

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON COMMERCE AND LABOR**

**Seventy-Eighth Session
March 30, 2015**

The Committee on Commerce and Labor was called to order by Chairman Randy Kirner at 1:31 p.m. on Monday, March 30, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman Randy Kirner, Chairman
Assemblywoman Victoria Seaman, Vice Chair
Assemblyman Paul Anderson
Assemblywoman Irene Bustamante Adams
Assemblywoman Maggie Carlton
Assemblywoman Olivia Diaz
Assemblyman John Ellison
Assemblywoman Michele Fiore
Assemblyman Ira Hansen
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman James Ohrenschall
Assemblyman P.K. O'Neill
Assemblyman Stephen H. Silberkraus

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman James Oscarson, Assembly District No. 36
Assemblyman Tyrone Thompson, Assembly District No. 17
Assemblyman Michael C. Sprinkle, Assembly District No. 30

STAFF MEMBERS PRESENT:

Kelly Richard, Committee Policy Analyst
Matt Mundy, Committee Counsel
Leslie Danihel, Committee Manager
Connie Jo Smith, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Tracey D. Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services
Laurie Squartsoff, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Bill M. Welch, President and CEO, Nevada Hospital Association
Joan Hall, President, Nevada Rural Hospital Partners
James L. Wadhams, representing Anthem Insurance Company and Amerigroup Nevada
Keith L. Lee, representing Board of Medical Examiners
Alfredo Alonso, representing UnitedHealthcare
Paula Berkley, representing Board of Occupational Therapy and State Board of Physical Therapy Examiners
Erik Jimenez, representing Universal Health Services of Delaware
Joanna Jacob, representing Dignity Health-St. Rose Dominican Hospital
Denise Selleck, Executive Director, Nevada Osteopathic Medical Association
Stacy M. Woodbury, Executive Director, Nevada State Medical Association
Lesley Pittman, representing Reno Diagnostic Centers
John Ocegüera, representing Reno-Sparks Indian Colony
Caleb S. Cage, Director of Military and Veterans Policy, Office of the Governor
Misty Vaughan Allen, State Suicide Prevention Coordinator, Office of Suicide Prevention, Bureau of Child, Family and Community Wellness, Division of Public and Behavioral Health, Department of Health and Human Services

David Sousa, State Commander, Department of Nevada, Veterans of Foreign Wars

Kevin Burns, Coordinator, Veterans Resources Center, Western Nevada College

Susan Guilliams, Private Citizen, North Las Vegas, Nevada

Sally Ramm, Elder Rights Attorney, Aging and Disability Services Division, Department of Health and Human Services

George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry

Barry Gold, Director, Government Relations, AARP Nevada

Rana Goodman, Political Editor, *The Vegas Voice*

Dan Roberts, Publisher/Editor, *The Vegas Voice*

Julie Belshe, Private Citizen, Las Vegas, Nevada

Elizabeth Diana Indig, Private Citizen, Las Vegas, Nevada

Marcia S. Kosterka, Private Citizen, Henderson, Nevada

Homa S. Woodrum, Attorney, Las Vegas, Nevada

Kim Spoon, National Master Guardian, Guardianship Services of Nevada, Inc., Reno, Nevada

Susan Hoy, Manager, Nevada Guardian Services, Las Vegas, Nevada

April L. Parks, Owner/Manager, A Private Professional Guardian, LLC, Boulder City, Nevada

Lee Drizin, Attorney, Las Vegas, Nevada

Shelly A. Register, National Certified Guardian, Guardianship Services of Nevada, Inc., Reno, Nevada

Henry W. Cavallera, Attorney, Hancock and Cavallera, Reno, Nevada

Elaine Galatz, Private Citizen, Las Vegas, Nevada

Chairman Kirner:

[Roll was taken, a quorum was present, and protocol was explained.] My plan is to hear our bills first, then go into the work session. We are not going to hear Assembly Bill 211 at the sponsor's request.

Assembly Bill 211: Revises provisions relating to mechanics' and materialmen's liens involving certain renewable energy projects. (BDR 9-414)

We will begin the hearing on Assembly Bill 292.

Assembly Bill 292: Revises provisions relating to providers of health care who provide services through telehealth and various other provisions relating to insurance coverage for such services. (BDR 54-606)

Assemblyman James Oscarson, Assembly District No. 36:

I am here to present Assembly Bill 292, which is the culmination of a significant amount of time for a group of people who want to see better health care in the state of Nevada.

As we all know, the Affordable Care Act (ACA) mandates that all persons have health insurance, but as we also know, the distribution of Nevada's population poses a challenge to providing health care services to people living in our rural and frontier areas. Access to health insurance, including finding creative solutions to address our shortage of health care workers, is a topic of great importance to me.

To give you a little background, last May I sent a letter to 27 entities, including all of the health care professional boards, to solicit feedback on this legislation. I felt it was important to be inclusive in regard to all potential stakeholders from the beginning. The result of 15 months of work is what you have before you today.

As with most works in progress there continues to be improvements, which is why you will find some proposed amendments to fine-tune the bill. Use of telehealth technologies is not a new concept to Nevada. In fact, some providers already have well-established systems. I have been able to view several demonstrations of those systems, including Anthem Blue Cross and Blue Shield, UnitedHealthcare, and the Veterans Health Administration with a telemedicine program they have that was demonstrated in our committee several weeks ago.

In the Assembly Committee on Health and Human Services, the Veterans Health Administration staff demonstrated their telehealth equipment, which travels in a box the size of a briefcase. A presentation by Southwest Medical Associates spoke of their NowClinic available at any time of day. This service redirected 80 percent of patients who would otherwise have gone to either urgent care or the emergency room (ER). Those are just two examples.

I would like to summarize the bill and the conceptual amendment ([Exhibit C](#)) on the Nevada Electronic Legislative Information System (NELIS), beginning with section 3. Providers of health care who provide direct services, manage a patient's care, make a diagnosis, or write an order for treatment must hold a valid license or certificate in this state. There is an exclusion for providers with the Urban Indian Health Programs. Health care providers who provide

telehealth services are subject to the laws and jurisdiction of this state, as well as any regulation of an applicable licensing board. Telehealth services do not expand the scope of practice of a health care provider, nor authorize a provider to deliver services in a manner that violates current law or standards of care.

Telehealth is also defined in section 3. There are proposed amendments to clarify the technology through which telehealth can be delivered and to add definitions of "distant site" and "originating site."

Section 21 requires the Division of Health Care Financing and Policy to include telehealth services in its State Plan for Medicaid, although as you will see on the amendment, (1) telehealth services only apply to the extent that services are available, and (2) the requirement that Nevada Medicaid reimburse for telehealth services in the same amount as in-person services is removed. The amendment ([Exhibit C](#)) also clarifies that Nevada Medicaid can require a prior authorization for telehealth services if a prior authorization would be required for an in-person visit. It has also been recommended to clarify that "State" includes political subdivisions, such as local governments, when referencing payment for the nonfederal share of expenses for services.

Section 27 changes are similar to the provisions I just discussed for Nevada Medicaid but are applicable to insurance policies ([Exhibit C](#)). The proposed amendments mentioned for section 21 are the same for the insurance provisions and are applicable for sections 29, 31, 32, 36, 37, 38, 41, and 43 respectively.

In closing, I have a quote in my office that I feel truly sums up this bill: "The best interest of the patient is the only interest to be considered." The intent of this legislation is to fully capitalize on the opportunities that existing technology provides in order to expand health care to all Nevadans. I would like to turn this presentation over to those who have diligently worked on this piece of legislation and have some comments for the record.

Tracey D. Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services:

As you know, with the Affordable Care Act, we have over 600,000 Nevadans who are now enrolled in Medicaid. With that, we have also decreased our uninsured population from 23 percent to 11 percent. I think the important part of this is not looking at just those Nevadans who are under Medicaid, but really looking at our entire state, and all Nevadans, who now are looking at increasing difficulty in accessing health care.

When Nevada is compared to other states, we rank 47th in ratio for primary care providers to our citizens. We are looking at a health provider shortage across our state. When we look specifically at mental health, we have a provider shortage in every county in Nevada. When we look at primary care, greater than two-thirds of our counties have a provider shortage. When we look at dental, we see a similar pattern.

When we look at access to health care, this really is a multifaceted issue, in that one solution will not solve all. We need to look not just at the provider makeup, but we need to look at how we get clients to their services. We need to look at the subspecialists who are available in our state. As important as any other vehicle, we really need to look at alternative ways to use the current providers that we have in Nevada, especially in areas where it is more difficult to find providers, like in rural Nevada.

Telehealth across the nation has really opened an opportunity for individual patients to receive access to services. But just as important, it also opens a consulting network for our current providers. For example, in areas where we might not have psychiatry, a primary care provider could consult with a psychiatrist in another part of Nevada and receive that very important consultative information that would allow them to provide appropriate care for the primary care client in the rural part of our state.

As part of the Department of Health and Human Services (DHHS), we do allow for telehealth in our Medicaid policy. This would expand telehealth so it would, in essence, be available to all, and we are in support of the telehealth bill that is before you today.

Chairman Kirner:

Are there any questions from the Committee?

Assemblyman Ellison:

Assemblyman Oscarson, this bill shows six lines of fiscal notes that are nothing—zero. How will this program be funded?

Assemblyman Oscarson:

The funding is through the people who are currently doing it, and it expands their grant programs that are available for the equipment. Physicians who choose to utilize this will help fund it. The equipment has come down significantly in cost. Rural Community Health Services, Division of Public and Behavioral Health, DHHS, has provided equipment to folks at some of the rural hospitals. There is value to that, and there are services available that can provide some of that equipment.

Assemblyman Hansen:

You mentioned in your testimony that there is currently a shortage of health care providers in Nevada, but then in the bill, section 3, it requires whoever provides this to hold a current Nevada license. One of the advantages to telehealth is that you can use people from out of the area and out of the state, yet the licensing requirement limits it to people, apparently, who have Nevada licenses. When I look at this—and I represent seven different counties, the bulk of which are rural—I am concerned that by limiting this only to people with Nevada licenses, that may be somewhat too restrictive, and then you will not allow the market to do what it does. I assume there is a kidney disease issue that is the same in Rhode Island as it is in Nevada. Is there some reason this will be limited only to people with Nevada licenses?

Tracey Green:

Laurie Squartsoff from the Division of Health Care Financing and Policy will be coming to the table for testimony. There are a few instances in which outside providers are allowable. When we look at the definition of consultation currently in Medicaid, there is the opportunity when, with prior authorization and medical indication, a provider who is not available in our state provides resources to our state physicians. That is one area that would be considered because it is presently part of the Medicaid State Plan. Ms. Squartsoff could speak more to those points.

Also, the Board of Medical Examiners has some specialty licenses to allow for things like radiologic expertise. I believe they may also be presenting. The opportunity for in-state consultation with Nevada licensed physicians will open the service delivery model. Initially, we need to look at the opportunity of enhancing the use of our physicians where they are, as opposed to trying to get them to where the patient might be.

Assemblyman Hansen:

But, in fact, if there is a shortage of health care providers, are you saying that there are Nevada physicians who are currently not working at maximum capacity to meet demand?

Tracey Green:

I would not say there are physicians who are not working at maximum capacity. What I think might improve are, first, efficiency in that providers can see other clients in other counties with primary care so there could be a full day of consultation. Second, many Nevadans are seeking services in the emergency departments at a much more costly rate where they may not be getting their problems directly addressed. Looking from a preventive perspective, if we can see people earlier for their primary problems, perhaps they will not have the

more expensive cost requiring many more specialty services. I do not think this is the solution and, as I mentioned, it is not going to necessarily create more doctors, but it may create efficiencies and allow for some of our rural doctors to have the opportunity for consultative services.

Assemblyman Hansen:

In section 21, I assume that in all these sections, it said originally, "in the same amount as though provided in person." That has been deleted in all the sections where that is mentioned, right? That was a concern.

Assemblyman Oscarson:

That is correct. The cost was an issue, because there was a lot of discussion about telehealth being provided at less cost, so we did not want to mandate that that was an equal cost and leave that up to the market to determine what they do. There are some entities, such as Anthem and UnitedHealthcare, that are currently doing this, as I understand it, for significantly lower copays for their clients to be able to utilize the services.

In addition, I think it is great when we can use Nevada physicians. I first became introduced to this process when I went to a Sunrise Hospital and Medical Center two-day discussion about telestroke. Sunrise had a system set up where they had a robot that could be put into emergency rooms, and the robot would move with a neurologist on the other end, and the screen was actually the physician but they could assess all kinds of things with a robot. Since then, I think even in those two or three years, we have come a long way to where we are today with some of the equipment that is available. I see this as a huge expansion where we are short of physicians in some of the rural areas and even in some of the urban areas. I originally envisioned this for rural areas. The urban areas have come forward and said, "We really need this, too." Those services are available. I believe it will prevent a lot of travel that many patients are doing right now and will save dollars on both ends of the spectrum.

Assemblyman Hansen:

When you and I met with Assemblyman Paul Anderson, was it not with UnitedHealthcare, and we went over this? There are some amazing technologies that are being developed, so I am 100 percent for it. I am just concerned that basically I do not want to see this bill create a monopoly on something for certain specified Nevada physicians, and I definitely do not want this to be charged at the same rate as an in-person visit.

Assemblywoman Carlton:

I want to be clear that this bill is not just for Medicaid services; it is for telehealth in general, if I understand that correctly.

Assemblyman Oscarson:

Yes, that is correct.

Assemblywoman Carlton:

Because it is geared toward *Nevada Revised Statutes* (NRS) Chapter 630, it does not include advanced practice nurses for primary health care. I was wondering why they were excluded from this? With the legislation that passed last session, and them being able to provide primary care, why would we exclude those professionals?

Assemblyman Oscarson:

That was never the intent of this bill because, as you know, in the rurals we depend on advanced practice nurses (APNs) and advanced practitioners. That was never the intention. I thought that was in there. I will double-check to make sure, but the intention is to have that resource available.

Assemblywoman Neal:

What is the effect of them now paying their nonfederal share of expenses for services? What is that amount, and what is the effect of that inclusive definition where, basically, the locals will be using their nonfederal share to pay for it?

Assemblyman Oscarson:

They currently pay that. It is a pool of funds that they can pull from to utilize.

Tracey Green:

This would just continue the current policy that exists. It would not expand any of the requirements on the counties. The amendment was intended to not imply that Medicaid would pay what is currently not paid by Medicaid but instead paid by the county.

Assemblywoman Neal:

In sections 21 and 27 in your amendment ([Exhibit C](#)), you are saying that although telehealth services will be provided, it does not require that an insurer ensure that the telehealth services are actually available.

Assemblyman Oscarson:

That is correct. They have the option to provide those services if they have the availability to do so.

**Laurie Squartsoff, Administrator, Division of Health Care Financing and Policy,
Department of Health and Human Services:**

Section 21, subsection 1, as Dr. Green described, will allow us to continue to use local and county funds. It continues our current funding mechanism for this program as well as others.

Assemblywoman Kirkpatrick:

There are two sections within the bill that require adopting regulations. I want to know what the intent is for adopting the regulations. Assemblyman Hansen and I usually try to make sure that the legislative intent is carried out. Section 17 talks about the State Board of Pharmacy. Could you give me the legislative intent, because that goes a long way when adopting regulations.

Assemblyman Oscarson:

The intent is that everybody has an opportunity to participate in this if they so choose. We sent questionnaires to all who wanted to participate, and that was one of the boards that said they would like to participate if possible.

Assemblywoman Kirkpatrick:

I need a little more detail. To have everyone participate, what is the intent of how they will dispense prescriptions? The workshop is going to be about when you can give prescriptions and when you cannot. It is not just about participating. It is how you will get the prescriptions to them, if I am reading the bill correctly; that is what the regulation should do.

Assemblyman Oscarson:

I agree with you. In some rural hospitals, currently, there is telecommunication. I would not expect this would happen very often in the urban areas, but it very well may. As fluid as this conversation has been, even in the last 24 hours there was a lot of discussion about how it will impact and what it will do. So far, what we have seen has all been positive. Regarding the telepharmacy and the telehealth, I anticipate that some of these small communities that do not have those services, and the hospitals that may not have a pharmacist except one who visits once every couple of weeks, will utilize those kinds of services. That would be my legislative intent.

Assemblywoman Kirkpatrick:

Section 23 talks about hospital privileges, and it calls for four different sets of regulations. I am big on regulations because that is what we have to live by for two years, which is why I want to know the legislative intent. We need to ensure not only the licensing but the operation as we go forward. I am a big stickler on regulations.

Assemblyman Oscarson:

I would like to have Bill Welch of the Nevada Hospital Association address that issue.

Bill M. Welch, President and CEO, Nevada Hospital Association:

In response to Assemblywoman Kirkpatrick's question, legislation was adopted last session that provided for telemedicine to be delivered via telehealth technology. When a physician directs the care, prescribes the care, and is supervising the care, that physician must be licensed in the state of Nevada, and those regulations have already been adopted. What you are seeing in the legislation is the reference from the last legislative session, so the regulations have been adopted that would manage how physicians from outside Nevada would be able to practice telemedicine in this state.

Assemblywoman Kirkpatrick:

That is what I was looking for because I did not want any unnecessary regulations coming before us.

Assemblyman Ohrenschall:

In section 27, subsection 2, paragraph (d), there is language that repeats throughout the different sections. An insurer shall not: "Require covered services to be provided through telehealth as a condition to providing coverage for such services." I really like that language, and I am glad that is in there. I wonder if it is strong enough. I wonder if you might see a situation where an insurance company would have 75 percent of its services through telehealth and 25 percent through bricks and mortar, physicians, and APNs, or where even though our constituents are not being required to go to telehealth, maybe there is a disproportionate amount of telehealth as opposed to old-fashioned bricks and mortar health care. Do you think there are enough protections for that? Or do you think it will come in regulation? What are your thoughts?

Assemblyman Oscarson:

This is a fluid discussion and a fluid process. It is dynamic in the way it works. I believe that right now if you had heard some of the presentations from UnitedHealthcare and from the other folks, there are still people going to the ER. There are still people seeing their primary care doctors. There are always going to be people who will want that hands-on approach. This does not prohibit that. What this does is allow a different mechanism for those who may not have transportation and may not be able to do that. I still prefer to see my doctor and, as Dr. Titus [Assemblywoman Robin Titus] told me, have them

lay their hands on me. I can see this as a tremendous access point, and I do not see the potential for abuse at this time. There are several things that need to be monitored, and that is why the licensing boards will monitor what happens.

Bill Welch:

This is an issue we have been working on for a number of years in the health care industry. The Nevada Hospital Association is very committed to this. We know this is a way that we are going to help ensure that the citizens of Nevada get the care they need when they need it and where they need it.

We have applied for a grant and along with that grant, as well as with a partnership, we are in the process of building fiber optic capabilities so that we can bring the functionality to the hospitals and also into the rural areas to facilitate this type of technology.

Nevada faces many challenges. We rank 47th in the United States in the ratio of physicians to population. We rank 49th in the United States in nurses to population. We rank similarly in most other health care professions. We have a growing population. We have a baby boomer population, like myself, and we tend to be some of the more frequent users of the health care delivery system.

Nevada accepted and opted into the expanded Medicaid population, which provided coverage for many, many citizens in the state who otherwise had not had coverage before. Now that population expects they will have access to health care services as well.

We do not always have the specialty for the services we need in rural communities, but we also do not always have the specialty services elsewhere. I live in Reno, but I found myself having to go outside Nevada for some specialty services. There are a multitude of challenges, but with challenges come opportunity. We think that telehealth is one of those opportunities to help address many of those needs. There are examples of telehealth medicine in place now, and with this legislation we think that can expand it and do even more than what it does today—teleradiology, telestroke, ER specialty physician support, critical care monitoring, specialty clinics for mental health, cardiology, endocrinology, pulmonary, virtual visits, which you were talking about with the various health plans and the models they have.

At the end of the day, we think this legislation is very important. It is going to help the citizens have earlier intervention. It will make more efficient use of our health care professionals. In the past, when I used to be a rural hospital CEO, I had several specialists who would come from Reno to Elko; for example,

cardiologists; urologists; and ear, nose, and throat specialists. Over time, their schedules and the economics no longer made it feasible. There was no way they would have two days, one on each end of that travel, to not be seeing patients. There were too many patients.

Telehealth would allow more efficient use of their time. This would allow patients to receive their health care closer to home, instead of having to come from rural Nevada into an urban community. There will be situations where they can get that care at home. It is the same thing for those of us in urban Nevada. There are situations where we have to travel out of state, and this would help alleviate that from a consultation standpoint. At the end of the day, this is going to help patients get care when they need it, where they need it, and hopefully earlier intervention.

As we progress, we look forward to continuing to work with the sponsor of A.B. 292 on the conceptual amendment, and we feel this is good legislation.

Chairman Kirner:

To be clear, we are not arguing whether we will have telemedicine or not—we already have that. We are arguing the bill.

Joan Hall, President, Nevada Rural Hospital Partners:

We represent 14 of Nevada's 15 rural hospitals. Most of these, as Dr. Green said, are categorized by the Centers for Medicare and Medicaid Services (CMS) as being in a health provider shortage area. We have no specialty providers in the majority of these communities. The Centers for Medicare and Medicaid Services recognized for many years that telehealth was a means to assist rural hospitals and has reimbursed services provided by specialists to patients originating in sites that they recognized as rural critical access hospitals, rural health clinics, or federally qualified health centers.

Assembly Bill 292 is important to the viability of rural hospitals by allowing us to use this technology to meet insurance "adequacy of network" needs by giving us assurances that insurance coverage for telehealth is included in their plans. Telehealth is not new, as you have heard, and has been around for a number of years. Unfortunately, it has not been broadly accepted in rural Nevada hospitals, historically, due to broadband issues. Those are improving somewhat regarding the cost of technology, which can range from \$10,000 to \$100,000, depending on the peripherals and the specialists willing to provide this coverage. Times are changing. Specialists are willing to provide this coverage. They recognize that this is a means by which they can adequately provide health care.

To Assemblyman Hansen's question about the number of providers, we currently use a lot of providers to offer treatment in Nevada, some of whom are outside the state and possess a Nevada license. They have to possess a Nevada license and have malpractice insurance. Teleradiology has been around for about 25 years. We use radiologists who are in New Zealand or Australia, because their daytime is our nighttime and vice versa. We have used that for a long while, and that has been reimbursable, as have specialty clinics, surgery rechecks, cardiology, pulmonology, and endocrinology. In Ely, where they just got a dialysis unit, they are now using telenephrology for those patients who need to see the nephrologist but cannot travel the 240 miles one way to see the doctor.

Neurostroke has been a tremendous benefit to rural Nevada. It is one of those units that Assemblyman Oscarson was talking about, where there is a robot and the head is the monitor. You see the doctor. There are several hospitals utilizing that, and it is improving our stroke outcomes in rural Nevada. It is also saving money. In Battle Mountain, a patient presented with typical stroke symptoms. The teleneurology system was enacted and, after the CAT scan was done and the results were received, the neurologist said, "This looks like a stroke but it is not a stroke. I can monitor this patient overnight. Every two hours I will dial in and check on him." It saved that patient a \$30,000 flight to Reno. It really is impactful in rural Nevada. Last session, the Legislature passed some changes allowing Fallon's intensive care unit to use out-of-state and sometimes out-of-country intensive service doctors who monitor these patients in their intensive care, which has been tremendously successful.

Telepsych, as Dr. Green mentioned, has real potential. Nevada Rural Hospital Partners (NRHP) was just awarded a Health Resources and Services Administration (HRSA) grant for \$1 million over a three-year period. We will be installing a new type of technology in the state's rural mental health clinics that will integrate with our primary care to get the right care to those patients at the right time. If there is a patient with a mental health crisis in Caliente, and there is no behavioral health specialist there, they can go into this telehealth waiting room and see somebody, perhaps in Battle Mountain or Ely. The patient receives the right care at the right time.

This is a paradigm shift for us. Health care is changing rapidly. It is kind of like the Jetsons versus Marcus Welby in the rurals. It is exciting; it is threatening and a little scary. Half of our district hospitals employ their physicians. They are bricks and mortar, and they are important to us. Having the mobile

technology is a bit threatening and scary to them, but we recognize that this is a means of increasing the quality of care and increasing the patient experience, hopefully at a lesser cost.

James L. Wadhams, representing Anthem Insurance Company and Amerigroup Nevada:

I want to commend Assemblyman Oscarson, the Office of the Governor, Dr. Green, and the Legislative Counsel Bureau staff for working on this and developing the conceptual amendment. We basically support this. In our view, this is an effort to modernize the statutes to keep up with the opportunity that the improved technology creates. We have some wordsmithing pieces that we will discuss with Assemblyman Oscarson, but I wanted to be sure to put our compliments to that effort on the record.

Keith L. Lee, representing Board of Medical Examiners:

We were one of the stakeholders that Assemblyman Oscarson brought in early. We have been involved in this process for the last 12 to 15 months. We fully support this bill, particularly the conceptual amendments that have been brought forward today. We have been in discussions, as Assemblyman Oscarson indicated, as late as yesterday afternoon on some of these concepts that are presented to you. We appreciate his working with us on those issues.

The Board of Medical Examiners has recognized telehealth for a number of years. We think this bill clarifies telehealth and, more importantly, will encourage the use of telehealth among physicians and other health care providers in Nevada. At the same time, it will retain our ability to license and discipline these physicians so that we can do everything within licensing and regulatory statutes to ensure that we have the highest quality of health care being delivered to our patients.

It is also important to note that the physicians who will be required to be licensed under this statute are those who direct and manage the care of a patient, make a diagnosis concerning the patient, and write a treatment order or prescription for the patient. That is different from a practice that we encourage and is, in fact, mandated by statute in NRS Chapter 630, and that is the consultation. We encourage consultations. Consultations can be had between a licensed physician in Nevada and a physician in a different state who is licensed in that state, but not licensed in Nevada. That will continue to go forward as a very important aspect of the practice of medicine, and is a very important aspect in delivering the best health care possible to the patient in Nevada.

As to technical questions, Edward O. Cousineau, the Executive Director of the Board of Medical Examiners, and Todd Rich, its Deputy Executive Director, are in the audience if there are questions.

Assemblyman Hansen:

The rural areas are already having difficulty keeping physicians because of the relatively low volume and low pay compared to what they can make in busier areas. I assume some of the concerns you were bringing up have to do with that. With this process in place, is it going to increase the likelihood of losing a full-time physician in a brick-and-mortar hospital who is taking care of his bread and butter, people coming in?

Joan Hall:

I think there is that fear. I think it is unfounded, but many of the physicians are most concerned about the mobile apps—the simple apps. For example, you can stay in bed and show the doctor your eye, and he or she can diagnose from afar that you have conjunctivitis versus going in to see the doctor. That is a concern of theirs, but I think they also recognize that that will allow more time for the more complex patients, those patients with chronic long-term conditions. Again, that is the scare and the threat part, but we also recognize the benefit as well.

Chairman Kirner:

Are there any other questions? Seeing none, are there others who wish to testify in favor of A.B. 292?

Alfredo Alonso, representing UnitedHealthcare:

We, too, support the bill. As you know, others on the Committee from last session worked tirelessly with Senator Jones to enact the first version of this bill and, essentially, we look at this very simply that the more flexibility, the better. We have had those discussions at length with Assemblyman Oscarson, and I believe he shares those concerns. I think that the amendments before you certainly get very close to fixing that concern. I think his staff has also worked with us on section 3, which we continue to wordsmith, and I think we are close there too.

Overall, to answer Assemblyman Hansen's question, I think that with this evolution, ultimately you will have a situation where more people will get involved in telehealth in helping in the rural counties, rather than simply saying you will have to go to another doctor. I think you will see a lot more

contracting with doctors and other doctors who are also licensed in Nevada in other areas, so you can start creating a network. I think that is good for society. It is great for Nevada, specifically in areas where we do not have doctors.

Paula Berkley, representing Board of Occupational Therapy and State Board of Physical Therapy Examiners:

We support this bill.

Erik Jimenez, representing Universal Health Services of Delaware:

I am here on behalf of Universal Health Services (UHS) of Delaware regarding UHS's behavioral health hospitals in Nevada, which includes Willow Springs Center and West Hills Hospital in Reno. I would like to express my sincerest level of gratitude to Assemblyman Oscarson for bringing this bill forward because it helps with a much-needed discussion on increasing access to care in Nevada. In addition, we would like to echo the support of Mr. Welch and the Nevada Hospital Association for A.B. 292 because it is designed as significantly improving the level of care received by all Nevadans, especially those who reside in rural communities. We feel that telehealth services help to ensure that patients can adequately be assessed prior to entering our facilities. Further, we believe that telehealth services help to establish a much stronger bond between physicians and their patients, which helps in providing them the greatest and most effective level of care possible.

Joanna Jacob, representing Dignity Health-St. Rose Dominican Hospital:

We would like to associate ourselves with the comments from Mr. Welch. We support telehealth as a means to increase access to care and in helping patients get care where they are and when it is needed.

Chairman Kirner:

Are there others in support, either here or in Las Vegas? Seeing no one, are there those who wish to testify as neutral?

Laurie Squartsoff:

The Division of Health Care Financing and Policy agrees that increased access to telehealth services is important to improve patient services, and A.B. 292 moves the state toward this goal. The conceptual amendments addressed our concerns regarding prior authorization and not expanding services to locations currently not covered under the Medicaid State Plan.

Denise Selleck, Executive Director, Nevada Osteopathic Medical Association:

We were not part of the conversation and have not had time to analyze the conceptual amendments. We had a couple of technical issues with the bill as written, particularly in section 11, where NRS Chapter 630 is referenced; our physicians are licensed under NRS Chapter 633, and that may cause an issue.

There is another matter that was a concern to us. We were very excited about the idea of telemedicine and think that it can benefit our citizens substantially in rural areas. We do want to ensure, though, that we maintain the physician-patient relationship, and that patients are fully evaluated by their physician prior to entering into a telehealth relationship, so there is a protection for that patient to receive the best health care possible.

Stacy M. Woodbury, Executive Director, Nevada State Medical Association:

We represent physicians licensed to practice health care in Nevada. We, too, were not involved in the conceptual amendment and have not had time to review the provisions of that amendment as yet. We recognize that telehealth is going to be very important in the delivery of future health care. We have some concerns about the ability to maintain brick-and-mortar facilities in our communities. We think it is very important that we have physicians living and working in Nevada who work in combination with physicians from out of state or from rural to urban areas.

Assembly Bill 292 starts with the philosophy that all types of care are appropriate for provision via telehealth, and I want you to think about that as a policy. There are some types of care that are specifically more hands-on and really need that in-person diagnosis from a physician. If that diagnosis is made through telehealth, and later something comes up as an adverse relationship, it might have been prevented had the diagnosis been done in person. That is just something to consider.

In addition, the bill, as written, envelops all health care providers under NRS Chapter 629 by using the definition of a "provider of health care" in NRS 629.031. That definition includes a large group of people which expands telehealth to all kinds of health care providers, such as dentists, athletic trainers, music therapists, physical therapists, and all kinds of people. You may want to look at that as you move forward in expanding the policy.

We appreciate that the amendment and the bill addressed the concept of having licensed providers to deliver health care. That is very important, even if they live out of state. If the worst situation happens, if you have a treating health care provider, no matter what that provider has in Nevada who is licensed, taking advice from a health care provider in another state, and there is

an adverse outcome, that means the person in Nevada is the one who is going to take full responsibility, even though they were working collaboratively with a provider in another state. That is a significant added liability to your health care provider in Nevada.

Lesley Pittman, representing Reno Diagnostic Centers:

As my colleague, Joan Hall, had indicated, Nevada Rural Hospital Partners have been using teleradiology for years, and so has Reno Diagnostic Centers. I am here to compliment Assemblyman Oscarson on his efforts in terms of this bill to increase access to health care in both rural and urban parts of our state. I also want to get it on the record that because there is no patient interaction on a radiologist-to-radiologist consultation with a radiologist outside of the state, the section 3 provisions do not apply to that.

Chairman Kirner:

Does the Committee have questions of this panel? Seeing none, the only thing I would say to Ms. Selleck and Ms. Woodbury is to make sure you connect with Assemblyman Oscarson on his conceptual amendments and other parts of the bill. Are there others who wish to testify in the neutral position on A.B. 292?

John Oceguera, representing Reno-Sparks Indian Colony:

We have been talking with Assemblyman Oscarson and letting him know that it was imperative that the Indian Health Service and travel health programs used these telemedicine programs extensively. Parts of those were covered in the amendment and part were not, but Assemblyman Oscarson has been good enough to include us in the amendment and we would be supportive, but I could be neutral now, if that works for you.

Chairman Kirner:

Thank you. We will now hear from those who are opposed to this bill, either here or in Las Vegas. Seeing no one, we will invite Assemblyman Oscarson to the table for closing comments.

Assemblyman Oscarson:

I am truly humbled by the folks who have been here today and spoken on behalf of the bill. There are still some concerns that I assure you we will work through and do the best we can to address. This has been a labor of love for many of these folks over the last 15 months, with every monthly meeting in Carson City, and discussing what was important to the state to provide health care and continuity of care for these folks and our constituents. I look forward to your work session for the bill.

Chairman Kirner:

We will close the hearing on Assembly Bill 292 and open the hearing on Assembly Bill 294.

**Assembly Bill 294: Enacts provisions relating to suicide prevention for veterans.
(BDR 54-692)**

Assemblyman Tyrone Thompson, Assembly District No. 17:

I represent a vast majority of the City of North Las Vegas, as well as a few unincorporated county islands. This bill will enact provisions relating to suicide prevention for veterans.

I served on the Service Members, Veterans, and their Families team for the past three years when I served as the regional homeless coordinator in southern Nevada, and I continue to do so as I sit on the Nevada Interagency Council on Homelessness. The purpose of our collaboration is to unite Nevada to prevent suicide among service members, veterans, and their families. This vision is being achieved as we root our efforts in research, collaboration, and a willingness to bring awareness to a difficult public health issue. Our well-rounded team of professionals represented Nevada at summits with other states designed to craft a state plan to aggressively address veteran suicide. I have a copy I can show you that was presented in 2007. It is a working document.

Caleb Cage is sitting to my left, and he is the Director of Military and Veterans Policy for the state. On my right is Misty Vaughan Allen, Suicide Prevention Coordinator for the state. Mr. Cage will give an overview of veteran suicide through a PowerPoint presentation that is on the Nevada Electric Legislative Information System (NELIS). It will include statistics specific to our state and areas of the plan we are looking to address in this bill. I will then give a brief walk-through of the bill, and Ms. Vaughan Allen will follow up with a further statement of support.

Caleb S. Cage, Director of Military and Veterans Policy, Office of the Governor:

I think this bill is an important step forward and builds on a lot of the work that Assemblyman Thompson has been part of for the last three years. I appreciate his efforts on behalf of military and veterans in the state of Nevada.

As Assemblyman Thompson mentioned, I will give an overview to provide a foundation for the discussion on veteran suicidality in Nevada and nationally ([Exhibit D](#)). The Governor's Veterans Suicide Prevention Council report is

provided in the "Nevada Veterans Comprehensive Legislative Reform Report" that was furnished to you earlier this session, which has a great more detail on these issues.

Nationally, 20 percent of United States suicides currently are veterans. The U.S. Department of Veterans Affairs (VA) has estimated that approximately 22 veterans die by suicide every day. Veterans are more likely than the general population to use firearms as a means for suicide. There are 950 suicide attempts per month among veterans receiving VA health care and services [slide 2, ([Exhibit D](#))] .

In slide 3, you will see similar statistics for the state of Nevada. Thirty-three percent of veterans who recently committed suicide had a history of previous attempts. Historically, 24 percent of Nevadans who die by suicide are veterans. In 2013, preliminary data showed that 576 Nevadans died by suicide. Of those, 130, or 23 percent, were veterans.

Slide 4 provides more detail. If you look at the bar chart with the dark blue versus the aqua blue, that shows that suicide in each category is much higher for veterans except in age groups 55 to 64 and 65 to 74. I should note that these statistics come from reports that are generated annually by the State Registrar of Vital Statistics. That is a key part to this bill. We continue to track these numbers so that we can measure a decline, which we have in recent years, or make continued recommendations for improvement going forward.

Slide 6 breaks this out by gender. This was an important part of the first report, "Suicide Mortality in Nevada's Military Veterans, 2008-2010," published in 2012. The report showed the breakdown of suicides by gender and what was used in order to attempt or to complete suicide in the state of Nevada. This shows Nevada's female veterans at about 5 percent, which is five times the national average. These numbers are per 100,000.

Before reviewing the recommendations on slide 7, let me offer some background. In 2012, Luana Ritch of the Division of Public and Behavioral Health, Department of Health and Human Services (DHHS), authored the report I just mentioned, "Suicide Mortality in Nevada's Military Veterans, 2008-2010." The report received a lot of responses from the statewide policy community, and the then Office of Veterans' Services and the Department of Health and Human Services created the Veterans Suicide Prevention Task Force, which is when we first started working with Assemblyman Thompson. At that time, a statewide team of interagency individuals brought different perspectives to this issue. Shortly after establishing the task force in 2012, that group received

a grant from the Substance Abuse and Mental Health Services Administration (SAMHSA) to travel to Washington, D.C., to create an action plan and start addressing this problem.

During the last legislative session, one of the elements of that task force plan was the introduction and passage of Assembly Bill No. 29 of the 77th Session, which established the Committee to Review Suicide Fatalities in Nevada. Ms. Vaughan Allen has been working on that since, and we made sure there was a veteran and military representative on that Committee to continue the great effort that had been started earlier by the task force.

In November 2013, Governor Sandoval signed Executive Order 2013-22, which turned the task force into the Governor's Veterans Suicide Prevention Council. In May 2014, the group submitted its final report with seven recommendations. By September 2014, the efforts established in Nevada were recognized by SAMHSA as a national best practice, and we were invited back to Washington D.C., to present in front of other groups. Since the initial report that started all this vigorous effort to address this very important problem, Dr. Ritch has authored a follow-up to the 2012 report in 2013, and this year she has provided a full report with continued statistical analysis, "Revisiting an Epidemic: Suicide Mortality in Nevada's Military and Veteran Community, 2008-2013."

You heard me mention the May 1, 2014, report earlier and the seven recommendations that came out of that. Assemblyman Thompson's bill captures two of those recommendations. One recommendation would require the State Registrar of Vital Records of the Department of Health and Human Services to provide a report on suicide mortality of Nevada's veterans to the Department of Veterans Services by October of even years and provide an update in odd years. The other recommendation was for universal screening training for all medical professionals in Nevada.

Assemblyman Thompson will be going over the details of the bill, but the next slide [slide 8, ([Exhibit D](#))] provides more background. Regarding universal screening, it talks about the screening tests, which are used to determine suicidality, and also determined by occurrences of depression. The test is really for depression. The user of the screening test can determine if intervention, services, or other immediate aid are necessary for the individual they are working with at that time.

This bill would require that the screening test training would be for all licensed health care professionals going forward. Two states, Washington and Kentucky, have similar laws on the books from 2014. Nevada is proud and

pleased, especially if this bill passes, to continue to lead in this very important space. This would be one of the great successes to come out of this ongoing effort since 2012.

Slide 9 talks about the importance of the annual report. I have already noted the significance of the report and how important it is for us to make data-driven recommendations. Continued efforts include Executive Order 2014-20, which was signed by the Governor last year and required that report to be submitted for 2015, which it has been. It would be used to measure the success of current efforts and to help make recommendations going forward.

Assemblyman Thompson:

I would like to walk you through the bill. In section 1, subsection 1, the bill talks about the recommendation Mr. Cage referred to regarding universal assessment, requiring that a health care provider shall complete a course of instruction within two years after initial licensure. It relates to suicide assessments, screening, and referral. The course has to be at least three hours of instruction. In NELIS, there is a conceptual amendment ([Exhibit E](#)). In talking it over with DHHS, their part would be stricken, and it would deal with the regulatory boards of the providers of health care, which makes better sense.

Section 1, subsection 2, discusses how the classes are taken and that it cannot relate to ethics continuing education that the provider of health care is required to complete; that cannot be substituted. Section 1, subsection 3, talks about the role of the Division of Public and Behavioral Health of the Department of Health and Human Services.

Section 2, subsection 1, directly relates to the recommendation regarding reports that Mr. Cage spoke about. This is where we need the assistance with the reporting. There are some vital statistics that the Interagency Council on Veterans Affairs will need in order to continue the work they do.

Section 2, subsection 2, talks about how the Council, upon receiving the information, shall continue to give recommendations and submit the information with the report pursuant to subsection 3 of *Nevada Revised Statutes* 417.0195.

I would like Misty Vaughan Allen to give her statement at this time.

Misty Vaughan Allen, State Suicide Prevention Coordinator, Office of Suicide Prevention, Bureau of Child, Family and Community Wellness, Division of Public and Behavioral Health, Department of Health and Human Services:

I have been working in suicide prevention for over 20 years. When I began, Nevada had the highest suicide rate in the nation. We are currently

sixth highest, and I believe this bill will keep us on that trajectory out of the top ten and on to wellness as a state. Mr. Cage mentioned the Committee to Review Suicide Fatalities. In a brief time with this Committee, we have had a few reviews of older adults and veterans, and we learned that primary care was one of the few moments of missed opportunity where we could have intervened to save those people's lives. As we move forward with that committee, I know we will have better recommendations. It is still very new, but I want to emphasize some national data.

Up to 45 percent of people who die by suicide had contact with their primary care provider in the month prior to their death. In fact, 1 in 6 people visited their primary care physician the day of their suicide—a huge missed opportunity. Up to 67 percent of those who attempt suicide receive medical attention as a result of their attempts. We can give them the tools and the support for their caregivers to prevent future attempts. Recovery is effective. It works with the right support. As you have heard, about 1 in 4 of all Nevada deaths over our history are veterans.

Increased risk for suicide has been associated with injuries, chronic pain, and disability among veterans. Three-quarters of U.S. veterans received their health care from primary care providers outside the VA, hence, the importance of this bill. Also, veterans frequently return to their rural homes far from military or veterans' services. We see primary care, such as a community center, as one of our few options to intervene.

Suicide prevention strategies and primary screening for suicidal thinking appear to be an effective and efficient means of identifying individuals at risk when conducted on people who have key risk factors. Patients in whom warning signs or other risk factors are detected should be asked about suicidal thoughts directly. Some of those suicide prevention strategies recommended in primary care include training for staff to recognize behaviors and communications that indicate suicide risk, the universal screening mentioned in this bill, aggressive treatment for depression, screening for suicidality in patients with key risk factors, and educating patients and their caregivers about reducing access to lethal means, such as medications and firearms.

The National Action Alliance for Suicide Prevention is the public/private partnership advancing the national strategy for suicide prevention. The clinical care and intervention task force recommends several interventions. I will highlight two.

Screening for suicide risk should be a universal part of primary care; hospital care, especially emergency department care; behavioral health care; and crisis response intervention. While universal screening for suicide risk will take time to fully develop across our state, we believe the continued expansion of this will improve our workforce and give great benefit to helping save lives in Nevada. The more touch points a person encounters, the greater potential to prevent a suicide attempt. Suicide prevention training among Nevada's licensed health care workforce is poised to be a significant system enhancement for delivery of care, and we would be leading the nation. We are the third state to develop this.

Our second recommendation from the national task force would be that all health and behavioral health care accrediting organizations should create guidance to organizations on elevating suicide prevention practice in accredited organizations, from clinical settings to health plans. Accredited organizations have set goals of reducing signs of self-harm. In fact, nationally that is called the Zero Suicide initiative. It used to be, one life is a wonderful thing to save. Now it is, we cannot risk one. We save as many as we can, and this systems approach helps do that.

Accrediting and licensing organizations hold considerable sway with organizations they accredit and individuals they license. Accordingly, standards of care created and/or guidance issued can provide a powerful stimulus for improvement in clinical practice. Assembly Bill 294 ensures, within two years of initial state licensure, that health providers will receive training to recognize and reduce suicide and self-harm with the goal of eliminating suicides among persons who receive care from them.

Thirty-three percent of people who received care died within that care. That means we can improve what we are doing. In the past, we have had trainings for decades, but voluntary engagement with those trainings is not enough. Our rates are increasing. We feel this issue will help make sure all providers receive that care.

Assembly Bill 294 would institute requirements aligned with national recommendations for workforce development and standardized clinical care for suicide prevention.

Again, Nevada is sixth in the nation. We are well on our way out of that top ten. This partnership and increasing that safety net for prevention and early intervention will make all the difference.

Assemblyman Ellison:

I was looking at the statistics, which show over 30,000 suicides per year four or five years ago. Most of them seem to be elderly white males, which are the largest number of suicides. It is not youth, and this is not broken down by veterans, only by gender and race. There seems to be a trend of all genders, not actually addressing veterans. That is fairly low compared to the statistics.

Misty Vaughan Allen:

About 79 percent of all suicide deaths in the United States are Caucasian males. We feel the focus on veterans in Nevada is crucial because they are receiving a majority of their health care in primary care. There is a stigma around mental health and suicide prevention, so I think that connection to behavioral health care is still a work in progress. Primary care is a wonderful open-door opportunity. Also, nationwide, 1 in 5 suicide deaths are of veterans, male and female. In Nevada it is 1 in 4. You are right about the increased number of males, but we see the veterans population as all genders and all ages. Primary care, even for our younger veterans, as you can see in the charts ([Exhibit D](#)), is really soaring at this point for risk of suicide. It spans the age range.

Chairman Kirner:

Are there those who wish to speak in support of this bill?

David Sousa, State Commander, Department of Nevada, Veterans of Foreign Wars:

I am a member of the Governor's Veterans Suicide Prevention Council and will share my story. Suicide awareness and prevention is not a topic I take lightly. I have worked with the Governor's Veterans Suicide Prevention Council to assist in the development of A.B. 294. While my story is complicated, I feel part of it needs to be heard, and it is my time to tell of a couple of events that led me to today. If it was not for the support group and other events that I have attended assisting me through these events in my life, I might not be here today to tell my story.

My story starts one year after returning from a year-long deployment with the Nevada Army Guard in Afghanistan. On March 10, 2013, a good friend of mine lost his battle with his demons and committed suicide. At that time in my life, I look back and see that I was in a tunnel so dark and dismal I could not see the good things around me. I was barely coping with everyday problems, but I was able to hide it from my closest friends and family. I contemplated suicide several times before and after my friend's death. If it was not for the pain I felt of losing a good friend, I may not have seen the crack of light in my tunnel of despair showing me a glimpse of the good stuff around me.

In April 2013, I started a long road to recovery. I talked with my civilian provider, which this bill addresses. Either I was not telling my story or not giving my issues in the right way, but I felt the warning signs were evident. They did nothing. I went to my VA primary care provider. When she noticed the warning signs, she immediately guided me to a mental health clinic. I do not think I would have found the strength and courage to walk to the VA medical center to start a post-traumatic stress disorder (PTSD) recovery plan without fair knowledge of the signs of suicide. My doctor at the VA and the support group that I went through gave me the tools necessary to cope with my demons and to break out of my shell.

My tunnel of despair feels so far removed, I look back and am amazed at my success. I pursue several training classes on suicide awareness, one of which is safeTALK. I later became a trainer and have trained over 250 community members. I have also used the trainings to intervene in several suicide attempts to help my fellow soldiers and veterans get the assistance they needed. I am a statistic—an Iraq and Afghanistan war veteran who has thoughts of suicide. There are still issues in my life I have trouble with in opening up, but it is best that I do not do that at this time. Today I am here to show support and guidance for my fellow veterans, along with the people of my community who suffer with suicide tendencies and to seek out the help and let them know they are not alone. There is a great telephone number I have called several times just to hear someone understand my thoughts. The Veterans Crisis Line, 1-800-273-8255, 24 hours a day, I hear the calm voice of understanding. They ease me through my pains.

I hope this short glimpse into my life helps one person to get the care he or she needs and to eventually become a better citizen and be safer in our community. I have talked with several first responders, such as REMSA in Reno and nurses and medical care providers in Las Vegas. In Elko, I spoke to several different health providers. Throughout the state, people are eager for this type of training to help them reduce the suicides in our communities.

Offering two or three continuing education units of training in suicide prevention and awareness to our first responders is the right thing to do in creating a suicide-safer community. Please join the two other states that have already passed similar legislation.

Kevin Burns, Coordinator, Veterans Resources Center, Western Nevada College:
I am cochair of the United Veterans Legislative Council, which is a coalition of all the major groups within Nevada for veterans, including the Veterans of Foreign Wars, the American Legion, the Marine Corps League, Disabled American Veterans, and the Order of the Purple Heart. During the day, I run the

Veterans Resource Center at Western Nevada College (WNC) in Carson City. I do not speak for the Nevada System of Higher Education, however. I say that merely to lay foundation of my work within the veteran community.

I lost a student veteran last spring to suicide. I say "I" because I will take every one of those personally until the day I die, even though that has not been my training. I had another serious attempt this past December that was averted when a wife came home early and was able to cut her husband down from an attempted hanging. I have done two other interventions with several of my student veterans. We would like to thank Assemblyman Thompson and all the cosponsors of the bill, and we noted that both sides of the aisle are represented, as well as bipartisan support from the other body.

We unanimously support adoption of A.B. 294 as written. Every third day, every 2.8 days in this state, a veteran commits suicide. That means since this legislative session began, 20 veterans have killed themselves. In a report from Nevada's former Health Division released in February 2012, one finding was that the suicide rate of Nevada veterans was an astonishingly high 46 per 100,000 veterans. The national rate is 12. Nationwide, 22 veterans a day kill themselves; that equates to over 8,000 per year.

While many people have become involved in an attempt to stem this insidious scourge, we are fortunate in Nevada to have a tireless angel in this fight, and you have heard from her: Misty Vaughan Allen. But she and those in her office cannot fight this epidemic alone, which is why you have heard from Dave Sousa, my brother in arms, who is now a safeTALK trainer. SafeTALK is a four-hour program designed to make us aware of suicide. I am now with Applied Suicide Intervention Skills Training (ASIST), the next level up, as a certified trainer for suicide intervention. We were both recruited by Ms. Vaughan Allen, as have been many of our colleagues in the veteran community.

A major part of the problem is the stigma attached to suicide and getting help for emotional issues, like post-traumatic stress disorder and depression. Breaking down that stigma and making veterans aware that it is okay to seek help for those kinds of issues continues to be a major battle because of the military mind-set. It might show some kind of weakness to an individual, and that goes counter to anything we have ever been taught. One of the things I do with new student veterans is to let them know that John Wayne's real name was Marion, and someone always yelled "cut" when things got dicey in the celluloid depiction of military service.

Section 1 of this bill would require providers of health care to receive training in suicide assessment, screening, and referral. Awareness in the health care community would go a long way in attacking this specter. Training in the signs, risk factors, and risk groups could alert those providers to persons at risk and assist in getting those persons at risk the help they need.

It is often said it takes a village to raise a child. I would submit it takes a community to keep them alive. One of the things that soldiers, sailors, marines, and airmen learn is to watch over each other. The Army calls it battle buddies. The Air Force calls it wingmen. In the Marine Corps, we called it covering each other's six. We preach that at our resource center at WNC, but one of the issues often involved in suicide is isolation. You have heard Ms. Vaughan Allen testify that many victims, those who have killed themselves, had primary care the day of the suicide. This bill would put more sentinels on watch and help those who have already given service to their country.

Section 2 of the bill requires the Department of Health and Human Services to report information concerning the suicide mortality rate of veterans to the Interagency Council on Veterans Affairs and then to this body. That means data. With data, we can analyze. With data, we can identify trends. With trend identification, we can develop plans. With plans, we can have hope, and we can stem this epidemic and help those who are in such pain.

It has been said that every suicide affects six people directly. I am one of those. My father was a World War II veteran who never dealt with his issues and killed himself. I spent years dealing with that. I wondered why I was not a good enough son for him to stay alive. Suicide, obviously, ends a person's life, but it also affects other lives as well—sometimes for years to come. We, the united veterans of the state of Nevada, urge you to adopt A.B. 294 to help us stem this awful situation.

Susan Guilliams, Private Citizen, North Las Vegas, Nevada:

I am one of Assemblyman Thompson's constituents. I am here to express my support for A.B. 294, which really benefits the men and women who have served our country. I served in the first Gulf War. I know the need for concentrated services to address any mental health issues for our veterans who are coming home with so many issues. Having lost a sister to suicide in 1974, I know and have lived with the devastating impact that happens within a family unit when a suicide takes place. It stays with the family, even 41 years later.

I strongly urge you to support A.B. 294, which further offers much-needed assistance to our veterans.

Chairman Kirner:

Are there any questions from Committee members for this panel?

Assemblyman Ellison:

Regarding the training you are taking, apparently one is if you are a regular psychologist, but how long does the peer training take?

David Sousa:

The two trainings we were talking about are the ASIST training and the safeTALK training. Both of those are through the Office of Suicide Prevention. Those two trainings are available to anybody. There is a clinical side, which is the next level up. We talked about SAMHSA, which has another application for clinical providers with a five-point assistance tool to go through that type of training. That is additional and is above the two types of training mentioned earlier.

Kevin Burns:

We do the safeTALK training for everyone, from the National Guard to volunteers in the community. The safeTALK training is a four-hour training package, and all my student veterans who are student workers in our Veterans Resource Center are required to go through that. It is mostly an awareness kind of thing, and it forces people to look someone in the face and say, "Are you contemplating suicide?" The training I am a trainer for, ASIST, is a two-day seminar that is basically a first-aid intervention. It is our job as trained ASIST people to take someone who is considering suicide and get them the help he or she needs. The safeTALK-trained people would be contacting people like me.

Chairman Kirner:

Are there others who wish to testify in support?

Assemblyman Michael C. Sprinkle, Assembly District No. 30:

I am here as the father of two sons who are in the Army infantry. I am in support of this bill for the mere fact that both my sons have had a direct and very personal experience with suicide. It is one of the biggest fears I live with every day, when I know what my sons are experiencing as they are out there protecting our country and what they will come home with. They do not always speak to me. I am their dad, and kids do not always talk to their dads. Having the ability to turn to their peers within the service and others to be able to recognize that they may have some sort of issue that they need to address is extremely important, and I believe this bill accomplishes that. Please understand that for most of us, when we hear suicide, we know what it is, we understand what happens, but when you have had somebody directly related to

you commit suicide, it is no longer a question. Suicide becomes a viable option when things are not going well, and that scares me to death every day.

Chairman Kirner:

Are there those who are neutral on A.B. 294? Seeing no one, are there any who are opposed? [There was no one.] Seeing no one, Assemblyman Thompson, would you like to make a closing statement?

Assemblyman Thompson:

As you have heard, there is a dire need to address suicide prevention in our state, more specifically with our veterans, as we have shared alarming statistics and some real and passionate testimonies and stories. I truly feel this is the opportunity to provide greater access points and also to help us break down stigma and fear. I would appreciate your consideration and support for Assembly Bill 294.

Chairman Kirner:

We will close the hearing on A.B. 294 and move to Assembly Bill 325.

Assembly Bill 325: Enacts provisions governing persons engaged in the business of a private professional guardian. (BDR 54-976)

Assemblyman Michael C. Sprinkle, Assembly District No. 30:

This bill provides for the establishment, regulation, and penalization of those operating their business as private professional guardians. Private professional guardians are generally appointed by the court when a person has been deemed incapacitated and unable to handle his or her own affairs. Without appropriate licensure requirements, there is room for abuse of discretionary powers, specifically with the person's finances, for which a private professional guardian is responsible. This bill will impose legal fiduciary responsibility on the private professional guardian, as well as require them to report directly to a governmental agency. This bill provides accountability standards for those engaging in the business as a private professional guardian.

Please understand that currently, private professional guardians are not licensed in the state of Nevada. Private professional guardians are certified pursuant to *Nevada Revised Statutes* (NRS) 159.059 and 159.0595 through the Center for Guardianship Certification, and in no way, shape, or form does this bill attempt to remove that requirement for certification. Oversight is through the courts at their discretion, and it is extremely difficult for complaints to be formally raised and processed against a guardian within the current system.

What this bill does is provide for licensure of private professional guardians in Nevada based on models of other industries already licensed. It creates infrastructure for licensure within the Department of Business and Industry, allows for yearly auditing of private professional guardians and the businesses they are associated with, provides for background investigations to confirm their ethical and moral qualifications, and provides national certification requirements of the person or business applying for licensure as a guardian. The bill maintains direct regulatory oversight by a state agency as to the business model and interactions that private professional guardians have with those they are charged with serving. It also provides for due process if a guardian or business providing private professional guardianship disagrees with the findings of the Department, and it helps legitimize an extremely important and necessary industry while protecting those who are dependent on guardians from companies or individuals who may choose to exploit people not capable of looking out for themselves.

There is a proposed amendment ([Exhibit F](#)). I would suggest that the first part, where it says subsections 1 through 4 of section 20 should be deleted, is something that needs to be in this bill. It does not repeat section 19. That is one of the changes I will make and will need to get with the person who created this amendment.

Sections 37, 38, and 39 refer to NRS Chapter 159. This is outside the scope of the Department of Business and Industry, and that is extremely important. One of the concerns you will hear from the opposition today is how we are dealing with the services that are provided. What this bill is going to do is provide an infrastructure for the licensure from the business aspect of what they are doing and the responsibilities they have toward their wards. In no way am I trying to get at the services that are being provided. If anything, I intend to sit down and work with some of the people before this bill comes to you in work session to look specifically at other amendments that need to be, in my opinion, part of this. One would include future changes dealing with the trust accounts, as well as the necessity to release capital immediately during times of emergencies. This bill muddles that a bit. I have already been informed there may be some requirements regarding trust accounts that are impossible for these companies to do. I will talk with them further, and that will be in the amendment that will be coming to you.

Finally, I have every intention of creating an informal working group during the interim to continue to address issues surrounding this industry, as well as unforeseen consequences that may arise from the enactment of this bill. A concern that was brought to me is that this is just now being presented, and that is not the case. This has been going on for many years; however, I am

relatively new to the process. I have every intention of bringing all the parties together during the interim to continue to address what has become a serious problem in the state of Nevada. Some of the people I hope who will participate in the working group will include the guardians affected by this legislation, the Department of Health and Human Services, the Department of Business and Industry, the courts—a very important part—and any other individuals or associated businesses.

I can go through the Quick Sheet ([Exhibit G](#)) section by section.

Chairman Kirner:

We have the Quick Sheet.

Assemblyman Sprinkle:

I will give a brief summary. Assembly Bill 325 is a comprehensive and necessary piece of legislation to create oversight of an industry that for a long time has been lacking oversight. It is not the intention of this bill to harm the industry but rather strengthen its credibility and ensure that those who may choose to exploit a person incapable of looking after themselves will no longer be allowed to practice in Nevada. With me is Commissioner George Burns of the Division of Financial Institutions, Department of Business and Industry, and Sally Ramm, an attorney with the Aging and Disability Services Division, Department of Health and Human Services, who will get more technical as to what this bill provides.

Chairman Kirner:

This bill has 50 new sections in it, so it is not a minor bill. Do the Committee members have any questions for Assemblyman Sprinkle?

Assemblywoman Kirkpatrick:

Since 2009, we have been trying to put changes into guardianship, so this is neither unique nor new. I have questions for the folks who oppose it, because as the senior population and the veteran population grow, I hope we will have time to ask people who are currently within the industry, why are you opposed? I feel as if I am reliving the group home situation where everyone was opposed, but the bad folks are gone, and the good people are doing well. I am hopeful we can ask plenty of questions.

Chairman Kirner:

That is my plan, to let these individuals testify, and then we can ask those questions.

**Sally Ramm, Elder Rights Attorney, Aging and Disability Services Division,
Department of Health and Human Services:**

In the 2007 Legislative Session, a similar bill to this was proposed and failed, largely for three reasons. First, the new licensing board could not be supported by less than ten known private professional guardians in the state at that time. Second, the guardians felt that their national certification, plus oversight provided by the court, was sufficient and more efficient than licensing. Third, the guardians felt they had too little input into the language of the bill at that time.

What has changed in the past eight years? There are now approximately 20 private professional guardians in the state of Nevada. The senior population is growing exponentially, and so is the number of adult guardianships being approved in Nevada. In the 14 years I have been involved with this, there has been an immeasurable increase. There is a large market for the necessary services of private guardians. There are also many people going into the business, and there are a lot of reasons for that. There is a good deal of business to be had, and there are financial reasons to go into the business.

The licensing board in this bill, unlike the bill in 2007, currently exists in the Department of Business and Industry. There will be no need to go to the expense of creating a new one. National certification, which the guardians are obliged to have, requires one year of experience as a guardian before taking the test on best practices and ethics, and there is a background check.

Since 2007, according to the website, the national board has decertified only five guardians in the last eight years. Two of the five were convicted and sent to prison in Nevada. At this time, the oversight provided by most courts in Nevada consists of random checking of court files. There is no investigation or auditing by certified public accountants (CPA) or other fiduciaries. They examine the information, compare it to the file, and, if there looks to be nothing out of place, he or she goes to the next file.

Because of the incredibly large number of guardianships that are being ordered in Nevada, the court resources are not there for staff to do the kind of investigation that is sometimes necessary on the required annual reports on finances of the ward.

It has been eight years since the last bill of this type was presented, and the guardians have not presented any legislation regarding licensing of their own profession. I think Assemblyman Sprinkle's plan to get a group together and start on some of the nonfinancial things that are necessary to address is a good thing for the interim. I also believe that this bill, which addresses the financial

aspects of being a private guardian, is very important to protect the people whose entire estate, property, and money is being handled by a person whom they did not choose themselves and many times did not know during the time they had the capacity to understand what was going on.

While there are some very good private guardians in Nevada who are doing a wonderful service for the people who need them, there are also some issues. We would not hire a house painter who did not have some type of licensing, or a dog groomer or a cosmetologist. Licensing provides professionalism. Licensing provides the guardians the ability to prove to the court, the community, and their clients that they are doing the right thing, because many of them are. Much of the press that the public is now getting is about the guardians who are not doing the right thing. That is the reason we need to have licensing, so we can sift through and have the good guardians benefit from their practices and get the bad ones out.

This bill will give us specific information on what the guardian must do to ensure proper handling of their client's assets, an annual auditing of their business accounts, delineation of the business ethics and practices for private fiduciaries, possible disciplinary actions, and due process for the applicants and guardians. I very much support this bill, and hope that if there anything we can change, or if anything looks out of place, you will let us know. The concept and the bill itself is very important to the older people in Nevada.

George E. Burns, Commissioner, Division of Financial Institutions, Department of Business and Industry:

When contacted early last year by my colleague from the Aging and Disability Services Division regarding issues surrounding private professional guardians, the Division of Financial Institutions (FID) was asked if there were means and methods to regulate this growing industry. The FID has the knowledge and experience to license, examine, and supervise a cadre of financial enterprises. In collaboration with multiple parties, we drafted the bill before this Committee. For the FID's part, we took standards for licensing, examination, and supervision from our existing applicable statutes and tailored them for private professional guardians.

The application provisions that are contained in sections 18 through 26 provide for the identification of the persons conducting the business of a private professional guardian and conducting a criminal and financial background check in a manner that is substantially similar to those used for other FID licensees. The examination provisions for accounting, reporting, and auditing of private professional guardians contained in sections 37 through 41 are focused on compliance with the proposed act and maintaining separate trust accounts for

each ward that accounts for all transactions of funds. The examination technique that will be employed in this regard will be transaction tracing to "follow the money" in determining that transactions are appropriately accounted for.

The supervision provisions for handling complaints and taking action administratively against private professional guardian licensees contained in sections 42 through 50 are commensurate with those of other FID-regulated entities in the Nevada Administrative Procedures Act, or the *Nevada Administrative Code*. The FID is determined that sufficient resources are available to license, examine, and supervise the relatively small number of private professional guardians reported to be in practice in Nevada at this time, and that is approximately 20. We believe the bill before the Committee is a sound basis for regulating private professional guardians for the protection of the public interest and the credibility of this industry.

Assemblywoman Neal:

I have two questions. In section 32, subsection 4, it says a foreign corporation must make sure its name distinguishes it from any other private professional guardian in this state. What is the purpose behind that language?

In section 33, subsection 2, the bill deals with fidelity bonds. Fidelity bonds go through several people, all the way from the active officer to the employee. Why would everyone need to have a fidelity bond of \$25,000 to make sure the company is not going to do dishonest, fraudulent, or criminal acts, when they may not all be engaged at that level?

George Burns:

To answer your first question, that is the standard provision we put in for a foreign corporation or limited liability company that involves any company incorporated outside Nevada. It pertains to the fact that if they want to engage in business in Nevada, the company must have a name different from one that is already operating in this state. If a company from California wanted to become licensed here and the company's name is ABC Private Professional Guardian, and there is already an ABC Private Professional Guardian in Nevada, the California company would have to distinguish its name and change that name. The same name could not be used. That is a protection of firm names, which also have to be registered with the county recorder.

Regarding the fidelity bonds of at least \$25,000, the sole proprietor, which is a single-person operation, or in the case of a limited liability company or corporation, each active officer, manager, or member acting in a managerial or case manager capacity—by that we mean he or she has access to the trust

account, and the person can do trusts and transactions in that trust account. That is the reason the individual would need the fidelity bond. If there should be any malfeasance, the fidelity bond would cover the person. It is by individual on fidelity bonds.

Assemblywoman Neal:

Following up in section 33, subsection 2, the bill says, "or case manager capacity and employee." To me, that is more than just managerial. It says "and employee." Let us say, for example, I am the employee and I report to the manager; even though I may have seen the account, I do not have direct control over it. I have to get a \$25,000 bond as the employee?

George Burns:

The way I read that is anyone who has access to the funds, either incoming or outgoing, including an employee, would be required to have a fidelity bond. That is something that the company would be responsible for supplying to the employee. As an example, in banks, every employee is covered by a blanket fidelity bond protecting each and every employee. Why? Because they have access to information, accounts, cash, checks, and other matters. In this case, an employee may not be someone who can transact on the account, but the employee may be someone who is handed the deposit of a particular income to put it in a person's account. Does the employee abscond with the deposit? The fidelity bond is a safeguard.

Assemblywoman Carlton:

In developing this procedure to be able to license these guardians, did you compare how other states are doing this? I am curious about the application fee. Did we pull this from other states? How did some of this language come about?

George Burns:

Those amounts were comparable to what we use for other licensees. We have not looked at other states. It was difficult to find other states that are licensing this to the degree that we are looking at in Nevada. The amounts for the fees that will be taking place are not to exceed a certain amount—that is a maximum. Through workshops, we will be establishing those with the industry. Normally, our fees are in the range of one-half to two-thirds of the amount authorized by statute in order to give us flexibility to increase them through regulatory workshops in the future, should that be necessary.

Assemblywoman Kirkpatrick:

I do not see the problem with some of the opposition that I received saying that you, the Commissioner, determined that an unlicensed person is engaged in this

activity. I do not understand why the good people would not want the unlicensed folks to go away. I do not understand why there will be a workshop set up. Is that to have regulations so that there is real discussion about it? I brought the bill in 2007, so I know this topic very well. There was a consumer problem, and that was when we had all these new subdivisions with the new senior housing and the new senior living styles. I know our senior population has increased by at least 50 percent since then.

What are you seeing out there? I know what I am seeing, and I have seen things as crazy as having to sign over a power of attorney when you move into a facility, and someone is in charge of all your financial records, and even the family does not know what decisions are being made. I have seen egregious actions from some, but 80 percent of the individuals are doing a fabulous job with our most vulnerable people. What kinds of things are you using, because I do not see the rub with some of this language on asking for some practicality. I do not see any need to compare to other states, because I think we have two negatives in Nevada. One, we are a transitory state where people regularly come to Nevada, provide a service, and then leave. Two, we do not have the same infrastructure as other states when it comes to our seniors. Can you give us some information about what you are seeing?

George Burns:

To clarify, the Financial Institutions Division is basically volunteering to try to address this issue. This is going to be additional work for us, which we currently have the capacity to absorb. We are more than willing to do that. We think we are well prepared to be able to do that. We do not have any vested interest in this bill other than being of assistance.

Regarding things we have seen, FID will occasionally get a call with a complaint about things that are going on. The most FID has been able to do is refer the caller to the Aging and Disability Services Division. Ms. Ramm may be able to give you more poignant examples of that, other than my having to just hand it off. We have no authority, and there is nothing we can do other than to refer the complaint.

Assemblywoman Kirkpatrick:

Ms. Ramm, can you give us some egregious things you have seen?

Sally Ramm:

I think there will be people testifying on some of the issues. What I see, because I receive these complaints from a lot of different areas, is that there is no place for people to go. The only way a person can complain about what is happening in a guardianship for their loved one, or a friend, is to file a petition

with the court; that is the complainant's only option. One of the things this bill will provide is if there are some financial questions about the way a guardianship is being handled, the complainant will be able to take that to Financial Institutions and say, "This is what I am seeing." Then Financial Institutions will have the records and the ability to do the auditing, rather than having a person go back to court. That is one of the big points about this bill: it will give people a place to go when they are concerned. Right now, all a person can do is hire an attorney and file a petition.

Chairman Kirner:

We are going to hear from those who are in support of A.B. 325.

Barry Gold, Director, Government Relations, AARP Nevada:

It is critical that we provide protection for the most vulnerable citizens in Nevada. On behalf of its 314,000 members across the state, AARP Nevada strongly supports this bill and urges the Committee to pass it to provide basic licensing and oversight for private pay guardians.

Rana Goodman, Political Editor, *The Vegas Voice*:

According to the feedback from our readership of *The Vegas Voice*, with our publication's circulation currently at 100,000 a month in senior communities, it is mind-boggling that the current law does not require private professional guardians to be licensed. They hold the power to wipe out a person's life savings in the blink of an eye, and yet they function with a wink and a nod from the court system. The family court hearing master can, without any hesitation, sign a court order giving a stranger guardianship, handing over a senior's home, trust account, stock portfolio, safe-deposit box, and checking and savings accounts, to a private professional guardian who is not only unlicensed but in Clark County, posts no bond. This is absolutely obscene, yet it happens every day in family court and has been happening for years. Until now, no one seemed to care or paid any attention to the plight of these families. It has been suggested, when family members complain, that they go to elder services, to law enforcement, to all kinds of agencies. Believe me, these families have tried, and no one cared.

We ask that A.B. 325 mandate that in all cases, a bond must be posted. Referring to section 37, subsection 3, of the bill, we ask that an audit of a ward's account be done every six months rather than at least once each year. One year is a very long time when expenditures are beyond what they should be and should be questioned. We hope the entire Committee will take the meaning of the word fiduciary very seriously. Section 8 states, "'Fiduciary' means a person who has the power and authority to act for a beneficiary under circumstances requiring trust, good faith and honesty." These are words that

mean in order for you to make money, you do not sell his or her home for pennies on the dollar, you do not toss treasured family photos in the trash, you do not lock the individual away from family and friends, and most of all, you do not isolate the person until the person believes no one cares and he or she eventually dies. I hope you will pass this bill and place regulation into the hands of the state. By doing this, you will place the responsibility for one's actions on the heads of the people who harm the helpless.

Dan Roberts, Publisher/Editor, *The Vegas Voice*:

The Vegas Voice is the largest monthly senior newspaper in southern Nevada. *The Vegas Voice* also hosts a weekly radio show, *Senior Eyes on Carson City*. Over the past few months, initiated by our political editor, Rana Goodman, we have researched and investigated the guardianship industry in Clark County. Simply stated, our findings are clear: having a private guardian appointed for a senior is like selecting a child molester to operate a day care center. It is financial elder abuse, sanctioned and approved by the family court in Nevada. Assembly Bill 325 would license private, for-profit guardians, require them to be bonded, and provide a recourse for families who have been victimized by their deceitful and disgraceful actions. Such a law is urgently required.

You need only review the recent history of private guardians, one now in prison for stealing over \$200,000, another facing numerous lawsuits for looting and misappropriating assets, and yet another as a standard business practice routinely threatening family members with being arrested and going to jail as proof positive that these individuals are now the poster children for guardianship reform.

Whether receiving a hot tip by unscrupulous caregivers, trolling the hospitals for vulnerable potential victims, or lining up in a guardianship court and acting as school children imploring the master, "Pick me, pick me," many words can describe their conduct. Vultures immediately comes to mind, but one word that is never used is that defined in section 8 of the bill, a "fiduciary." Rather than using the guardian's position of authority to provide trust, good faith, and honesty, the guardian's method of operation is to do everything possible to keep family relatives in the dark while squeezing every last dime from their wards.

Think about this: attorneys are licensed, as are accountants, and even real estate agents. These are individuals who provide assistance, insight, and guidance in planning and securing our financial future. There is no question that these professions are, and should be, licensed by the State of Nevada. Yet private guardians who maintain, manage, have sole control, and spend hundreds of thousands, if not millions of dollars from someone else's bank

accounts, pensions, social security payments, trust accounts, and even the right to sell the ward's home for mere pennies, can do whatever they please without any State oversight. This is wrong.

Assembly Bill 325 establishes a procedure for the handling of complaints and finally provides a solution for families who have been emotionally battered and financially decimated by these private guardians. We can talk about justice and the rule of law, but time and time again, it has been demonstrated that the family court will never discipline, reprimand, or replace any private guardian. After all, it is the family court that appointed the guardian in the first place. Seniors placed in Nevada's guardianship nightmare must not be regarded as "cash cows" but as individuals who deserve nothing less than to spend their remaining years with dignity and respect. Private guardians must operate as intended, to serve as protectors for those who need help. Along with our over 100,000 *Vegas Voice* readers, I urge you to pass A.B. 325.

Julie Belshe, Private Citizen, Las Vegas, Nevada:

I am in support of A.B. 325. I speak today of the truth of what occurs. I also speak in fear of potential retribution from the profit-for-hire guardian. My parents were legally kidnapped from their home on the golf course with no knowledge that they had been placed into guardianship. As their only living child, I was never notified by telephone or mail of their location for days. When I tried to expose what was going on, I was rebuffed and stopped with threatening letters from the guardian's attorney. My parents' money was spent in one and one-half years. They had barely any personal possessions left and were living in two small rooms in a facility far from their family.

They were moved in January to a cheaper facility closer to our family, where I had been restricted from seeing them. Now I can visit them, but I am still waiting for false accusations to be lifted. The original temporary legal guardianship papers that are scathing, not just to myself but also to my parents, are full of lies. It says that the only living relative—me—has no contact with her parents with no evidence. I am fully capable and willing to take care of my mother and father. I have been told by various attorneys that the chance of that happening, once a case is in family court, is rare to none.

This bill's passage is very important for several reasons. First, it is family first. Second, legal guardians have a free pass, and no accountability as to their actions or how others' monies are spent when a guardian uses fictitious numbers, as it allows them less work in reporting to the court. The guardian is allowed to make accusations without proof, and that information is accepted on hearsay. Third, any family member is made out to be the villain, whether they are an addict, exploiter, or just so happen to fit into the "sandwich generation."

I am a stay-at-home mother who has been married for 27 years and has a family business. My parents have three grandchildren they adore and love.

The only analogy to this from my parents' mouths is, and I quote: "Now I know how the Jewish people felt when being taken away by the Nazis." It seems to be legal in a modern-day society, or at least in Clark County, where a family member is not even given a chance to be informed as to what is going on with her own loved ones, and the for-profit guardians call this type of behavior in the best interest of the ward? Should legal guardianship ever have been made legal? A complete system intact without regard to any and all family members is what legal guardianship is with the blessing of the Clark County family court.

I wanted to bring my father, and he wanted to address this Committee to explain his and my mother's nightmare as wards of the state. However, the fear and threats, directly or indirectly, by the private for-profit guardian and the family court have been so great that I did not want to risk never seeing my parents again, as I have been previously threatened with.

Nevada needs stricter regulations and guidelines and to be able to hold the for-profit professional guardians and the system 100 percent accountable, with licensing agencies to report at the state level. To have the guardianship commissioner, who is not a judge but a hired employee, as the arbitrator of the guardian's behavior, that is what occurs now, and the professional guardian's behavior is labeled acceptable by the court.

For-profit professional guardians are a business. They are in the business to make money, just like any other business. Every type of business has an overseeing regulatory body: doctors, lawyers, dentists, teachers, et cetera. For-profit professional guardians are another such business entity and must have independent oversight. If these guardians have a business license issued by the state, it is the state's responsibility to oversee that no individual's constitutional rights are violated by a licensee. Many lives are ruined by these guardians who think they are above the law.

The existing rule of guardianship seems to be medicate, isolate, and take away the estate. This is happening all over the country because of loopholes. It is a dangerous situation for all involved, especially the wards who lose all constitutional rights and their families who suffer great distress, to the point of being victimized and trying to make sense of a system when the system makes no sense. We are talking about human beings and their quality of life in their final chapter of living with dignity, honor, and respect. That is the least we can give our senior citizens.

This is a modern-day holocaust that has been swept under the carpet for too long. If this bill had been in place prior to my parents being legally kidnapped, maybe my parents would be in their home, like many of yours. My parents would still be making their memories and not facing a whole family heritage cut off. Their wedding album, family photos, their art collection, heirlooms, money in their bank account, and a brand-new car have all disappeared, without any accounting for these items. If you were placed in my position, this bill would be passed immediately, without question.

Elizabeth Diana Indig, Private Citizen, Las Vegas, Nevada:

Ditto, and I would like to add my story. I am the only child of Avram and Elizabeth Indig. We were a very close family and I helped them financially, including making many of their mortgage payments, which was in the name of the family trust. When my dad died in 2011, it was my mother's wish to stay in her home with all her treasured possessions.

In May 2012, my mom fell down and received a head injury. She was in the hospital, and a few weeks later, a woman telephoned me saying she was an officer of the court and had been appointed my mother's guardian. This is the first I heard of that because I was never served an emergency petition prior to this. I had no idea what was going on. This individual was yelling at me. She said if I interfered with anything she did, she would see to it that I rot in prison. She said she was coming to take the house keys from me. When she came to my house, she looked like a policeman wearing a belt with keys and a large baton, flashing a badge, and took the keys to my mom's house. She provided a receipt that showed the locks had been changed on my mother's house.

Shortly thereafter, I took food to my mom at the hospital, and this woman banned me from seeing my mother because I was a threat to my mom by bringing her macaroni and cheese because she had lost so much weight.

Within two months, the guardian had sold everything in the home at well below market value, without court approval, including my mom's clothes, shoes, and toiletries. No inventory or appraisal has yet been filed. As I understand it, the guardian is to pay all the ward's bills out of the estate. She never submitted a forwarding address. She did not pay the bills except, for the most part, she paid herself with no invoices, \$3,000 to her lawyer, and a cremation for my mother who is getting better.

In August 2014, I received the guardian's annual accounting report which, at that time, was a year late. I noticed mistakes, inconsistencies, and unpaid bills. Most importantly, the home was not mentioned in the report. She had prepaid

herself over \$10,000 in six months with no corresponding invoices. Later in hearings, she kept using the excuse of a Medicaid spend-down. My mother did not need to be on Medicaid. She had her house, she had her things, and she should have stayed in her house. It was then that I Googled the parcel number and found that the homeowners' association (HOA) had foreclosed on the home, which she paid \$320,000 for and sold it for \$22,000. I urge you to pass this bill. If guardians had background checks and were licensed by the state, subject to review, they would not be able to act this way and abuse people.

My mother's worst nightmare was to be in a nursing home. We had planned to prevent that. Now, in her nineties, she is rotting away in a nursing home instead of being home with me because a greedy private guardian decided my mother was an easy mark and a way to enrich her own bank account. Since guardians are not licensed or bonded, a victim has no way to recover what was lost or stolen. I pray that a few years from now we are not sitting here with new victims who are saying, "Why did you not pass the bill?"

Marcia S. Kosterka, Private Citizen, Henderson, Nevada:

I am a nine-year resident of Sun City Anthem in Henderson, Nevada. This has not been my first battle in life, but when I see wrongdoing done to my fellow man, I get very angry. First, something that should be considered is that no guardian should ever be appointed if there is a viable will and trust in place. Somehow that has to be checked.

Second, there has to be limitations placed on these cutthroat people who are looking for victims to feather their own nest. They do not have the best interests of seniors in mind, only to make a fast buck. The collusion has to stop between the courts, the attorneys, and the guardians who are in this for profit. For the greater state of Nevada, you need to pay careful attention to this, because there are many across the country who have been considering moving here to retire. I have made sure, when I am questioned, that I tell them to wait and see what this legislative body will do to protect them. The legislative body was elected by constituents who placed their trust in you to protect them. This is not trust; this is an abomination. This bill has to be passed.

I have a question on section 49, subsection 2, which reads, "The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of \$250,000 or 125 percent of the monetary value of all losses incurred by the private professional guardian company...." Do you realize that with the recovery of the real estate market, many houses are worth far more? Do you not think that

every penny should be returned to the victims? I do not care how, but if he or she took it, it should be returned.

Homa S. Woodrum, Attorney, Las Vegas, Nevada:

I have been a licensed Nevada attorney since 2007 and have found myself involved with adult guardianship, elder abuse, and elder exploitation litigation in my practice. I am here today to thank the Committee for their service and time and to voice my personal support for legislation that would cover licensure of private professional guardians in the state of Nevada. I am disturbed by the inflammatory rhetoric uttered by many in support of this bill. Without making overbroad attacks, especially on private professional guardians who are acting appropriately, who are acting in accordance with NRS Chapter 159, I do not think it fair to color the licensure discussion as a punitive one. I do not believe this is punitive, and I think the regulation is necessary. I think that it is important. Attorneys are what I like to call professional pessimists. We deal in worst-case scenarios and, although I esteem many private professional guardians, the work they do, and the challenges they face, I am here to say that the adversarial dynamic of our judicial system is not well suited to the protection of an often voiceless population. I also esteem the court and the work done there in guardianship.

Nevada Revised Statutes (NRS) Chapter 159 covers the definition of private professional guardians and even standards of estate management for guardians in general. Where a ward is already being served by a nonfamily member in guardianship, the likelihood of effective oversight becomes low given that courts rely on competing viewpoints as a path to justice. In other words, the court is limited in its ability to *sua sponte* raise concerns. If objections are not raised in court, matters pass into court order without ideal scrutiny.

Guardianship involves everything from sales of real estate, end-of-life decision making, and account management—all fiduciary relationships in nature. Sadly, in my career, I have seen that often the tools to exploit and deprive elderly individuals of the fruits of their life's work are legal in nature. For example, powers of attorney, trusts, estate planning, and even court-authorized guardianship can be used to gain access to people who are without decision making capacity.

This is highly relevant, and my Latin pronunciation is lacking, so I will say it in English. The Roman poet Juvenal wrote, "Who will guard the guards themselves?" I feel this bill is an important step in answering the need for scrutiny, transparency, and improved elder rights in the state of Nevada.

Chairman Kirner:

That completes the testimony of those who are in favor. Are there speakers who are neutral? Seeing no one, are there speakers who are opposed to this bill?

**Kim Spoon, National Master Guardian, Guardianship Services of Nevada, Inc.,
Reno, Nevada:**

I am a private professional guardian with Guardianship Services of Nevada. I started doing my work in guardianship in the public guardian's office in Washoe County in 1993. I was there for six years and left to cofound the office of Guardianship Services of Nevada. We are in our 17th year of doing private guardianship work. I want to state, very strongly, that private professional guardians are not against licensure or any type of state regulation. What we are against is a bill that does not take into consideration the nuances of who private guardians are and the work they perform.

I put together a few points in opposition to this bill ([Exhibit H](#)). I will summarize those points for the sake of time. I hope you have a chance to review the document, or will do so.

This bill was originally brought in under a different bill draft request (BDR) in the fall, and then reintroduced a little differently. I think the important thing to take away is that the private guardians were not part of any writing of this original bill, and a little bit in the second drafting, because of the meetings we had previously. As private professional guardians, one of the important things we are trying to get across is that we feel as if we are not being heard. We want to be listened to instead of steamrolled, and that is why we are here in opposition.

Regarding the cost impact to private professional guardians, I think there is a very disturbing notion that private guardians are becoming wealthy by taking money from their wards. While we are paid fees from the ward's estate, only after the fees are reviewed and approved by the judge—we cannot pay ourselves until that happens—we certainly are not doing this work for the money. We put Guardianship Services of Nevada information out there for the world to see, only because we need to get across the fact that we are not being made wealthy from doing this work. As it states, in our practice we are paid an hourly wage. That hourly wage is \$5 less an hour than a senior guardian case manager makes at the Washoe County Public Guardian's Office. We are a few dollars over a beginning hourly case manager. We do that because there is not enough money to pay us otherwise, unless we raise the fees that we charge the wards, which we do not want to do and only do when necessary. The only draw we took last year was to help pay our taxes—that is it.

What we are very concerned about in this proposed bill is what you were talking about earlier, the fees and such and the fiduciary bonds, and all that is not even mentioned in the bill. If all that was added up to what it looks like now, even if it was apportioned, we may not be able to stay in business for what we make at this point without having to increase the fees from the wards. We do not want to do that, but we are not crying wolf. This is our reality. We are not making a great deal of money and becoming wealthy from being private guardians. We do this work because of the passion we have and the positive changes we make for these wards.

Regarding the Division and Commissioner's absolute power, it is frightening to be so overly regulated, to our way of thinking. We have a boss, we have the courts, and we have to answer through everything, such as selling a home. We cannot sell a home without first getting authority to sell it, then confirming we can sell the home with the price we have. We do not sell real estate for pennies on the dollar. We have so much regulation through NRS Chapter 159. It is not that we mind more regulation; the problem is the way it is being done through this bill.

We are not financial institutions. We are very, very small businesses. There are 18 individual guardians in the state of Nevada. Out of that, there are 12 businesses and two guardians who act as individuals instead of entities. Eleven of the businesses have one guardian. Our business, Guardianship Services of Nevada, is the only one that has more than one guardian. We are not big banks, nor are we trust companies, yet we are being regulated as if we are. There has to be a happy medium where we are not so overregulated, together with all the fees we have to pay in order to survive as private guardians. It also goes into the power that one person has to oversee everything we do. Whether we have a license or whatever happens to us, it is all decided by one person. I understand that happens with banks, but this is a person who has no idea what we do. We are not banks that have regulatory systems throughout the state. This is a very unique profession that very few people do in Nevada. It is frightening to have one person completely regulate everything a guardian does and then not know what that is.

Under specific concerns regarding the bill language, I want to mention a few things. First, probably 95 percent of our guardianship work has to do with not only guardianship of the estate but guardianship of the person. Seventy-five percent of what we do has to do with guardianship of the person. Very little time, maybe 25 percent, is dealing with the estate, unless that is the only type of guardianship we are doing for that person.

Nothing in this bill has anything to do with guardianship of the person, yet if this bill is to protect the ward, which we understand that it is and we do not have a problem with that being regulated to protect the ward, then where is that component? The other issues are education and experience requirements. We are going to continue that through the national certification process, the Center for Guardianship Certification. We understand there needs to be state testing, and we are concerned, because that will be regulated or developed by somebody who has no idea what we do because that person has never handled anyone like us and our profession.

The topic I did not include in the opposition points ([Exhibit H](#)) addresses sections 42 through 50 of the bill and deals with the ramifications for the Commissioner if guardians do not follow the criteria of the regulations. If we are dishonest, or if we do not follow the law, the Commissioner can remove our license and take our business away, which is part of the regulation. The problem is, if our license is taken away, and there is only one guardian in a particular office, who is going to handle the 50 guardianships that the business has? There is no guardian to handle the cases. The only party to do that is the court. The court can appoint or terminate, and only the court can substitute. The Commissioner cannot do that. To take away a guardian's license, prevent one of us from being a lawful guardian, puts the wards at risk and does not make sense. There are other concerns, which I will not go into, but that points to the conflict, and there are several areas in this law regarding what the judges, our bosses, and what the regulatory system and the Commissioner can do.

Regarding the financial ramifications to the counties, if this bill is passed as written, and we do not raise our fees, then there is a good chance that a lot of private guardianships are not going to be able to practice any longer. This is the reality of our jobs. That will definitely have a huge ramification to the counties, depending on how many guardianships are left and whether there is no one else but the public guardian's office to take these cases. If you do not think there will be consequences to private guardians not being in business, we are talking \$100,000 to \$300,000 just for Washoe County if something happened to the private guardians in the county.

Considering other possible alternatives, we would like to authorize a provisional license so we can appear before the interim legislative committee if there has to be a license right now. Keep the courts more involved if the wards are actually wards of the court and the judges are, essentially, the guardians' bosses. Judges have a clear idea of what guardians face and what wards need, so the judges should have more of a say in how private professional guardians are regulated. The judges should put together a certification board of persons,

possibly volunteers who are involved in guardianship issues and are qualified through state and court vetting and appointment to review applications, deal with policy and regulatory issues, collect fees, and review how other professions are licensed; look at what other states are doing because they are doing good work and are learning some of the pros and cons about trying to regulate and how other states are doing that; consider limiting the amount of funds available to private guardians through blocked accounts, which we do all the time; and allow our insurance companies to deal with the liability issues of dishonest employees. I read it the same way, that it is talking about all the employees, as Assemblywoman Neal stated.

Let us use our insurance companies; we can do that, and it is much less expensive. Have all accountings reviewed by an independent accounting firm or other approved agency. We are fine with that. We are open to so many things if this needs to be done. We want a system that works for all and which protects our wards. That is the bottom line, and we are willing to do that. We want to be included. We want to have it be what we need, what the wards need, and done fairly.

I want to clarify a few things Ms. Ramm testified to earlier. In 2007, we agreed to the certification, but not because that is all we thought was necessary; it was because that was all that was available for us at the time. We could not afford to do the licensing board; there were 14 of us then. We are not this huge, growing profession. It is not there. It is a very hard profession, and a lot of people would not want to do this work. We did that because we had to, not because that was something we agreed to and thought was necessary or was enough. It was because we had no other way to go, other than the certification at that point.

Chairman Kirner:

I am looking at your letter ([Exhibit H](#)), and it looks as if the principals include yourself, Dennis Travers, Bonni Walker, Shelly Register, and Kelly Pingel. A member of our Committee wants to ask a question. Normally I go through everybody, but I think because of the size of your organization and your letter, I am going to allow Assemblywoman Kirkpatrick to ask you questions.

Assemblywoman Kirkpatrick:

I believe you are not one of the bad players because you probably would not be sitting before us today, but I believe there are unsatisfactory people, and I know the previous Attorney General had planned on submitting a bill. However, it was not a priority for the new Attorney General. There has been a lot of work and a lot of discussion on this. I do not care about the fees as much as I care about protecting the consumer. I want to make sure people's assets are

protected. Once something is signed away, there is no recourse in getting that property or the money back. We see many unlicensed people. Explain to me how many clients do the 18 of you have? Also, what is the court process when a case is assigned? How does that work?

Kim Spoon:

In Washoe County and Carson City, there are approximately 116 clients. In Clark County, maybe 300, for a total of 400 to 450 people, I would guess.

Assemblywoman Kirkpatrick:

To clarify, that is just for your group of 18, correct?

Kim Spoon:

Correct. For the second part of the question, we are not in hospitals lurking around corners looking for people. I do not know of anyone in the profession who markets. We do no marketing. We perform in-services for people and help with nursing homes in understanding what guardianships are. We go to the senior centers because we are asked to do so.

People usually call us, and it could be anybody in the community—hospital personnel, attorneys, nursing homes, or families who are desperate, especially who live out of state. We do a lot of coguardianships with families; probably two-thirds of our practice is with coguardianships so that the family has an equal say in their family member's care.

We investigate the referral to make sure it is credible and that is someone we could take. We do not want to take cases that do not have the money available to pay for private guardians; our judge will not let us have those. We have to make sure there are available funds. Sometimes we take cases pro bono, but we cannot afford much of that because 20 percent of our caseload is pro bono. We hold on to all the private guardianships, even though the ward has no money. Once the ward's money is spent down, if he or she lives long enough, we keep the case until the ward is no longer with us, which is usually through a death process.

When we are finished interviewing, we find an attorney, talk to family and friends as much as possible, everyone who is involved unless the family is the exploiter. If the family is the exploiter, then we have to be very careful how we do those interviews. Once the interview is complete and we feel that it is an appropriate referral, we file a petition through the attorney, and the petition tells the judge who we are, who the coguardian is, who the ward is, and why we are going into the guardianship. That petition goes before the court. If it is an emergency guardianship, there are different ways that happens, but it is usually

a much quicker process than if we do a permanent guardianship, which is a 20-day notice period. You are looking at four weeks before we can get into court for a permanent guardianship. There is a hearing where the proposed ward is required to be, unless excused by a doctor. Usually at that point, there is an attorney appointed for them, if the ward wants one. Most people want the attorney and for the most part, we either get the guardianship or not.

The judge decides on the information we get. Part of that is a physician's certificate, an assessment that is required by law to have of the ward, and it is usually done by a psychiatrist, the primary doctor, a neurologist, or someone who states why this person needs a temporary and/or a general guardian; that is required as part of the petition process. We also put in any elder protective services reports or any additional medical information and family letters that will help the judge determine if this is an appropriate guardianship, and whether we are the appropriate guardian to take the case.

Assemblywoman Kirkpatrick:

Out of respect for the time and other Committee members, I will work offline and call Ms. Spoon, because I have a lot of questions.

Susan Hoy, Manager, Nevada Guardian Services, Las Vegas, Nevada:

I am testifying today in opposition to A.B. 325 as introduced. However, I support Assemblyman Sprinkle's bill in part. I believe there is a need for this type of licensure, and I support the idea of infrastructure in our industry to provide business licensure. My concern is that our business is very unique, and that we are appointed through a judicial process. The Department of Business and Industry, without due process, revokes the very authority the court granted us and the absolute authority the Commissioner possesses in the bill. I think the result would not be what we are looking for. It would leave our most vulnerable without a voice in Nevada.

April L. Parks, Owner/Manager, A Private Professional Guardian, LLC, Boulder City, Nevada:

I am in opposition to A.B. 325. I do not necessarily oppose licensing. I think it will only help promote and facilitate our profession. There are many, many concerns with this bill, but I think my colleagues have addressed those very well. I have one more comment. As guardians, we are citizens of the state of Nevada. Our wards are citizens of the state of Nevada. Why would you not want to collaborate with us?

Lee Drizin, Attorney, Las Vegas, Nevada:

I represent private guardians, family guardians, and the public guardian. I have been appointed by the state and federal courts to serve as guardian ad litem to protect the rights of wards, and I also represent wards in numerous cases. I am against the legislation as written. Assemblywoman Kirkpatrick asked why the good guardians would be against this, and I would respectfully suggest that the good guardians would not be against this bill, in part, but there are a few things in A.B. 325 that concern me. There is a misconception that private guardians routinely get appointed by the court when, in fact, NRS Chapter 159 is drafted. So families do come first. Nominations do come first. The private guardians only come into place when the court ultimately makes these determinations that those people are not suitable.

While Ms. Ramm indicated that these people have nowhere to go, I would respectfully disagree. They have the court system. Chapter 159 of *Nevada Revised Statutes* (NRS) very specifically has a mechanism for the removal of guardians. I speak many times to seniors about exploitation, including exploitation by guardians. I have never had a private professional guardian that I have represented have his or her letters revoked. Yet, in two separate instances, I have petitioned the court in cases where family guardians have crossed the line and had their letters revoked. That system does work. What concerns me is that we have now introduced into sections 37, and thereafter, this reference to the Commissioner being in charge of supervising violations of NRS Chapter 159. I think it is a good thing that guardians are licensed. I think it is a good thing for the guardians to post bonds. I think that guardians who violate their fiduciary duties should be punished and punished harshly, but I do not believe that it is appropriate to look to the Commissioner of the Financial Institutions Division, as opposed to the courts, who are the ones that see the petitions. The courts deal with the wards, with the parties, and make the decisions about the annual accounts and the reports. I believe the courts are in a much better position to do that.

One of the things that concerns me is in section 42, which talks about the ability of the Commissioner to temporarily remove somebody, to remove his or her license, to remove that employee and, essentially, put somebody out of business. Every other section of this legislation talks about, at a minimum, having a verified complaint. I bring a unique aspect to this because not only do I represent many guardianship matters, wards, and families, but I am also a prosecutor for the Board of Dental Examiners of Nevada. We deal with licensing issues all the time. All of those complaints, generally, must be provoked, started, or commenced by verified complaints. Yet we now have a system where a commissioner, without giving due process, can take away someone's rights to practice. I welcome the opportunity to participate in the

work groups. I think it is an incredibly important part for families, for the courts, for the legislators to be involved in, but as written, I truly understand why the private professional guardians have concerns with this legislation.

Assemblywoman Carlton:

I am concerned. Who holds the hammer over these folks? It seems to me as though the problems lie with the disjointed system between the courts and the guardians, and no one really has a hammer over the guardians, and I believe that is what is missing from the process right now. No one can say, "This is a bad person, and we are going to do something." I just do not think people have the faith in the family court system that they should have. I do not know if that is deserved, but that is the issue I have heard and what I am most concerned about. That is the piece we need to fix. In your experience in dealing with this, who really has the hammer, and are they doing anything about the complaints?

Lee Drizin:

I think I bring a unique perspective to this, because I am currently dealing with a loved one who suffers from cognitive impairments, and I understand the frustration of the families in dealing with loved ones. The problem is that the court ultimately makes a decision of who is appropriate. We even, within the statute, have a set of priorities. We look at nominations first. We look at family members. I empathize with the stories I hear about family members. I could equally tell you the number of times that public or private guardians have stepped in where the family members are neglecting. The family might be spending the money and inflicting physical harm and even death. I have been involved in those cases and dealt with the frustration of trying to get law enforcement involved, and many times we cannot do anything.

I understand the frustration with the system, but if anybody feels that a private guardian is not acting appropriately, you go to the court. You present a petition. You explain what the situation is. The system we have in Nevada is a guardianship commissioner. If you do not like the commissioner's decision, if you feel it is unfair, you get another bite of the apple and go to the guardianship judge. In many of these cases, I understand it is an expensive process, but in Clark County, if you bring a petition to remove a guardian, we do not have to have a trial. In most of the cases, to save the money for the ward, we stipulate to send it out to an independent third party, a guardian ad litem. If the family member does not agree on the person we would like, we will choose another guardian ad litem, and let an independent third party come in. The system has these checks and balances built in. I am not going to tell you it is perfect. I am not going to tell you that I do not get frustrated at

times when I see exploitation occur. Ultimately, the commissioner and the guardianship judge are the ones who control these issues, and they have access to the file as much as they need to in order to get those issues before the court.

Assemblywoman Carlton:

My concern is that the family is going to bear an expense if they feel that they have been wronged and want to appeal. We are hearing that the cost of these regulations is too much. The cost to the families to defend themselves is a lot, also. That is the bothersome point, because the people may not have the resources to defend themselves against an appointed commissioner making decisions for their family.

Shelly A. Register, National Certified Guardian, Guardianship Services of Nevada, Inc., Reno, Nevada:

You have my testimony ([Exhibit I](#)). I would like to reinforce that private professional guardians do not go into cases and steal family members. We do not want to get into a case as long as there is a family member or an appropriate friend, but there are many circumstances, including where the families have acted badly, and we have to provide those facts, or someone else has, that there are times where the individual tells you they do not want their family members to serve. He or she does not necessarily even tell us but instead tells the court or a third party.

When there is a dispute between family members, we are often brought in as a third party. There are many circumstances where the families are not all the same. Ninety-five percent of the families do a good job, but not all.

The other thing I would like to reinforce is that other states have programs. A bill has been introduced in the state of Washington that would allow a family member to file a written complaint with the court, and the court to bring that up to the other parties in the case.

One of my concerns is that it has been said that the guardians did nothing for licensure since 2009, but we have been here and available. We have been here with information. As soon as we heard there was a bill being offered by the Office of the Attorney General, we were in touch with the office of Jane Gruner, the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services. We sat down with Ms. Gruner and some of her staff, including Sally Ramm. We provided much of the information I provided to you in my testimony, including the references to the Center for Guardianship Certification, the other states' information that includes what other states are doing, and an entire list. I am not sure if Mr. Burns or Assemblyman Sprinkle were told, but I know the information that I have

submitted to you was given to the Aging and Disability Services Division. All it took was a conversation with us. We thought we were going to move forward and have these conversations, and we could have shared all the information that has been asked.

[Ms. Register also submitted exhibits on the National Guardian Network ([Exhibit J](#)), the Commission on Aging report, "Elder Issues in Nevada" ([Exhibit K](#)), a proposed amendment ([Exhibit L](#)), the Center for Guardianship Certification ([Exhibit M](#)), the National Guardianship Association Standards of Practice ([Exhibit N](#)), and a Model Code of Ethics for Guardians ([Exhibit O](#)).]

Henry W. Cavallera, Attorney, Hancock and Cavallera, Reno, Nevada:

I am an attorney in Reno with a substantial guardian practice. On occasion, I work cases for Ms. Register's company. I also do a lot of private guardianships and represent wards, and I have cases from Mineral County to Elko to Washoe County. I do not understand some of the concerns brought up by our friends in Las Vegas, because when I am in court, particularly in Washoe County, those cases are scrutinized so much, and so carefully. I had a case about 60 days ago where the judge said, "What happened to the \$63?" I had to go back and figure out what happened.

My concern with this legislation is that guardianships involve four factors: legal, financial, medical, and social. Where is the person going to live? This proposed licensing guts one part of the process—the financial process—and says we are going to review this, but we are going to leave the scrutiny as to what happens to these other three things somewhere else.

Chairman Kirner:

Have you had a chance to talk to the bill sponsor directly?

Henry Cavallera:

I have not, sir, but I will do that. The state of Washington has provided that the licensing and the regulation is through the courts. I saw on the Internet that Washington has a list of disciplinary proceedings that you could click on so you knew what was happening to each guardian. Therefore, there is a unified process of regulating the guardians.

Section 37, subsection 4, allows and requires the Commissioner to audit these accounts every year. Section 37, subsection 9, says that the entity has to pay for those examinations. I would suggest, as an alternative, that you say if an account that is presented to the court has been prepared by a certified public accountant or an enrolled agent, then the Commissioner need not do that, just to shift the cost and not do that twice.

Elaine Galatz, Private Citizen, Las Vegas, Nevada:

Approximately two years ago, I became painfully aware that a family member was going to require the services of a guardian. We went through the public guardian system. We went through the court system, through the family court, and on the recommendation of the public guardian, we secured the services of a private guardian. I took the time to interview every private guardian I could locate in southern Nevada and selected Nevada Guardians. Their office was efficient and well run. I asked them ahead of time what they thought the cost of the service was going to be, and I got an estimate. I receive an itemized statement every month for every five minutes of their time. I receive a statement of the family member's account that justifies every penny. I have no complaints, and I approve of the system. I am thrilled with Nevada Guardians and, regretfully, this family member, who is only in her 40s, will probably require the services of Nevada Guardians for the rest of her life.

I agree with Lee Drizin. I have had some dealings with him, and I agree with the gentleman from Reno who is doing the same type of work. I think there needs to be some improvements in the bill, but what some of these people are doing is superb. I would highly recommend them. I am terribly sorry for those people who have had unfortunate experiences.

Chairman Kirner:

It appears there is work to be done yet on the bill. Would you agree or disagree?

Assemblyman Sprinkle:

I am more than happy to work with anybody associated with this industry and everyone who has concerns. My intent is to make sure the people who are being represented are being represented correctly.

Chairman Kirner:

I will close the hearing on A.B. 325. Is there any public comment? [There was none.] The work session bills, Assembly Bill 137, Assembly Bill 173, Assembly Bill 179, and Assembly Bill 227 will not be heard today.

Assembly Bill 137: Revises provisions governing contractors. (BDR 54-513)

Assembly Bill 173: Revises provisions governing private investigators.
(BDR 54-758)

Assembly Bill 179: Revises provisions governing personal information.
(BDR 52-756)

Assembly Bill 227: Revises provisions governing the practice of medicine.
(BDR 54-412)

The meeting is adjourned [at 4:39 p.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Randy Kirner, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Commerce and Labor

Date: March 30, 2015

Time of Meeting: 1:31 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 292	C	Assemblyman James Oscarson	Proposed amendment
A.B. 294	D	Caleb S. Cage, Director of Military and Veterans Policy	PowerPoint Overview of Veterans Suicide in Nevada
A.B. 294	E	Assemblyman Tyrone Thompson	Proposed amendment
A.B. 325	F	Assemblyman Michael C. Sprinkle	Proposed amendment
A.B. 325	G	Assemblyman Michael C. Sprinkle	Quick sheet on bill
A.B. 325	H	Kim Spoon, Guardianship Services of Nevada	Letter of opposition
A.B. 325	I	Shelly A. Register, Guardianship Services of Nevada	Testimony
A.B. 325	J	Shelly A. Register, Guardianship Services of Nevada	National Guardianships Network Awards
A.B. 325	K	Shelly A. Register, Guardianship Services of Nevada	"Elder Issues in Nevada," Commission on Aging
A.B. 325	L	Shelly A. Register, Guardianship Services of Nevada	Proposed amendment
A.B. 325	M	Shelly A. Register, Guardianship Services of Nevada	Center for Guardianship Certification Information
A.B. 325	N	Shelly A. Register, Guardianship Services of Nevada	National Guardianship Association Standards of Practice

A.B. 325	O	Shelly A. Register, Guardianship Services of Nevada	Model Code of Ethics for Guardians
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