money collected as a result of an administrative fine
24 imposed pursuant to this section must be deposited in the State
25 General Fund.

26 5. Each ~~resident~~ *recipient* has the right to request, deny or
27 terminate visits with the Ombudsman or an advocate.

28 6. The Ombudsman or an advocate is not liable civilly for the
29 good faith performance of any investigation.

30 **Sec. 9.** NRS 427A.138 is hereby amended to read as follows:

31 427A.138 1. An officer, director or employee of a facility for
32 long-term care , *facility for the care of adults during the day or*
33 *provider of living arrangement services* shall not retaliate against
34 any person for having filed a complaint with, or provided
35 information to, the Ombudsman or an advocate.

36 2. If any person is found, after notice and a hearing, to have
37 violated any provision of subsection 1, the Director, at the request of
38 the Administrator, may refer the matter to the Division for the
39 imposition of an administrative fine of not more than \$1,000 for
40 each violation.

41 3. Any money collected as a result of an administrative fine
42 imposed pursuant to this section must be deposited in the State
43 General Fund.



1 **Sec. 10.** NRS 427A.145 is hereby amended to read as follows:

2 427A.145 In conducting an investigation, the Ombudsman or
3 an advocate may:

4 1. Inspect any facility for long-term care , *facility for the care*
5 *of adults during the day or facility maintained by a provider of*
6 *living arrangement services* and any records maintained by the
7 facility. Except as otherwise provided in this subsection, ~~the~~
8 medical and personal financial records may be inspected only with
9 the informed consent of the ~~resident,~~ *recipient*, the legal guardian
10 of the ~~resident~~ *recipient* or the person or persons designated as
11 responsible for decisions regarding the ~~resident,~~ *recipient*. If the
12 ~~resident~~ *recipient* is unable to consent to the inspection and has no
13 legal guardian, the inspection may be conducted without consent.

14 2. *With the consent of a recipient of living arrangement*
15 *services, inspect the residence of the recipient.*

16 3. Interview:

17 (a) Officers, directors and employees of any facility for long-
18 term care, *facility for the care of adults during the day or provider*
19 *of living arrangement services*, including any licensed provider of
20 health care as defined in NRS 629.031, who renders services to the
21 facility *or provider* or ~~its residents,~~ *recipients of services from the*
22 *facility or provider.*

23 (b) Any ~~resident of the facility,~~ *recipient* and the legal guardian
24 of the ~~resident,~~ *recipient*, if any, and the family of the ~~resident~~
25 *recipient* or the person or persons designated as responsible for
26 decisions regarding his or her care if the ~~resident~~ *recipient*
27 consents to the interview.

28 ~~3.~~ 4. Obtain such assistance and information from any
29 agency of the State or its political subdivisions as is necessary
30 properly to perform the investigation.

31 **Sec. 10.5.** NRS 427A.136 is hereby repealed.

32 **Sec. 11.** This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTION

427A.136 Investigation of complaint involving person who is less than 60 years of age. The Administrator may direct the Ombudsman or an advocate to investigate a complaint involving a person who is less than 60 years of age.



Attachment

F

Vocational Rehabilitation Federal
Grant Executive Summary 2018



BRIAN SANDOVAL
GOVERNOR

DON SODERBERG
DIRECTOR

SHELLEY HENDREN
ADMINISTRATOR

VOCATIONAL REHABILITATION FEDERAL GRANT

EXECUTIVE SUMMARY

JULY 2018

In December 2011, the Department of Employment, Training and Rehabilitation (DETR) was notified by the State Budget office that the Legislative Counsel Bureau (LCB) had concerns that the Rehabilitation Division (RD) was *pre-matching* the RD Vocational Rehabilitation (VR) grant ([CFDA 84.126](#) formula grant, *aka* Section 110 grant). The State Budget office, and LCB, informed DETR that *pre-matching* is a direct violation of **Section 7** of Nevada's Appropriations Act – SB 545, i.e., VR must expend all other non-General Fund sources of match *prior* to expending State General Funds as match.

As of July 1, 2011 (SFY 2012), DETR ceased *pre-matching* Section 110 grant funding with General Fund to comply with this edict, which has resulted in the re-allotment and relinquishment of non-matched federal Section 110 grant funding. In SFY 2017 (FFY 2017), Nevada re-allotted **\$9.5 million** and relinquished **\$1,432,599** of its Section 110 grant funding back to the federal government.

HISTORY

Section 110 Grant Funding and Match

Nevada receives Section 110 formula grant funds as a result of the Rehabilitation Act of 1973. States are required to *match* this federal funding with state funding sources. In Nevada, VR has acquired the following sources of *match*: *hard match (cash)* – State General Fund, Aging and Disabilities Services Division (ADSD) Independent Living collaboration funding (interagency transfer), and Fund for a Health Nevada grant funding; and, *soft match (effort)* – Statewide Cost Allocation (SWCAP), Third Party Cooperative Arrangements with other government entities, and allowable expenditures from its Blind Business Enterprise of Nevada (BEN) program.. These *match* funding sources are what Nevada utilizes to pay expenditures, which in turn draws down federal Section 110 grant funding. The match formula is: 21.3% State (non-federal) match funds to 78.7% federal Section 110 grant funds.

SFY vs. FFY Budgetary Constraints – Pre-Matching

Because the federal Section 110 grant is based on a federal fiscal year (FFY) award schedule (October 1-September 30), which is different from the State Fiscal Year (SFY) (July 1-June 30), states do not receive coincided federal funding to match expenditures. The first quarter of each SFY encompasses the *fourth* quarter of the FFY. For example, in the first quarter of SFY 2012 (July 1-September 30, 2011), the FFY 2012 federal funding was not yet authorized (October 1, 2012). Therefore, continued matching of the FFY 2011 grant was necessary to meet the requirements of the Section 110 grant being fully matched by September 30, 2011.



BRIAN SANDOVAL
GOVERNOR

DON SODERBERG
DIRECTOR

SHELLEY HENDREN
ADMINISTRATOR

Additionally, since the federal Section 110 grant funds may be expended over a 2-year time period (even though awarded annually), VR began *pre-matching* its Section 110 grant funding to avoid losing federal funds that were matched and available to support services to Nevadans with disabilities in the subsequent fiscal year. DETR believes that Nevada is the only state that is subject to the constraint of expending its 2-year federal grant in one year.

Violation of Section 7 of the State’s Appropriation Act

Included in each session in the State’s Appropriation Act (i.e., 2017 Legislative Session, SB 545) is law that prohibits the State from expending State General Fund or State Highway Fund money *prior* to decreasing that State appropriation by the amount provided from other fund sources.

Sec. 7. Except as otherwise provided in section 8 of this act, subsection 3 of section 9 of this act, sections 13, 15, 16 and 20 to 23, inclusive, of this act and NRS 90.851, where the operation of an office, department, board, agency, commission, institution or program is financed during the 2017-2019 biennium by an appropriation or appropriations from the State General Fund or the State Highway Fund as well as by money received from other sources, the portion provided by appropriation from the State General Fund or the State Highway Fund must be decreased to the extent that the receipts of the money from other sources is exceeded, but such a decrease must not jeopardize the receipts of such money as is to be received from other sources.

As of July 1, 2011, DETR ceased its *pre-matching* strategy to comply with this law, which has resulted in significant federal dollar re-allotments and relinquishments. Re-allotment is Section 110 grant funding that the state admits its inability to match, which is returned to the federal government for reallocation to other states. Relinquishment is the amount of Section 110 grant funding for which the state has authority to match but was unable to do so by the end of the SFY, and is returned to the federal government unspent. As a result of Nevada’s compliance with Section 7 of the Appropriations Act, the following illustrates the financial activity for the funds reverted to the State General Fund and federal funds re-allotted and relinquished:

	GRANT AWARD	GENERAL FUND REVERSION	FEDERAL FUND RE-ALLOTMENT	FEDERAL FUNDS LOST TO VR DUE TO GF REVERSION
SFY 12		\$1,437,287		\$5,310,539
FFY 12	\$22,206,585		\$9,770,000	
SFY 13		\$917,150		\$3,388,719
FFY 13	\$20,385,377		\$4,500,000	
SFY 14		\$670,340		\$2,476,796
FFY 14	\$22,541,738		\$5,200,000	
SFY 15		\$211,136		\$780,113
FFY 15	\$24,188,896		\$8,900,000	
SFY 16		\$384,734		\$1,421,529
FFY 16	\$24,988,724		\$8,200,000	
SFY 17		\$387,730		\$1,432,599
FFY 17	\$25,881,489		\$9,500,000	
TOTAL	\$140,192,809	\$4,008,377	\$46,070,000	\$14,810,295



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GOVERNOR

DON SODERBERG
DIRECTOR

SHELLEY HENDREN
ADMINISTRATOR

Maintenance of Effort Penalties

Maintenance of effort level is based on the amount of a state's expenditures from *non*-federal sources, and a state's ability to meet those expenditure requirements during the first year of the grant. Due to the challenges noted above (i.e., Nevada VR not expending its federal funding in the second year due to the Rehabilitation Services Administration's requirement of meeting the match in the first year; and, not having the ability to *pre-match*, thus not meeting the match requirements for the Section 110 grant), Nevada VR was penalized \$1,333,737 in FFY 2013. However, since VR did not match the entire federal allotment in FFY 2013, the penalty had no impact on expenditures that year.

Challenges and Strategies

It is important to note that as a result of complying with Section 7 of the Appropriations Act, sources of match generated in addition to the General Fund must be accounted and expended first. This results in a larger General Fund reversion, unless VR submits a work program requesting increased budget authority. This impact is demonstrated in SFY 2012/FFY 2012, when the General Fund reversion amounted to \$1.437 million.

To mitigate both the General Fund reversion and federal re-allotment and relinquishment effects, VR has developed several programs to generate match (which require increased budget authority).

- In 2012, the RD developed its first Third Party Cooperative Arrangement (TPCA). It now has 4 operating TPCAs. By negotiating a higher match participation amount from the partner entity (30% versus the required 21.3%), the RD is able to use the additional "over-match" to draw the subsequent federal funds to provide services to Nevadans with disabilities in its vocational rehabilitation program. In SFY 2017, the division had five (5) TPCAs established and operating. These TPCAs generated *over-match* in the amount of \$251,157, which in turn allowed the RD to draw down federal funds in the amount of \$927,986. This *over-match* is a savings to the General Fund by way of reverting unspent, budgeted General Funds, but perpetuates the erosion of the RD's base budget
- Fund for a Health Nevada (tobacco settlement funds granted by the State of Nevada, Health and Human Services). In SFY 2015, the division received \$87,350 and \$159,840 in SFY 2016 (*hard match* dollars).
- Collaboration with Nevada's Aging and Disabilities Services Division (ADSD). The division jointly provides services to co-enrolled clients. ADSD provides the Section 110 grant required 21.3% match portion, and VR draws down the corresponding 78.8% federal funding to expend within its program. In SFY 2015, this collaboration totaled \$13,355 (*hard match* dollars).

Order of Selection

When VR does not have adequate funding to serve *all* eligible rehabilitation services applicants, the law requires that states utilize an *order of selection* process, which is a categorization process that first serves those with the most significant disabilities. Applicants are assessed and assigned a *significance of disability* (SOD) score, which is then used in determining which applicants are served first, second,



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third, etc. until the state's funding is exhausted. Applicants with a *most significantly disabled* category score are served first, those with a *significantly disabled* category score are served next, and those with a *disabled* category score are served last.

If VR does not have adequate funding to serve all applicants within a certain category (e.g., all applicants within the second tier of *significantly disabled*), then said applicants will be placed on a wait list by order of application and receive a status update letter every 90 days, along with information and referrals to other social services available to them to assist them in pursuing employment goals until VR services are available to them. As soon as funding is available, applicants are notified and served. Order of selection affects all programs of service within VR, including those currently being provided by its five Third Party Cooperative Arrangements.

About 28 states are in an order of selection status; Nevada is not one of those states. Once in an order of selection status, it is difficult for a state to revert from that status due to the large financial investment it takes to have the ability (i.e., match requirements) to serve *all* applicants on the wait list, as well as all new and forthcoming applicants.

Section 110 Federal Grant Summary

The impact to VR has been:

- 1) The inability of Nevada to fully match its federal Section 110 grant resulting in the re-allotment of \$9.5 million in FFY17 alone.
- 2) The inability for Nevada to access federal VR grant funding that could have been matched in the first year of the Section 110 grant and then spent in the second year due to Section 7 of the Appropriations Act. Nevada is the only state required to expend its 2-year federal grant in one year.
- 3) Shrinking state budget authority to expend Section 110 grant funding due to base budgeting and the restriction on increasing General Fund or other sources of funding used for match.
- 4) With a heavy reliance on non-General Fund sources of match, especially soft match, when the match source no longer exists, VR has two options:
 - a. Request additional General Fund funding, and/or
 - b. Reduce expenditures, which could slowly force Nevada toward an order of selection status.

Attachment

G (1)

Bill Draft Request

Bill Draft Request
Supported Decision Making
Committee on Seniors, Veterans and Adults with Special Needs
July 19, 2018 Work Session

Bill draft request related to supported decision-making agreements as a recognized means to support and accommodate adults with a disability in making life decisions. Supported decision-making is a process of creating an agreement between an adult with a disability and a trusted supporter or supporters, which empowers an adult to make decisions about his or her own housing, services, medical care, vocation, education, personal relationships and other life matters without third parties making such decisions. Supported decision-making is recognized as a less restrictive alternative to guardianship whereby supporters may assist the adult gather and evaluate information, help consider and communicate decisions, but not as a substitute decision-maker, and are afforded the legal status to be with the adult and participate in discussions with others regarding areas where the supporter provides assistance. Under the principles of supported decision-making, adults are enabled to choose to live their lives in the manner they wish consistent with their desires, values, beliefs, wishes and cultural norms.

Supported decision-making agreements may be created in any format in accordance with the personal needs and desires of the supported person but must include all of the following:

- Designation of at least one supporter;
- The types of decisions for which the supporter is authorized to assist;
- The types of decisions, if any, for which the supporter may not assist;
- The agreement must be in writing;
- The agreement must be dated;
- Each party to the agreement must sign the agreement in the presence of two witnesses.

A supported decision-making agreement written and signed in accordance with this language shall be recognized for the purposes of any provision of law as the decision or request of the supported person. The Bill draft request would include provisions and direction for non-parties to the agreement, including but not limited to, medical and financial professionals, to rely on the supported adult's decisions, not unlike provisions in laws governing powers of attorney.

Attachment

G (2)

Supported Decision-Making Findings
and Stakeholder Recommendations



SECOND JUDICIAL DISTRICT COURT

STATE OF NEVADA
WASHOE COUNTY

FRANCES M. DOHERTY
DISTRICT JUDGE
DEPARTMENT TWELVE
FAMILY DIVISION

PHYSICAL: ONE SOUTH SIERRA
MAILING: 75 COURT STREET
RENO, NEVADA 89501
(775) 328-3470
FAX: (775) 328-3475

Supported Decision-Making Findings and Stakeholder Recommendations

December 15, 2017

FINDINGS

1. The Second Judicial District Court (Grantee) received a Supported Decision-Making (SDM) grant from the National Resource Center for Supported Decision Making (NRC-SDM) in the amount of \$4000, which extended from December 1, 2016 through December 15, 2017. The grant had the participation and support of 16 original stakeholders which has expanded with varying degrees of participation to 40 stakeholders over the course of the grant year.¹
2. The Grantee utilized the NRC-SDM grant to conduct 29 educational outreach presentations statewide, including two 3-hour CLE presentations broadcast statewide on November 28, 2017. A total of 463 persons participated in grant supported educational outreach presentations throughout the course of the grant year.²
3. Supported Decision-Making is a national and international movement originating in Canada in the 1980's and advanced by the 2006 passage of the United Nations Convention on the Rights of Persons with Disabilities.³ Since such passage, jurisdictions throughout the United States and world have advanced formal and informal protocols to expand accessibility of Supported Decision-Making for persons with disabilities.



Copy of
Stakeholder Names



Date of
Presentations and A

³ <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.htm>

4. The Grantee, with the support and involvement of its Stakeholders, developed a Supported Decision-Making Survey completed by 108 interested persons throughout the grant year.⁴ Notable results of the survey indicate the following:
 - 17% of those surveyed are interested in SDM for themselves; 83% of those surveyed are interested in SDM for another.
 - 50.48% of those surveyed are familiar with SDM; 49.52% of those surveyed had no previous familiarity with SDM.
 - 58.25% of those surveyed are interested in being a supporter; 7.77% are not interested; 33.98% are unsure.
 - 47% of those surveyed had received training on SDM; 53% had not received training on SDM.
 - 14.29% of those surveyed are potential supported persons; 24.49% are parents of potential supported persons; 21.43% are agency representatives and 29.59% are in other categories.
 - 40% of potentially supported persons live with their family; 11.76% of potentially supported persons live independently without assistance; 11.76% live independently with assistance; 8.24% live in a group home; 3.53% live in residential care and 1.18% live in assisted living.
 - 30.53% of those surveyed indicated a guardianship case was already in place; 51.59% indicated no guardianship case was in place and 17.89% did not know if a guardianship case was in place.
 - 32.58% of those surveyed indicated a guardianship was being considered at the time of the survey; 67.42% indicated a guardianship was not being considered.
 - 100% of those surveyed found the information received about SDM helpful.
 - 97.92% of those responding (96 responders) would like to see SDM available as an alternative to guardianship in Nevada. 2.08% (2 responders) would not.

5. Supported Decision-Making benefits persons with disabilities or elder adults who are able to understand and communicate their preferences in personal affairs with assistance and support from trusted third persons, without loss of their self-determination.



6. Supported Decision-Making may serve as a least restrictive action and in the best interests of protected or proposed protected persons in guardianship actions who are able to understand and communicate their preferences in some or all of their personal affairs with assistance from trusted third persons without impeding their self-determination, consistent with the provisions of Senate Bill 433 sec. 22.⁵
7. The State of Nevada has already incorporated a form of Supported Decision-Making protocols into its Durable Power of Attorney for Health Care and End of Life Decisions for persons with intellectual disabilities at NRS 162A.865.
8. Supported Decision-Making is already an informal tool used by families, case managers and advocates supporting persons with disabilities or elder adults who are able to understand and communicate their preferences.
9. Current use of Supported Decision-Making is not limited to a specified document, set of words or protocols. Supported Decision-Making agreements may be verbal or written, entered into between a person with disabilities or elder adults who are able to understand and communicate their preferences and a trusted third party, without loss of their self-determination.
10. Supported Decision-Making protocols may be incorporated into existing formally executed legal documents such as powers of attorney, health care and end of life advance directives, case management and person centered service plans and educational, vocational and medical supports.⁶
11. Supported Decision-Making is not a substitute for guardianship for persons who meet the definition of “incapacity” under NRS 159 by clear and convincing evidence and for whom special or full guardianship may be in their best interests when they cannot understand or communicate their preferences with assistance, in some or all of their primary personal affairs.
12. Supported Decision-Making is not generally familiar to public institutions including but not limited to financial, educational, and medical institutions.

⁵ SB 433 Sec. 22: A guardian ad litem appointed pursuant to this section is an officer of the court and is not a party to the case. A guardian ad litem appointed pursuant to this section shall not offer legal advice to the protected person or proposed protected person but shall: (a) Advocate for the best interests of the protected person or proposed protected person in a manner that will enable the court to determine the action that will be the least restrictive and in the best interests of the protected person or proposed protected person[.]

⁶ Power of Attorney sample language: “It is my and my agent’s intent that we will work together to implement this Power of Attorney. That means that I should retain as much control over my life and make my own decisions, with my agents support, to the maximum of my abilities. I am giving my agent the power to make certain decisions on my behalf, but my agent agrees to give primary consideration to my express wishes in the way she makes those decisions.” Jonathan Martinis, November 28, 2017 presentation; <https://www.washoecourts.com/index.cfm?page=adultguardianship>. Materials, page 104.

13. Supported Decision-Making is endorsed by the following:

- a. American Bar Association⁷
- b. Uniform Commission on Laws⁸
- c. National Guardianship Association⁹
- d. United States Department of Health and Human Services
- e. National Alliance on Mental Illness
- f. Autistic Self Advocacy Network
- g. The Arc-For people with intellectual and developmental disabilities.

RECOMMENDATIONS

The overwhelming majority of stakeholders in the Second Judicial District Court SDM grant make the following recommendations:

- I. Nevada incorporate use of Supported Decision-Making, intended to preserve full or partial self-determination of people with disabilities, into Nevada practice and utilization and advance its general acceptance.
- II. Nevada law incorporate recommendations of the National Resource Center for Supported Decision Making (NRC-SDM), the National Guardianship Association, the Uniform Commission on Laws, the American Bar Association, the Department of Health and Human Services and that other alternatives to guardianship, including Supported Decision-Making, be identified and considered whenever possible prior to the commencement of guardianship proceedings.
- III. Nevada law recognize Supported Decision-Making arrangements may be operationalized through individualized agreements, without required words, protocols or forms and may be incorporated into a power of attorney, advanced directive, educational, medical, therapeutic or vocational plans and other agreements.

⁷ https://www.americanbar.org/groups/law_aging/publications/bifocal/vol_38/issue-6--august-2017-/aba-urges-supported-decision-making-as-less-restrictive-alternat.html

⁸ http://www.uniformlaws.org/shared/docs/Guard-ianship%20and%20Protective%20Proceedings/2017AM_UGCOPPA_AsApproved.pdf
<http://uniformlaws.org/Act.aspx?title=Guardianship,%20Conservatorship,%20and%20Other%20Protective%20Arrangements%20Act>
<http://www.uniformlaws.org/Act.aspx?title=Adult%20Guardianship%20and%20Protective%20Proceedings%20Jurisdiction%20Act>

⁹ http://www.uniformlaws.org/shared/docs/adult_guardianship/UAGPPJA_2011_Final%20Act_2015feb4.pdf

⁹ “Supported decision making should be considered for the person before guardianship, and the supported decision-making process should be incorporated as a part of the guardianship if guardianship is necessary. Supported decision making has been described as occurring when an individual with cognitive challenges is the ultimate decision maker but is provided support from one or more persons who explain issues to the individual and, where necessary, interpret the individual’s words and behavior to determine his or her goals and preferences.” <https://www.guardianship.org/wp-content/uploads/2017/07/SDM-Position-Statement-9-20-17.pdf>

- IV. Nevada Legislature adopt law(s) incorporating Recommendations I through III to recognize, promote, advance, and affirm the use of Supported Decision-Making as an alternative to surrogate decision making arrangements such as guardianships.

Attachment

H

Blind Persons Right to Parent Act

Blind Persons Right to Parent Act

To prohibit discrimination against the blind in guardianship, adoption, custody or visitation proceedings

A BILL

For purposes of prohibiting a court, when making a disposition on guardianship, custody or visitation proceedings, from solely considering the blindness of a child's parent, guardian, or custodian; For prohibiting a local department of social services, a guardian, or a child placement agency from withholding consent to an adoption solely because a prospective adoptive parent is blind; For prohibiting a court from denying an adoption petition solely because the petitioner is blind; and for requiring the Social Services Administration to adopt regulations prohibiting a local department from taking actions solely because a child's parent or guardian is blind.

Be it enacted by the legislature of the state of Nevada assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Blind Persons Right to Parent Act."

SECTION 2. FINDINGS.

The legislature finds the following:

- (1) All blind Americans have the right to found a family, to freely and responsibly decide on the number and spacing of their children, and to retain the custody of their offspring on an equal basis with others. This right to parent is rooted in the due process clause of the Fourteenth Amendment; however, blind people are often stripped of these constitutional rights when state statutes, judicial decisions, and child welfare practices are based on the presumption that blindness automatically means parental incompetence.
- (2) The presumption that blindness automatically means parental incompetence is a misconception. Given the proper tools and education, blindness can be reduced to a physical nuisance. Because many sighted people do not understand the techniques that blind people use to accomplish everyday tasks, sighted judges, social workers, and state officials assume that those tasks cannot be completed by a blind person. Using alternative techniques, blind people are capable of living independent, productive lives, which include providing safe and loving homes for their children. For example, blind people put small tactile dots over markers on stoves, washing machines, and other flat surfaces so that they can independently

operate those devices. Specific to raising children, blind parents may have their young children wear a small bell on their shoes so the child's location can be known to the parents. Blind parents will also pull a stroller behind them rather than push the stroller in front of them so their long white cane or guide dog will find obstacles or enter an intersection before the child and stroller.

- (3) When sighted parents are involved in a guardianship, custody or visitation proceeding, their parental capabilities and how those capabilities affect the best interest of the child are thoroughly evaluated through a careful review of evidence. Too often, however, judges summarily dismiss a blind parent's capabilities under the misconception that blind people are incapable of most anything, despite evidence on record proving otherwise. Blind parents involved in these proceedings must first overcome any bias or low expectations of the judge, and then also provide evidence negating those misconceptions above and beyond the normal burden placed on sighted parents.
- (4) Widespread misconceptions about blindness often trigger a state agency to act, unsolicited, against the wishes of a blind parent. One of many countless, devastating reports of discrimination occurred in 2010, when the state of Missouri wrongfully deemed a blind couple unable to care for their 2-day old daughter, who remained in protective custody until the family was reunited after a 57-day battle. These parents had done nothing to demonstrate parental incompetence other than happening to have had a child and been blind, and yet the agency solely considered their blindness and decided to take action. In fact, in the Missouri case and many others, the parents had voluntarily contacted social service officials themselves in order to seek advice and assistance and to ensure that all of their child's needs were being met, but instead found themselves stripped of custody. Thus, hasty actions on the part of state social welfare officials can discourage blind parents from seeking services and assistance for which they and their children are eligible.
- (5) During custody proceedings in cases of divorce, where one parent is blind and the other parent is sighted, the sighted parent will often try to use the other parent's blindness as a tool to deny the blind parent custodial rights. Because custody proceedings related to a divorce are often hostile, the court should demand that each party demonstrate evidence of the other party's incompetence. However, courts often assume that the sighted party is accurate in portraying the blind parent as incompetent, and make custody and visitation decisions based solely on the fact that one parent is blind. These decisions can range from limiting or denying visitation unless a sighted person is present at all times to simply denying the blind parent all custodial rights. This is not only discriminatory; it denies the blind parent a fair chance at custody and opens courts to manipulation.

SECTION 3. CONSIDERATION OF BLINDNESS DURING GUARDIANSHIP, CUSTODY OR VISITATION PROCEEDINGS

- 1) In making a disposition on guardianship, custody or visitation proceedings where a party is blind, the court may not deny that party solely because that party is blind. The blindness of the party is relevant only to the extent that the court finds, based on evidence in the record, that the blindness affects the best interest of the child.

SECTION 4. CONSIDERATION OF BLINDNESS IN CASES OF ADOPTION

- 1) Consent to adoption – When a local department of social services, a guardian, or a child placement agency considers an adoption petition, the department, guardian, or child placement agency may not deny the petition solely because the petitioner is blind.
- 2) Adoption proceedings – In making a disposition on an adoption petition where the petitioner is blind, the court may not deny the petition solely because the petitioner is blind. The blindness of the petitioner is relevant only to the extent that the court finds, based on evidence in the record, that the blindness affects the best interest of the child.

SECTION 5. CONSIDERATION OF BLINDNESS BY THE SOCIAL SERVICES ADMINISTRATION

- 1) Regulations – Within...time of the passage of this Act, the Administration shall adopt regulations that prohibit a local department from seeking the custody or guardianship of a child for placement in foster care solely because the child's parent or guardian is blind.

SECTION 6. DEFINITION OF BLINDNESS

- 1) For purposes of this act, the term `blind' or `blindness' means —
 - (A) Vision that is 20/200 or less in the best corrected eye, or
 - (B) Vision that subtends an angle of not greater than 20 degrees in the best corrected eye.

Attachment

I

Relating to Guardianship Sterilization
Proposed Regulations

REPRODUCTIVE RIGHTS: AN ANALYSIS OF NRS 159.0805

The following analysis of NRS 159.0805 is submitted by Janet S. Belcove-Shalin, Esq., Ph.D., Rights Attorney at the Nevada Disability Advocacy & Law Center (NDALC). NDALC is a private, statewide, non-profit organization serving as Nevada's federally-mandated protection and advocacy system for the human, legal, and service rights for individuals with disabilities.

* * * * *

Before the State may deprive an individual of a protected liberty interest, the Due Process Clause of the Fourteenth Amendment requires the State to provide procedural protections.¹ Due Process protects personal privacy as a liberty interest, including the all-important decision of bearing a child.² All persons, including those with intellectual disabilities possess these liberty interests.³

The right to procreate is not absolute but susceptible to state regulation.⁴ If a state chooses to sterilize its citizens, this power must be exercised with an abundance of caution since this decision "may have subtle, farreaching [sic] and devastating effects."⁵

The Nevada statute governing sterilization of a protected person is NRS 159.0805:

NRS 159.0805 Approval of court required before guardian may consent to certain treatment of or experiment on protected person; conditions for approval.

1. Except as otherwise provided in subsection 2, a guardian shall not consent to:
 - (a) The experimental medical, biomedical or behavioral treatment of a protected person;
 - (b) The sterilization of a protected person; or
 - (c) The participation of a protected person in any biomedical or behavioral experiment.
2. The guardian may consent to and commence any treatment or experiment described in subsection 1 if the guardian applies to and obtains from the court authority to consent to and commence the treatment or experiment.
3. The court may authorize the guardian to consent to and commence any treatment or experiment described in subsection 1 only if the treatment or experiment:
 - (a) Is of direct benefit to, and intended to preserve the life of or prevent serious impairment to the mental or physical health of, the protected person; or
 - (b) Is intended to assist the protected person to develop or regain the abilities of the protected person.

(Added to NRS by 1981, 1933; A 1999, 1400; 2003, 1786; 2007, 2032).

¹ Bd. of Regents v. Roth, 408 U.S. 564 (1972).

² Carey v. Population Servs. Int'l, 431 U.S. 678 (1977).

³ City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432 (1985).

⁴ See Roe v. Wade, 410 U.S. 113 (1973); Buck v. Bell, 274 U.S. 200 (1927).

⁵ Skinner v. Oklahoma, 316 U.S. 535, 562 (1942).

Under the U.S. Constitution and case law, NRS 159.08053 is deficient. While it does mandate court approval based on the protected person's health, it disregards all issues related to legal standards, competency issues, and evidentiary hearings. Furthermore, there is no Nevada case law on sterilization to guide the court.

Below is a list of key criteria the statute excludes.

1. NRS 159.08053 fails to reference a burden of proof.

- If the protected person's preference is unknown, courts must insure by clear and convincing evidence⁶ that sterilization is in the protected person's best interest.⁷

2. NRS 159.08053 fails to appoint a guardian ad litem or counsel.

- Courts must appoint independent counsel to represent the protected person and/or a guardian ad litem to make recommendations on behalf of the protected person which represents the protected person's best interests.⁸

3. NRS 159.08053 fails to mandate the appointment of an expert to examine and observe the protected person.

- The court must guarantee the protected person receives a full medical and psychological examination, paying specific attention to the protected person's capacity to decide about sterilization.

4. NRS 159.08053 fails to demand an evidentiary hearing take place before the court orders an involuntary sterilization.

- The court must order a full evidentiary hearing before a court can deprive a protected person of a liberty interest.

5. NRS 159.08053 fails to include the judge's direct role in apprising the protected person's competency to consent or withhold consent to a sterilization.

- A judge must assess firsthand the condition of the protected person to determine level of capacity.

6. NRS 159.08053 fails to consider less irrevocable and intrusive means of contraception, other than sterilization.

- The court cannot order a sterilization unless it determines no viable alternatives exists and all possibilities were tried.

⁶ Clear and convincing evidence is the typical standard.

⁷ A host of criteria determine the best interest of a protected person which includes, but is not limited to, the following: If the protected person will experience trauma or psychological damage due to sterilization or on account of pregnancy or birth; the likelihood of the protected person engaging in sexual activity (forced or voluntarily); the ability of the protected person to care for a child; if the sterilization is actually for the benefit of the protected person or the convenience of others.

⁸ Changes enacted last year to Nevada's guardianship law does require the appointment of these persons in other provisions of Chapter 159.

Attachment

J

ABLE Fiscal Note Memorandum



To: Grant Hewitt, Nevada State Treasurer's Office
From: Megan Bedera, Amplify Relations
Date: July 11, 2018
Subject: ABLE Marketing Proposal

Proposed Campaign

Targeting of people with disabilities is challenging because of HIPPA requirements and there are very few data providers collecting the information that is available. Because of this, we feel a mix of online, outdoor (billboard or bus), radio ads and public relations outreach will be the best fit to reach this small and hard to identify market.

Digital Ads

We anticipate purchasing all of the limited inventory to make sure we're contacting the people who are seeking information.

Outdoor

Outdoor is the most cost-effective way to do mass market with a very limited budget. Because outdoor is targeted to people in motion, your message will be seen by a wide variety of people through their daily lives.

Radio

Radio is also an effective mass market media. They also have an added benefit of amplifying your buy with free PSA time. We project you could receive as much as 3 free PSA spots for every spot purchased.

Public Relations

Earned media will need to be a key focus of this campaign since the audience is difficult to target. Additionally, it is a "feel good" story that news publications can share to help people with disabilities access a program to help safeguard their savings and futures.

Proposed Budget

Outdoor	
• Design Fee	\$2,500
• Purchased media	\$30,000
Digital Ads	
• Design Fee	\$1,500
• Digital Ads	\$20,000
Radio Buy	
• Design Fee	\$1,000
• Purchased media	\$10,000
• Projected PSAs	(in kind value of \$30,000)
Public Relations	\$10,000
• 6 press releases	
• 2 opinion editorials	
• 6 email updates	
Total Annual Budget	\$75,000