MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-Eighth Session
May 27, 2015

The Committee on Health and Human Services was called to order by Vice Chair Robin L. Titus at 2 p.m. on Wednesday, May 27, 2015, in Room 3138 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 James Oscarson, Chair
Assemblywoman Robin L. Titus, Vice Chair
Assemblyman Nelson Araujo
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Jill Dickman
Assemblyman David M. Gardner
Assemblywoman Amber Joiner
Assemblyman Brent A. Jones
Assemblyman John Moore
Assemblywoman Ellen B. Spiegel
Assemblyman Michael C. Sprinkle
Assemblyman Tyrone Thompson
Assemblyman Glenn E. Trowbridge

COMMITTEE MEMBERS ABSENT:

Assemblyman John Hambrick (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Kirsten Coulombe, Committee Policy Analyst
Eric Robbins, Committee Counsel
Karen Buck, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Mary E. Wherry, RN, MS, Deputy Administrator, Division of Public and Behavioral Health, Department of Health and Human Services
Joan Hall, President, Nevada Rural Hospital Partners
Barry Lovgren, Private Citizen, Gardnerville, Nevada
Laura Freed, Deputy Administrator, Division of Public and Behavioral Health, Department of Health and Human Services

Vice Chair Titus:
[Roll was taken. Committee rules and protocol were explained.] I will open the hearing on Senate Bill 489.

Senate Bill 489: Provides for the regulation of peer support recovery organizations. (BDR 40-1191)

Mary E. Wherry, RN, MS, Deputy Administrator, Division of Public and Behavioral Health, Department of Health and Human Services:
Senate Bill 489 is an agency bill. It establishes provisions related to licensure and oversight of peer support recovery organizations. It requires the Division of Public and Behavioral Health, Department of Health and Human Services, to license peer support recovery organizations. The Division will generate regulations for proper licensure and oversight of these organizations. The projected revenue raised from this bill is reflected in decision unit Enhancement (E) 230 for budget account 3216, Health Facilities Hospital Licensing.

The federal Substance Abuse and Mental Health Services Administration (SAMHSA), Department of Health and Human Services, has been promoting peer and family support services for over a decade. Peer support services are delivered by individuals who have common life experiences with the people they are serving. People with mental and/or substance abuse disorders have a unique capacity to help each other based on a shared affiliation and a deep understanding of this experience. In self-help and mutual support, people offer their support, strength, and help to their peers, which allows for personal growth, wellness promotion, and recovery. Research has shown that peer

support facilitates recovery and reduces health care costs. Peers also provide assistance that promotes a sense of belonging within the community.

Mental health peer support is a Nevada Medicaid covered benefit since 2005 based on these premises. Unfortunately, the mental health delivery system has not embraced this important support service. The Medicaid policy requires these individuals to be supervised by qualified mental health professionals and to be part of the behavioral health community network. Peer supporters need to be high school graduates and in recovery from a mental illness or addiction. We believe that this agency model will provide the structure, support, and accountability necessary to grow this important service in a recovery-oriented system of care.

Assemblyman Thompson:
Thank you for the bill. Peer-to-peer support works, whether it is in mental health or addiction. In my previous world, people who were previously homeless can help people who are now homeless. People who have been in a gang can help a person to get out of a gang.

Vice Chair Titus:
We will take testimony in favor of the bill.

Mary Wherry:
We want to let you know that we are aware that Mr. Lovgren has proposed an amendment to this bill (Exhibit C). We are in support of that amendment.

Joan Hall, President, Nevada Rural Hospital Partners:
We are very much in support of this bill. We have been working with the community colleges and others to get this passed. We think it has great ability to help many people.

Assemblyman Trowbridge:
What is the amendment?

Vice Chair Titus:
We will have that in a minute. Is there any further testimony in favor? [There was none.] With that, I will take neutral testimony on Senate Bill 489. [There was none.] I will now take opposition to Senate Bill 489.

Barry Lovgren, Private Citizen, Gardnerville, Nevada:
I am a private citizen. Senate Bill 489 calls for the Division of Public and Behavioral Health to license peer support recovery organizations, defined in section 2 of the bill as "a person or agency which provides peer support

services to persons who are 18 years of age or older and who suffer from mental illness or addiction or identify themselves as at risk for mental illness or addiction." [Continued to read from written testimony (Exhibit D).]

There are some things for which we should not need the state's permission. Offering support to someone struggling with behavioral health problems is one of them. But under S.B. 489, nonprofessional support to someone with behavioral health problems must be licensed. Friends and family of a person struggling with behavioral health problems would need to get a license. Self-help support groups like Alcoholics Anonymous (AA) and Narcotics Anonymous would need to get a license. [Read from written testimony (Exhibit D).]

I have submitted a proposed amendment to the bill (Exhibit C).

Assemblyman Thompson:
I need a representative from the state to clarify this, please. The way I read section 3 is that it says they do not require the person offering the supportive services to be licensed. I need to know which is which. I heard you give your testimony and say the persons have to be licensed, but that is not what I am reading here. I would like the state to clarify which it is.

Mary Wherry:
I agree. Section 3, subsection 1, says it does not require the person offering the supportive services to be licensed. We agree with Mr. Lovgren that our intention for the definition of a peer support recovery organization is not to include AA, Narcotics Anonymous, and organizations like that to be considered a peer support organization for purposes of this bill. I do not agree with Mr. Lovgren's statement that persons have to be licensed. I do not think that is what this bill states. I agree that we are not intending for the AAs of the world to be considered peer support recovery organizations. That is why we are good with the friendly amendment (Exhibit C) being added to section 1 and the definition of peer support recovery organizations not to include volunteers or voluntary organizations.

Assemblyman Thompson:
Give us an example of what would be considered a peer support recovery organization if it is not the ones you have mentioned.

Vice Chair Titus:
Before we go on, we are going to let our Committee Counsel weigh in on this.

Eric Robbins, Committee Counsel:
The intent is that the individual people who provide this service would not have to be licensed, but the support organization would. If you look in section 6, it includes facilities for the dependent, and all facilities for the dependent have to be licensed. If it falls within the scope of a peer support recovery organization, they would have to be licensed.

Vice Chair Titus:
Then I need clarification. Would AA as it exists currently need to be licensed? With this current wording in the bill, without the amendment, would it qualify?

Eric Robbins:
I think that is a possible reading of this, so, yes. They would be an agency that would be providing services that would fall within the definition of peer support services.

Vice Chair Titus:
That was unintended. I think Mr. Lovgren is correct in his wanting to add that to make it clear. You are just asking for clarification, correct? The sponsor does support the amendment, correct?

Mary Wherry:
Correct.

Assemblywoman Benitez-Thompson:
When we add the amendment language, that it does not include volunteers or volunteer organizations, the distinction we are getting at is fee-for-service, or reimbursable charges, right? If someone is going to seek reimbursement from Medicaid or someone is going to collect fees for these services, that is the trigger we are looking for. Is that correct?

Mary Wherry:
That is correct.

Vice Chair Titus:
Is there any other opposition to Senate Bill 489? [There was none.] Does the sponsor want to make closing remarks? [The sponsor indicated no.] We will close the hearing on S.B. 489. The Chair is now among us, so I will turn this over to him. [Assemblyman Oscarson assumed the Chair.]

Chair Oscarson:
We will open the hearing on Senate Bill 498 (1st Reprint) and hear from the sponsor.

Senate Bill 498 (1st Reprint): Provides for the regulation of community health worker pools. (BDR 40-1190)

Mary E. Wherry, RN, MS, Deputy Administrator, Division of Public and Behavioral Health, Department of Health and Human Services:
Senate Bill 498 (1st Reprint) is another agency bill. The legislation corresponds to budget account 3216, Health Facilities Hospital Licensing decision unit Enhancement (E) 229. This bill requires an agency that wants to operate or maintain a community health worker certifying arm to obtain a license from the Division of Public and Behavioral Health of the Department of Health and Human Services.

Currently, there is no mechanism in place to monitor the qualifications or standards of community health agency workers. Our goal here is to create standardization. There are approximately 240 community health workers in Nevada according to the U.S. Department of Labor. We do not know who they are; we project, in our budget, that there would be about 40 to 50 community health workers who would be certified each fiscal year of the next biennium. This bill would establish fees to certify the community health workers.

As I mentioned, this bill aligns with the funding of decision unit E-229: staffing for a half-time administrative assistant at $18,000 funded by new fees, plus reserves of $48,658. We did offer an amendment to our own bill during the Senate Committee on Finance hearing due to some confusion. We moved it from *Nevada Revised Statutes* (NRS) 449.0151 that defines medical facilities to NRS 449.0045 as shown in section 5.5 of the bill on dependent care facilities. Community health workers are not really medical and it seemed to make more sense to us that it was under the definition of "facility for the dependent."

Assemblywoman Benitez-Thompson:
To clarify this for me, the community health workers are the newer class of workers that were recently created. There was a pilot project to gauge the temperature and now they are out there. The education for this is an associate's degree, correct?

Mary Wherry:
No. Community health workers have actually been around for a long time. They were written into the Affordable Care Act (ACA) and they are seen as similar to peer supporters, but we have been working with the Nevada System of Higher Education (NSHE) to create a curriculum for community health workers so that we could standardize and identify what we feel is important information for them to have in their wheelhouse so that when they are going out to work with people with chronic disease conditions, they would have the

right information and confidence to be able to perform whatever services their employer would need of them. Certainly, whomever their employer is would provide additional education, but they would all have a certificate upon completion of their program that would give them the basic competency.

Assemblywoman Benitez-Thompson:
Thank you. I was thinking that they were newer to how we are looking at this workforce and the scope. I mean this in the sincerest of ways that they are like a mini public health. I would keep in mind that the fees for these folks, when we see those coming through the Legislative Commission, would be in step with the education level and support for these folks. I cannot imagine that you would be thinking of a $300 fee or something like that. I imagine the fees will be tolerable for the wages that they are going to be making.

Chair Oscarson:
Do you want to change the amendment?

Assemblywoman Benitez-Thompson:
It was a very poor job description.

Chair Oscarson:
I liked it.

Assemblyman Thompson:
In section 2, where it defines a community health worker on the first line, it states that a "community health worker means a natural person." Can you please explain to us what the connotation of a natural person is? That can mean certain things to certain people. I want to make sure that does not exclude a group of people.

Chair Oscarson:
Our Committee Counsel will weigh in on that.

Eric Robbins, Committee Counsel:
In NRS Chapter 0, a person is defined to include both individuals and organizations. A natural person means individual people and not organizations, corporations, or things like that.

Assemblyman Thompson:
It has nothing to do with ethnicity, nationality, citizenship, or any of that, correct? That is what I am getting at.

Eric Robbins:
No, absolutely not.

Assemblywoman Titus:
This bill needs a two-thirds vote. I am curious if that is because there is going to be a fee in there?

Laura Freed, Deputy Administrator, Division of Public and Behavioral Health, Department of Health and Human Services:
I am going to toss that question to Mr. Robbins because we do not make those decisions.

Eric Robbins:
The community health worker pool is defined as a facility for the dependent, which has to be licensed. With the licensing requirement comes a licensure fee, so that is why there is a two-thirds majority required.

Assemblyman Gardner:
What is the purpose of this bill? Is it to license these individuals because there has been some harm done by these people? What is the impetus behind this bill and why do we need it?

Mary Wherry:
The impetus behind the bill is that we know there are community health workers out there, but we do not know who they are or where they are. As I said, according to the Department of Labor, there are several hundred of them out there, but we do not know who. We would like to create standardization so there are basic requirements for them. When they are out in the community and are calling themselves something, the community knows what they are getting from the person calling himself that. That is the primary intent.

We also have an interest in federally qualified health centers (FQHC), for example. The ACA actually named community health workers as a very important part of achieving some control over the increasing cost of health care by working to help people with chronic conditions to get their conditions under control by using lower-cost people in the health care delivery system. Community health workers typically go into people's homes and help them manage their chronic disease. In the past, where you might have used a nurse, a community health worker is typically a high school graduate who is going to go in and work with those people on managing their diabetes or their hypertension, or another chronic disease. Instead of using a dietician—the dietician may design a diet for them—the community health worker is going to

actually go into the home and make sure they are buying the right food, are preparing it appropriately, and are complying with what the physician and dietician have actually set up for them. It is a different component.

In an FQHC, when they hire these people, they want to know that they have had the right education and training. They want to use their liability coverage in that clinic as a part of that dynamic.

Assemblyman Gardner:
So, you have not seen any kind of community health workers hurting people? This is not a public safety thing? There is just a need to regulate them? Regarding that, it is like a paralegal, not a regulated field. I do not believe there is an exact requirement for the paralegal; they are just hired by attorneys. They decide there is a confidence and it is up to the hiring people to determine what their qualifications are and if they qualify to do that job. Is that how it is currently working? You said you do not know how many there are. Right now, are these groups just going out and hiring these people and just judging if they have the qualifications? What kind of process do we have right now with these workers?

Mary Wherry:
At this point, they are not hiring them because there is not a standardized process or a training program. Medicaid is not reimbursing them at this point. The goal is to create standardization and a certification process and at some point create a reimbursement mechanism. It is like a three-legged stool. We do not know if they are doing harm or not; we just do not know. We do know that people are not employing them. They may start to employ them. We have a pilot project with community health workers through our community coalitions and through one of the FQHCs that we have been funding through some federal grants. That is becoming a very successful pilot in terms of improving health outcomes, but it is just a pilot.

Assemblywoman Titus:
That is where I wanted to go with this. You mentioned that the ACA brought this classification under that umbrella. The goal here is for these health centers to bill and get reimbursed for these folks, but they need to be certified and licensed. At the end of the day, this regulation that we are bringing forward is really so that these FQHCs can now bill for these folks. Is that not correct?

Mary Wherry:
That is one opportunity, but for some FQHCs—there is only one FQHC that is using them as part of their pilot—they would just be a part of their costs because FQHCs get reimbursed costs based on a daily visit. The coalitions that

are using the community health workers are not getting reimbursed. Every community is using them differently. Is that the end goal? No. The end goal is that we are trying to reduce the chronic disease issues that we have for Nevadans. The FQHCs are mostly concerned with providing coverage for them under their liability insurance.

Chair Oscarson:
I think another reason is that these folks could potentially be in people's homes taking care of them and doing their daily errands and helping them with all those things. The licensure process is the way to keep better track of that just like any health care professional that is licensed. That goes for respiratory therapy to nursing to certified nursing assistants (CNA). They are all important parts of the puzzle to make sure we have that health care continuum that we need for activities for daily living (ADL).

Assemblywoman Benitez-Thompson:
Part of my question was to clarify that because we are seeing more of these folks and we have a need for them. With the licensure, it also provides assurance of professional fidelity. I have heard what a CNA does is what a CNA is licensed to do, but you do not have boundaries around what a community health worker is. You could see people inappropriately asking them to do other roles, such as acting like a social worker. We want to ensure we are holding on to some professional fidelities and that we do not have someone—due to a lack of a definition of roles—assigned roles that are not appropriate for them. I appreciate that.

Assemblywoman Spiegel:
You brought up home health care workers, and my understanding of this bill is that community health workers are not supposed to be medical workers. Will there be training so that someone in a home providing assistance with ADLs will only do nonmedical things like helping a person to get dressed? Will there be a line that they are not allowed to cross, like helping with medications? Will that be made really clear?

Mary Wherry:
I would distinguish the difference between a community health worker and a personal care aide. This pool, through our amendment, would be put under the same section as dependent care facilities. A personal care aide is really the one who would be doing some of those assistance services. Community health workers are more focused on someone with a chronic disease situation where they are really doing the educational component. Their education would help them be aware of their boundaries.

Assemblywoman Benitez-Thompson made a good point that it is part of what their training is. I am a nurse, so I am very protective of my licensure. I want to make sure we are protecting all licenses, like a dietician for example. It is not appropriate for a community health worker to presume that they have the knowledge and education to go out and teach someone about their diabetes beyond what they have the training to do. They have been taught to help people manage their diets and understand the importance of eating their meals and the size of their meals. It could be testing their blood sugars, or complying with the regimen that has been set up for them by the health care professional.

Part of the education and training would be that this is their body of knowledge and this is their role. Their role is to make sure they are, in fact, preparing their food appropriately and that they are not eating sugar. Their role could be to ensure they are checking their blood pressure if the issue is hypertension. That is their role. It is both giving them the educational knowledge for whatever diseases they are going to be focusing on and the boundaries. Boundaries are more than just about the disease process. It is also about the personal relationship. It is easy for people, especially if they are working with an impoverished population, to loan other people money and to get involved in other boundary issues with that family. That is part of what the academic preparation would be about.

Chair Oscarson:
Everything is in the first reprint of this bill, including your amendment, correct? You are not amending anything else?

Mary Wherry:
No.

Chair Oscarson:
Are there any other questions from the Committee? [There were none.] We will take additional testimony in support. Seeing none, we will go to testimony in opposition. Since there is none, we will go to testimony in neutral. [There was none.] I will close the hearing on Senate Bill 498 (1st Reprint).

Assemblywoman Titus:
I would like to make a motion that we amend and do pass Senate Bill 489 since the standing rules have been suspended.

ASSEMBLYWOMAN TITUS MOVED TO AMEND AND DO PASS SENATE BILL 489.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Chair Oscarson:
Is there any discussion?

Assemblyman Gardner:
I have concerns about the regulations and what the cost of the license will be.

Chair Oscarson:
I am sure Ms. Wherry or Ms. Freed will be happy to visit with you about that.

Assemblywoman Dickman:
Ditto.

Assemblywoman Titus:
I want to get this moved, but I will also reserve my right to vote differently on the floor.

Chair Oscarson:
We will take a vote.

THE MOTION PASSED. (ASSEMBLYMAN JONES VOTED NO. ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

Is there anything else?

ASSEMBLYWOMAN TITUS MADE A MOTION TO DO PASS SENATE BILL 498 (1ST REPRINT).

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Assemblyman Gardner:
I want to ditto the same thing as the last bill. I reserve my right to change my vote on the floor.

Chair Oscarson:
You can kill two birds with one stone when you meet with Ms. Freed and Ms. Wherry.

Assemblyman Trowbridge:
Ditto.

Assemblywoman Dickman:
Ditto.

Assemblywoman Titus:
Ditto.

Chair Oscarson:
Is there anyone else? [There was no one.] We will now vote.

> THE MOTION PASSED. (ASSEMBLYMAN JONES VOTED NO. ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

There is no other discussion, so I will ask for public comment. Seeing none, this meeting is adjourned [at 2:34 p.m.].

RESPECTFULLY SUBMITTED:

_____
Karen Buck
Recording Secretary

RESPECTFULLY SUBMITTED:

_____
Karyn Werner
Transcribing Secretary

APPROVED BY:

_____
Assemblyman James Oscarson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Health and Human Services

Date: May 27, 2015 **Time of Meeting: 2 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 489	C	Barry Lovgren	Proposed Amendment
S.B. 489	D	Barry Lovgren	Written testimony