MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-Seventh Session
May 28, 2013

The Senate Committee on Health and Human Services was called to order by Chair Justin C. Jones at 4:01 p.m. on Tuesday, May 28, 2013, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Justin C. Jones, Chair
Senator Tick Segerblom
Senator Joseph P. Hardy
Senator Ben Kieckhefer

COMMITTEE MEMBERS ABSENT:

Senator Debbie Smith, Vice Chair (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Lynn D. Stewart, Assembly District No. 22

STAFF MEMBERS PRESENT:

Marsheilah D. Lyons, Policy Analyst
Risa Lang, Counsel
Jackie Cheney, Committee Secretary

OTHERS PRESENT:

William O. Voy, District Judge, Department A, Eighth Judicial District
Arthur (A.J.) Delap, Las Vegas Metropolitan Police Department
Christy Craig, Deputy Public Defender, Clark County Public Defender's Office
John T. Jones Jr., Nevada District Attorneys' Association
Joseph Tyler, President, National Alliance on Mental Illness, Nevada

Lawrence P. Matheis, Executive Director, Nevada State Medical Association
Vanessa Spinazola, American Civil Liberties Union of Nevada
Jack Mayes, Executive Director, Nevada Disability Advocacy & Law Center
Stacey Shinn, Progressive Leadership Alliance of Nevada
Coni Kalinowski, M.D., Medical Director, Mojave Adult, Child and Family Services; Faculty, University of Nevada School of Medicine
Lesley R. Dickson, M.D., Nevada Psychiatric Association; Chair, Governor's Committee on Co-Occurring Disorders
Tracey Green, M.D., State Health Officer, Health Division, Department of Health and Human Services
David Mandzak
Brian Brannman, Chief Executive Officer, University Medical Center of Southern Nevada
Leah Lamborn, Administrative Services Officer, Division of Health Care Financing and Policy, Department of Health and Human Services
Valerie Wiener, Chair, Legislative Committee on Health Care's Task Force to Develop a State Plan to Address Alzheimer's Disease
Dan Musgrove, The Valley Health System
Mary Liveratti, State President, AARP Nevada
Bill Welch, Nevada Hospital Association

Chair Jones:
We will begin with Assembly Bill (A.B.) 287

ASSEMBLY BILL 287 (2nd Reprint): Authorizes the involuntary court-ordered admission of certain persons with mental illness to programs of community-based or outpatient services under certain circumstances. (BDR 39-163)

Assemblyman Lynn D. Stewart (Assembly District No. 22):
This bill will result in better, more efficient and faster mental illness treatment for approximately 100 people who fail to comply with a prescribed medication and treatment program. These individuals have demonstrated repeated incidents of agitated behavior that many times escalate to violence and police involvement. The police escort them, sometimes with a struggle, to the Rawson-Neal Psychiatric Hospital in Las Vegas. The individuals are treated at the hospital for approximately 1 week and then released back into the community. The individuals again fail to comply with the prescribed outpatient medication and treatment plan, and the cycle continues.

A group of mental health professionals approached me some time ago to discuss the problems. What was occurring was not good for the individuals in need of help or for society as a whole. The individuals are dangers to themselves and the people around them who oftentimes are family members.

We formed a group in August 2012 which included Arthur Delap from the Las Vegas Metropolitan Police Department (Metro), District Judge William Voy, a representative from the Clark County District Attorney's Office, Dr. Tracey Green from the Department of Health and Human Services (DHHS), two medical doctors who are also members of the Nevada Legislature, and Dr. Lesley Dickson from the Las Vegas Psychiatric Association. Additionally, we received input from the Clark County Public Defender's Office and the American Civil Liberties Union (ACLU). This group proposed the program described in A.B. 287. The Governor has provided $1.4 million to fund an intense case management unit that will oversee the 75-100 patients addressed by the provisions of this bill.

William O. Voy (District Judge, Department A, Eighth Judicial District):
I oversee the civil commitment process in Clark County. I was first a hearing master in 1994 and then became a judge in 1998. This has been a recurring problem for many years in Clark County. Several hundred patients rotate in and out of the inpatient facility where we have to go through the cumbersome process of recommitting. Some of these individuals are recommitted as frequently as 12 times per year. They usually stay 4 to 5 days in the emergency room waiting to be admitted to the hospital. Once they become inpatients, they stay an average of 7 to10 days for stabilization. Upon release, they are directed to report to a medical clinic for further mental health treatment and services. They do not show up, their mental health condition deteriorates, and law enforcement encounters them again on the streets.

The Metro has a transportation unit specially trained to deal with this population. The Metro prefers to encounter these individuals soon after they stop taking medication instead of several weeks later after they have become psychotic and are dangers to themselves and others.

Under A.B. 287, the commitment process will remain the same. When the patient is released, he or she will leave with a treatment plan including medications, other mental health services, and sometimes vocational and rehabilitative services. When the patient does not show up to a medication

appointment, an affidavit will be sent via electronic communications to the court. The court will review it and determine whether missing the appointment meets the probable cause standard. If probable cause is met, an order will be issued to the transportation unit that will pick up the person and take him or her to the appointment and then back.

These new procedures will take some of the pressure off the emergency rooms. As you may recall, a few weeks ago, a state of emergency occurred at the University Medical Center of Southern Nevada where the emergency room (ER), except for the trauma unit, was shut down for about 12 hours. This was because there were so many mental health patients in the ER. This has been an ongoing problem in Clark County.

The proposed special unit funded by the Governor to provide intense case management, medication and other mental health services for at least 75 patients is expected to stop the revolving door for those patients. The goal is to bring those patients to a level where they can function better within the community in which they live.

An estimated 150 people identified in Clark County could benefit from this program. We want to roll out this program, track the results and report the success or nonsuccess of the program to the next Legislative Session.

Arthur (A.J.) Delap (Las Vegas Metropolitan Police Department):
Las Vegas Metropolitan Police Department has been working with Assemblyman Stewart on this measure for almost a year.

As a working police officer, I respond to calls involving persons with severe mental health issues. These people have committed no crime, but law enforcement dreads encountering them because their behavior can be so violent that family, friends, the public and the officers arriving at the scene are at risk. This is why I believe the measure proposed in A.B. 287 is so profound. If we can contact these individuals in the beginning stages of degeneration as opposed to the bottom of their degenerative states, the chances for a safe outcome are much better.

I have personally responded to numerous calls involving individuals who were at the bottom of their degenerative state. These are scary situations where the individuals are not thinking correctly and have limited reasoning skills. I have

witnessed incredible feats of strength. I will mention one experience I had that demonstrates this point. The individual was recently released from the U.S. Navy because of a mental issue. On his way home, he stopped at a friend's house in Las Vegas. During this visit, he had a complete mental breakdown. I witnessed him using his elbows and feet to break the studs of the wall. He was showing no signs of pain. At one point, he came out of the bedroom with a huge knife. This incident was as close as I have ever come to using deadly force. I cannot say this was a criminal event. I was simply trying to protect the public and ourselves. Eventually, we were able to get the man under control, and there was a successful outcome. This is what I envision when I think about A.B. 287. There is an opportunity to provide the services to these individuals before the situation turns potentially lethal for them and others around them.

Christy Craig (Deputy Public Defender, Clark County Public Defender's Office):
The Clark County Public Defender's Office supports A.B. 287. I will explain our support for this bill from a criminal perspective. As a public defender, we represent indigent defendants. A significant portion of our indigent defendants are mentally ill and suffer from various issues that often lead to being arrested. These individuals are arrested sometimes for simple crimes, but they are also arrested for difficult and dangerous crimes. I call these individuals, "treatment resistance loopers."

The "treatment resistance loopers" follow a pattern. They get into trouble, are arrested, go to jail and are treated in jail. They may then be sent to Lake's Crossing where they are found incompetent to proceed in the legal case, the criminal charges are dismissed and they are transferred to Southern Nevada Adult Mental Health. They spend a short time at Southern Nevada Adult Mental Health where it is determined they are competent to make decisions regarding their own treatment programs, despite the fact each individual had been determined to be legally incompetent regarding his or her criminal case. One of the cruel ironies of mental illness is the belief that one is not mentally ill. These individuals often choose not to be treated and not to take medications despite the consequences, and then they end up back in custody. It is a wildly inefficient and costly way of treating the mentally ill.

The existing process is very costly. The police department incurs costs for the arrest and treatment given while in jail. The courts incur costs for opening up cases, maintaining caseloads and case files and for the court hearings. The

district attorney's office and the public defender's office incur costs for representation. The courts incur costs for doctors to do competency evaluations. It costs about $120 per day for a mentally ill person to be held at the Clark County Detention Center. A person at Lake's Crossing costs approximately $550 per day. Assembly Bill 287 targets the repeat offenders. As previously mentioned, many individuals are continuously in a loop. It is a sad situation when the largest providers of mental health treatment in Nevada are our prisons and jails.

Assembly Bill 287 is a small step in improving mental health treatment, but it is an important beginning in criminal justice. This bill allows the judge to approve, follow and maintain control over a defendant's treatment without having that person disappear into the system. This is not simply a medication program. It is envisioned as a wraparound treatment plan.

It is not every day as a public defender I find myself on the same side of an issue as the police department and the District Attorneys' Association. We are all on the same side for the appropriate reasons. If this is done correctly with judicial oversight, and attorneys are appointed to represent the individuals, this will make positive changes in the way the mentally ill are treated. I urge your support of this bill.

John T. Jones, Jr. (Nevada District Attorneys' Association):
The Nevada District Attorneys' Association supports A.B. 287 for the reasons already discussed.

Joseph Tyler (President, National Alliance on Mental Illness, Nevada):
I wholeheartedly support A.B. 287. I have worked on the Program for Assertive Community Treatment (PACT) program in Northern Nevada. This is a great program. I participated in the crisis intervention team, which helped train police officers to handle the mentally ill more comfortably.

I offer experience from a personal viewpoint. When my parents were alive and I lived with them, I was very sick. I was not sick only because I had a bad childhood, or just because I used drugs and alcohol, or because I had a great-grandfather with schizophrenia. I was sick because of the combination of these reasons. My parents took me to the hospital seven times. I would try to jump out of the vehicle on the way to the hospital. One time I parked my dad's car in the U.S. Highway 50 Cave Rock tunnel to avoid the alien waves

that were coming down on me. It is unbelievable what crazy thoughts went through my head. I got help and am now able to help others. Please pass this bill and help those who cannot help themselves.

Lawrence P. Matheis (Executive Director, Nevada State Medical Association):
The Nevada State Medical Association supports A.B. 287 for the reasons you have heard today.

Vanessa Spinazola (American Civil Liberties Union of Nevada):
The American Civil Liberties Union of Nevada opposes A.B. 287. We oppose the bill because of general policy concerns and because of specific problematic bill language as described in my letter (Exhibit C).

As a general policy issue, ACLU believes a person has a fundamental right to choose his or her own course of medical treatment without interference from the State. The Due Process Clause of the *United States Constitution* protects this.

The ACLU is concerned about forced medication. When "Kendra's Law" passed in New York, which is a similar law, 88 percent of outpatient treatment programs involved a medication regimen. A similar result could happen here. Additionally, 22 percent of those programs required all-day participation. We are concerned about how individuals may do this and be able to work and support themselves.

Another general policy concern is the potential for discrimination as described on pages 2 and 3 of Exhibit C. This is not due to the intent of the bill or anyone involved with the bill. When Kendra's Law was in effect, racial discrimination occurred. Black patients were subject to outpatient involuntary commitment at five times the rate of white patients. The Hispanic patients were subject to involuntary commitment at 2 1/2 times the rate. If A.B. 287 is enacted, the ACLU recommends tracking and reporting to ensure discrimination does not occur in Nevada.

We have three specific language concerns in the bill that are discussed in detail on pages 3 through 7 of Exhibit C. The first has to do with due process and fair proceedings. The court procedure outlined in section 3 of the bill stacks the deck against people who would be outpatient-committed. Instead of two mental health professionals assigned by the State, the patient should have the

opportunity to choose a medical professional. This would, in effect, offer a second opinion.

Section 4 of the bill has to do with conditional release procedures by the treatment professional. We believe the language is too broad, puts a lot of the power into the hands of the treatment professional, and does not give the patients an opportunity to explain themselves. We do not believe the professionally qualified individual should have the sole power to order a committed individual back into outpatient treatment. If that is going to happen, there should be a new court hearing and the individual should have the opportunity to contest whether his or her conditional release should be revoked.

When this hearing process begins, the bill stipulates the judge will get a report from the medical treatment professional. We believe the patient should have an opportunity to submit his or her own report. The judge should not be deciding based only on the report provided by the treatment provider.

Our second major due process issue has to do with making a crime out of having a mental illness, pages 4 and 5 of Exhibit C. We believe outpatient treatment individuals should not be reported to the State and federal criminal repositories. This criminal status will show up in background checks for employment. Please remove this provision from the bill.

An individual who fails to participate in the treatment program should not be subject to arrest without due process. In section 18, subsections 2 and 3, the new language of the bill calls for an "order" for an arrest, even though subsection 4, which is current statutory language, calls for a warrant. The standard should not be lowered from a warrant for those in outpatient commitment programs. Persons receiving outpatient treatment are entitled to the same safeguards as individuals in inpatient commitment programs. When a person does not show up for treatment, there should be a full hearing with both sides represented. It is possible the medication is not working or there are adverse effects. Perhaps the individual is at risk of losing a job if he or she participates in a day program. Because this is an involuntary process, the patient may not trust the treatment provider. When persons are voluntarily participating in a medical treatment program, they talk with the doctor. These patients may not feel comfortable talking to the doctor when being forced by the State. The court may be the only opportunity to talk about those issues.

Section 18 of A.B. 287 specifies individuals who fail to participate will be picked up by a peace officer and delivered to an appropriate location. We would like the "appropriate location" defined. Does appropriate location mean jail, hospital or mental treatment provider? If it is jail, I am concerned again about the criminalization of the mentally ill.

Another due process issue is the lack of opportunity to contest forced treatment, page 5 of Exhibit C. Nowhere in the bill is there an opportunity for the defendant to say at any point, "this is not working for me, and I do not feel I need this anymore." We proposed section 19 be amended with a paragraph (c) stating that after 3 months of involuntary commitment, the individual should have an opportunity to petition the court controlling the ongoing mandated treatment.

Our next issue concerns representation of the defendant/patient. As described in the last paragraph on page 5 of Exhibit C, it is unclear in the bill whether the individual will have a public defender provided to him or her. The ACLU would like a specific provision added to the bill that says anyone who will be committed to outpatient treatment will be entitled to a public defender. Additionally, there are a number of notice provisions discussed in the first four paragraphs of page 6 of Exhibit C that should be directed to the public defender or attorney.

Some of the individuals committed to this program may not have permanent addresses. They may be homeless or staying in another treatment program. In these cases, a notice may not be received, and then a warrant will go out for an arrest. This causes concern.

The ACLU wants to ensure there are minimal restrictions placed on people's liberty, freedom and rights while participating in this program. Our specific concerns and recommendations are contained on pages 6 and 7 of Exhibit C. We ask that in no event initial outpatient treatments exceed 6 months. This is because a recommitment process is always available.

Section 10 of the bill is not clear about whether someone would be put in jail or the hospital while awaiting the treatment program. The ACLU requests a person be allowed to remain in his or her home.

When an initial commitment order expires and the State seeks to renew the order, the standard should not be whether it is "in the person's own best interests" but rather the standard of whether that person is in danger of harm to self or others. The ACLU requests an amendment to section 13, subsection 3, lines 44-45 to reflect this standard, so that forced treatment is not continued for any reason other than emergencies.

The ACLU is concerned new language added in section 20 of the bill may affect an individual's right to vote. The explanation regarding this concern and proposal to address it is explained in the last paragraph on page 7 of Exhibit C.

Ultimately, the ACLU submits that funding for community-based programs people can attend voluntarily will yield better results than involuntary commitment procedures. If the Committee moves forward with the provisions in A.B. 287, the ACLU requests consideration of these important due process concerns.

Stacey Shinn (Progressive Leadership Alliance of Nevada):
I struggled about coming forward on this bill, but my heartburn never went away. From my perspective as a licensed social worker who spent several years working in an outpatient mental health clinic, I see this as a step backwards in clinical treatment. It removes client liberties and independence.

Historically, people suffering from mental illness have been subjected to inhumane treatments, denied freedom and autonomy. They have been force fed medications. Assembly Bill 287 allows for involuntary commitments and mandates medications against the will of the client. Involuntary treatment is a less-effective method than when an individual chooses to participate in programs. I agree with the ACLU that considering what happened with Kendra's Law in New York, this could potentially become a racial equity issue and may be looked at as part of the racial equity report card. Until Nevada has sufficient mental health treatment options for those who voluntarily seek treatment options and services, we should not spend our tax dollars and resources on rounding up any person who should have choices in his or her treatment options.

Jack Mayes (Executive Director, Nevada Disability Advocacy & Law Center):
The Nevada Disability Advocacy & Law Center opposes A.B. 287. I will read from my prepared testimony (Exhibit D).

Coni Kalinowski, M.D. (Medical Director, Mojave Adult, Child and Family Services; Faculty, University of Nevada School of Medicine):
I am opposed to A.B. 287. I have submitted a letter (Exhibit E) detailing my reasons for opposition. Most people become the so-called "loopers" not because they are resistant to care but because voluntary services are grossly inadequate. I will read my prepared testimony (Exhibit F).

Chair Jones:
This is an area where I have done my own research. Are you familiar with the studies conducted by the Office of Mental Health regarding Kendra's Law in New York?

Dr. Kalinowski:
Yes, I am.

Chair Jones:
The results of that study show: 74 percent fewer recipients experienced homelessness; 77 percent fewer recipients experienced psychiatric hospitalization; 83 percent fewer recipients experienced arrest; 87 percent fewer recipients experienced incarceration; 55 percent fewer recipients engaged in suicide attempts or physical harm to self; and 49 percent fewer recipients abused alcohol.

Dr. Kalinowski:
At the time Kendra's Law was enacted, the state of New York invested $200 million into mental health services. We know from other studies, if the spectrum of community mental health care is enriched, homelessness, outpatient, inpatient stays, suicides and so forth will improve. It is likely New York could have achieved all the same positive outcomes by simply putting the $200 million into services without implementing the outpatient commitment law.

Chair Jones:
It is safe to say Nevada will not be adding $200 million to the mental health system.

Dr. Kalinowski:
Yes, I agree.

Chair Jones:
Unfortunately, we have to operate within the existing budget. The only question is whether to proceed with the program outlined in A.B. 287.

Lesley R. Dickson, M.D. (Nevada Psychiatric Association; Chair, Governor's Committee on Co-Occurring Disorders):
The Nevada Psychiatric Association is in favor of A.B. 287 for the reasons stated in the letter I submitted to the Committee (Exhibit G).

We have been working with Assemblyman Stewart for 6 years on this bill. This bill will help us take care of people. We see A.B. 287 as part of a solution to a major problem in Nevada. Many people who should be treated in the hospital and outpatient centers are getting backed up in the emergency rooms or are in jail. The patients this is intended to help are those who have been in and out of hospitals, jails and emergency rooms repeatedly. These individuals appear to lack the understanding about the seriousness of their illnesses and the importance of taking medications.

The provisions in this bill are initiated as patients are discharged from the hospital. This is not intended to drag people out of the community into outpatient treatment.

I was living in New York when Kendra's Law went into effect. I used the subway station where Kendra was killed. The person who killed Kendra should have been on medications. Medications in this case may have saved Kendra's life.

The New York studies are good studies. They are supported by leaders in the care of the seriously mentally ill. Regarding the $200 million put into the New York mental health system, New York is a much larger state with a much larger mental health population. Additionally, much of the money was used to do studies and reports.

Tracey Green, M.D. (State Health Officer, Health Division, Department of Health and Human Services):
In order to provide the services set forth in A.B. 287, Southern Nevada Adult Mental Health Services will add one PACT team. One PACT team serves approximately 75 individuals. The team is comprised of psychologists, psychiatrists, licensed clinical social workers, psychiatrist caseworkers and has

a complement of services including medication treatment, outpatient and community-based services. There is a State General Fund impact of $517,720 for fiscal year (FY) 2013-2014 and $677,088 for FY 2014-2015. These funds have been added to our budget from an amendment from the Governor. Consequently, the fiscal note is no longer necessary on this bill.

David Mandzak:
I am opposed to A.B. 287. I have listened to both sides. As a client of Mojave Adult, Child and Family Services and a consumer of outpatient services, I do not believe these services will help until the people receiving the services accept the fact they have a mental illness and need help. Until then, the revolving door will just get bigger with more panels. The only people who can help these individuals are themselves.

Assemblyman Stewart:
Persons who participate in this program must be 18 years of age, have a history of mental illness and have a history of noncompliance with a medical treatment program. The patient meets with a medical health professional to plan his or her own program. The PACT specialists and District Judge Voy will work closely with this population. The treatment program will be tailored to fit each individual's needs. There is a 6-month review. At any point it is determined the person has progressed where the services are no longer necessary, he or she can exit the program. This program increases freedom over what has occurred. The intent is to reduce or eliminate the need for commitments to Rawson-Neal and jail. Forty-four states have similar programs.

Chair Jones:
In section 18 of the bill, there was a question asked about when a patient is picked up, where he or she would be taken. Can you answer that question?

Assemblyman Stewart:
That person would be taken to the PACT team outpatient facility where he or she will receive prompt services.

Chair Jones:
A question was asked about whether a public defender or free counsel could be provided. Is that something that could be considered in this bill?

Assemblyman Stewart:
I do not have any problems with assigning a public defender wherever there is a need.

District Judge Voy:
Currently, as part of the civil commitment process, the Clark County Public Defender's Office represents every patient. They will continue to represent those patients at subsequent hearings and at the 6-month reviews. Every patient is afforded the opportunity of legal counsel. I invite the ACLU advocates to attend these hearings and see for themselves what is happening in the process. I encourage ACLU to attend regardless of whether this bill is passed.

Chair Jones:
The hearing for A.B. 287 is closed. The hearing on A.B. 362 is now open.

ASSEMBLY BILL 362: Provides for the establishment of the HIV/AIDS Drug Donation Program. (BDR 40-757)

Assemblyman Lynn D. Stewart (Assembly District No. 22):
Assembly Bill No. 213 of the 75th Session was passed and allows people to donate leftover sealed cancer drugs to participating pharmacies and medical facilities to be used by individuals who have cancer but are not able to afford the drugs. Assembly Bill 362 proposes to expand that program to include a donation program for HIV/AIDS drugs.

Mr. Matheis:
The Nevada State Medical Association supports A.B. 362. The cost for the drug treatment programs for these chronic illnesses is significant. This bill will ensure these expensive drugs are not wasted and will be available to some Nevadans who may not otherwise have the opportunity to have them.

Chair Jones:
The hearing for A.B. 362 is closed. We will move to the hearing for A.B. 1.

ASSEMBLY BILL 1 (1st Reprint): Requires the Director of the Department of Health and Human Services to include certain requirements in the State Plan for Medicaid. (BDR 38-392)

Brian Brannman (Chief Executive Officer, University Medical Center of Southern Nevada):

Existing federal law requires hospitals to provide appropriate medical screening or treatment to determine whether an emergency medical condition exists. Nevada Medicaid State Plan defines emergency services as cases in which a delay in treatment of more than 24 hours could result in severe pain, loss of life, limb, eyesight or hearing or in cases where a person may cause injury to himself or herself or others.

When patients come to the emergency department with kidney failure, they are dependent upon renal dialysis as a lifesaving measure. In emergency departments, physicians and health care workers have a legal responsibility and ethical responsibility to treat these patients and stabilize them using renal dialysis.

Currently, the Nevada Medicaid program does not consider renal dialysis as a life-sustaining measure by definition. Nor is it defined as a stabilizing procedure in an emergency room setting. Nevada Medicaid views the underlying condition as chronic and, as such, the treatment is not emergent and emergency Medicaid reimbursement has been denied.

Kidney disease is a chronic condition, but like heart disease, diabetes and others, the patient may experience an acute episode which requires immediate lifesaving attention. For example, if a person goes into diabetic shock or has a heart attack, this would be considered an emergency. Acute renal failure should be treated the same. The emergency medical staff will provide the treatment necessary to stabilize the patient's condition and try to prevent death. If the patient does not receive renal dialysis, death will occur.

Assembly Bill 1 proposes to add renal dialysis to stabilize patients with kidney failure to the schedule of emergency Medicaid benefits for Nevada Medicaid beneficiaries. The bill requires the director of the DHHS to include in the Medicaid State Plan a requirement that the State cover certain costs of emergency care, including dialysis, provided to patients with kidney failure. This will enable Nevada to claim Medicaid federal matching dollars and share the costs that are currently being borne by local communities.

Leah Lamborn (Administrative Services Officer, Division of Health Care Financing and Policy, Department of Health and Human Services):
The Division of Health Care Financing and Policy is withdrawing the fiscal note for A.B. 1. This provision has been funded by a budget amendment which passed on May 16.

Chair Jones:
The hearing is closed on A.B. 1. We will begin the hearing on A.B. 80.

ASSEMBLY BILL 80 (1st Reprint): Creates the Task Force on Alzheimer's Disease within the Department of Health and Human Services. (BDR 40-546)

Valerie Wiener (Chair, Legislative Committee on Health Care's Task Force to Develop a State Plan to Address Alzheimer's Disease):
The Legislative Committee on Health Care's Task Force to Develop a State Plan to Address Alzheimer's Disease was the product of A.C.R. No. 10 of the 76th Session. The assignment was to create a State plan during the legislative interim. The task force met five times. A State plan was created.

Assembly Bill 80 creates the Task Force on Alzheimer's Disease within the DHHS and sets forth the composition of the Task Force. This bill defines the members, appointment process, the terms of office and specified duties. This act is effective July 1, 2013, and expires on June 30, 2017. The time line does not indicate the work should be done by June 30, 2017, but rather gives the Legislature an opportunity to review the completed work and extend the time frame if deemed necessary.

Chair Jones:
The hearing on A.B. 80 is closed. We will proceed to A.B. 344.

ASSEMBLY BILL 344 (1st Reprint): Provides for the use of Physician Orders for Life-Sustaining Treatment in this State. (BDR 40-682)

Mr. Matheis:
I will be presenting A.B. 344 on behalf of Assemblyman David P. Bobzien, Assembly District No. 24. Assemblyman Bobzien's written remarks have been submitted to the Committee (Exhibit H). I facilitated a coalition to develop a Physician Orders for Life-Sustaining Treatment (POLST) system for Nevada.

I have provided the Committee with a document describing the proposed Nevada POLST (Exhibit I) and have provided a draft Nevada POLST form (Exhibit J).

A POLST is the physician's orders for life-sustaining treatment regarding the patient's current medical condition and preferences. It is a step beyond the advanced directives, living wills and powers of attorney for health care. It is a different approach than the do-not-resuscitate (DNR) orders.

A physician in consultation with a patient and or the patient's family develops the POLST after an illness occurs. It is a planning tool that reflects the patient's goals for medical decisions considering the patient's current condition.

The POLST will be paper-based but will eventually be an electronic health record that will be included within the electronic medical data exchanges. The POLST will be incorporated into the existing computerized living will trust account for advanced directives maintained by the Secretary of State. The intention is to place the POLST information in every place the health care treatment team may be looking for information.

States currently using the POLST system are shown in dark pink, and those states working on the development of a POLST system are shown in light pink on page 4 of Exhibit I. As you can see, the POLST is being used in all of Nevada's neighboring states except Arizona. If Nevada implements the POLST, it will be recognized by the surrounding states for Nevadans, and Nevada will recognize the POLST for visitors from the neighboring states.

The AARP did a study on the effectiveness of the POLST and submitted a letter of support (Exhibit K). The *Journal of the American Medical Association* compared POLST DNR with standard DNR orders. The results are shown on page 6 of Exhibit I. The POLST is not intended to direct the options but rather to have a discussion and clear understanding about the patient's preferences.

Chair Jones:
Does the POLST supersede an advanced directive?

Mr. Matheis:
If there were any instructions that change, the latest document would apply. The chronology of where the advance directive and the POLST occur is shown

on page 12 of Exhibit I. The POLST form is appropriate when a person is diagnosed with a serious or chronic progressive illness.

Chair Jones:
If someone makes a decision at one point in his or her life that he or she does not want life-sustaining treatment, and then later his or her mental faculties deteriorate where he or she is not able to make that decision, why would we want a POLST to overrule that prior decision making?

Mr. Matheis:
That would be discussed with the patient, the caregiver and family representatives.

The POLST coalition was developed last year. The coalition includes representatives from the emergency delivery system, geriatric and chronic disease, state agencies, HealthInsight, quality improvement organizations, Partnership for Value-Driven Health Care, AARP, Nevada Hospital Association and others. The coalition discussed the concept and developed the draft POLST form. The intention is for the coalition to participate actively in the POLST implementation process upon passage of A.B. 344.

Chair Jones:
Will a doctor do a walk-through of the POLST form with the patient? The average person would not understand terms such as "hyperalimentation."

Mr. Matheis:
The bill defines the responsibilities, which I will review with you now. The definitions are, for the most part, already in existing statute and are simply being referenced here.

Sections 12 and 13 describe the POLST form, its purpose and who is required to follow the instructions on the form. Section 14 describes who can represent the patient. Section 15 describes the role of the State Board of Health. The intent is for the form to be standardized, adopted and maintained at the State level.

Section 16 explains when a physician will discuss the POLST form with the patient. As part of the discussion, the doctor will explain the purpose of the

form, what the terminology means the difference between this form and other types of advance directives.

Section 17 subsection 1, paragraph (a), includes an amendment made by the Assembly adding the words, "if competent." Subsection 2 specifies the POLST can be revoked at any time.

Section 18 states the POLST will override a previous declaration when there is a conflict. Any other declarations, directions or orders that do not conflict with a declaration, direction or order set forth in another document remain valid.

Sections 19 and 22 convey the protections and immunities to providers of health care with regard to a POLST form. Section 20, subsection 4, discusses what the physician does when the condition changes. If the patient is pregnant, life-sustaining treatment must not be withheld or withdrawn pursuant to a POLST form as long as it is probable the fetus can survive.

Section 23 establishes penalties with respect to a POLST form. Sections 28 and 29 allow a POLST form to be shown on the statewide health information exchange system and the Living Will Registry. Other states that use a POLST form have found the use of the registry increases upon implementation of a POLST.

Approval of A.B. 344 will fit well with the Affordable Care Act health care reform and will provide a better communication base for making decisions with chronically ill end-of-life patients.

Chair Jones:
I know it is not the primary purpose, but the POLST form is a tremendous health care cost-saving measure.

Dan Musgrove (The Valley Health System):
The Valley Health System supports passage of A.B. 344.

Mary Liveratti (State President, AARP Nevada):
The AARP Nevada supports A.B. 344. Barry Gold of AARP Nevada has submitted written testimony, Exhibit K, in support of this bill.

Bill Welch (Nevada Hospital Association):
The Nevada Hospital Association supports A.B. 344.

Chair Jones:
The hearing for A.B. 344 is closed. This hearing is adjourned at 5:25 p.m.

RESPECTFULLY SUBMITTED:

Jackie Cheney,
Committee Secretary

APPROVED BY:

Senator Justin C. Jones, Chair

DATE:

EXHIBITS				
Bill	**Exhibit**		**Witness / Agency**	**Description**
	A	2		Agenda
	B	9		Attendance Roster
A.B. 287	C	7	Vanessa Spinazola	ACLU Letter to Committee
A.B. 287	D	1	Jack Mayes	Letter from Nevada Disability Advocacy & Law Center
A.B. 287	E	5	Coni Kalinowski	Letter to Legislators
A.B. 287	F	3	Coni Kalinowski	Written Testimony
A.B. 287	G	2	Lesley R. Dickson	Nevada Psychiatric Association Letter
A.B. 344	H	3	Lawrence P. Matheis	Assemblyman David P. Bobzien Written Remarks
A.B. 344	I	19	Lawrence P. Matheis	Nevada POLST Presentation.
A.B. 344	J	2	Lawrence P. Matheis	Proposed Nevada POLST form
A.B. 344	K	1	Mary Liveratti	AARP Nevada Letter of Support