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

Seventy-Eighth Session
April 8, 2015

The Committee on Health and Human Services was called to order by Chair James Oscarson at 1:54 p.m. on Wednesday, April 8, 2015, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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
Assemblyman John Hambrick
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:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Kirsten Coulombe, Committee Policy Analyst
Risa Lang, Committee Counsel
Karyn Werner, Committee Secretary
Jamie Tierney, Committee Assistant

OTHERS PRESENT:

Tracey D. Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services
David E. Slattery, Deputy Chief/Medical Director, City of Las Vegas Fire and Rescue
Joseph P. Iser, M.D., Dr.P.H., M.Sc., Chief Health Officer, Southern Nevada Health District
Leslie Dickson, Executive Director and State Legislative Representative, Nevada Psychiatric Association
Dan Musgrove, representing The Valley Health System
Bill M. Welch, President/Chief Executive Officer, Nevada Hospital Association
Erik Jimenez, representing Argentum Partners
George Ross, representing Hospital Corporation of America, Inc.; Sunrise Hospital and Medical Center
Ryan Beaman, representing Clark County Firefighters
Richard Baldo, representing Nevada Psychological Association
Kim Frakes, Executive Director, Board of Examiners for Social Workers
Daniel Mathis, President/Chief Executive Officer, Nevada Health Care Association
Joan Hall, President, Nevada Rural Hospital Partners

Chair Oscarson:
[Roll was taken. Committee procedures were explained.] We have added Assembly Bill 405 to the agenda so we can rerefer it to the Assembly Committee on Judiciary. Based on further review of the bill, it appears that it has greater judicial implications than what is in our jurisdiction, so it has been requested that we rerefer Assembly Bill 405. In order to do that, we will have to suspend the rules, and there will have to be a unanimous vote of the Committee to suspend the rules. First, I will accept a motion to suspend the rules.

ASSEMBLYWOMAN DICKMAN MOVED TO SUSPEND THE RULES.

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

We will now take a vote on rereferring Assembly Bill 405.

Assembly Bill 405: Revises provisions regulating certain abortions. (BDR 40-755)

Is there a motion to rerefer Assembly Bill 405 without recommendation to the Assembly Committee on Judiciary?

ASSEMBLYMAN DICKMAN MOVED TO REREFER WITHOUT RECOMMENDATION ASSEMBLY BILL 405 TO THE ASSEMBLY COMMITTEE ON JUDICIARY.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

We will now begin our work session with Assembly Bill 200. A lot of work went into this, and I appreciate it. Many of you are sitting in the audience and we have interpreters here; we need to get the bill voted on so the interpreters can leave. Ms. Coulombe will go through the bill.

Assembly Bill 200: Revises provisions relating to the program to provide devices for telecommunication to persons with impaired speech or hearing. (BDR 38-419)

Kirsten Coulombe, Committee Policy Analyst:
Assembly Bill 200 was sponsored by the Interim Committee on Senior Citizens, Veterans and Adults with Special Needs. It was heard on April 6, 2015, and revises provisions relating to the program to provide devices for telecommunication to persons with impaired speech or hearing. [Continued to read from work session document (Exhibit C).]

Those are the amendments for this bill, but Assemblywoman Benitez-Thompson has an amendment she would like to discuss.

Assemblywoman Benitez-Thompson:
This is a conceptual amendment that would help bridge the last part of the bill that we heard, which is the Subcommittee for persons who are deaf and hard of hearing. Within that statute is a mandate to talk about ways for the deaf and hard of hearing to communicate. We propose to add the language that the subcommittee discussed. Programs and services for the deaf and hard of hearing are to include the use of the telecommunications device for the deaf (TDD) surcharge, as well as interpreters within that conversation of communication for the deaf and hard of hearing. It packages it more nicely.

Chair Oscarson:
Is there a motion?

> ASSEMBLYWOMAN DICKMAN MOVED TO AMEND AND DO PASS ASSEMBLY BILL 200.
>
> ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.
>
> THE MOTION PASSED. (ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

Assemblywoman Benitez-Thompson, would you please do the floor statement?

Next we will look at Assembly Bill 232, which has to do with health districts.

Assembly Bill 232: Revises provisions governing health districts. (BDR 40-694)

Kirsten Coulombe, Committee Policy Analyst:
Assembly Bill 232 is sponsored by Assemblyman Thompson and was heard on March 27, 2015. It revises provisions governing health districts. [Continued to read from work session document (Exhibit D).]

Chair Oscarson:
Is there a motion?

> ASSEMBLYWOMAN BENITEZ-THOMPSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 232.
>
> ASSEMBLYWOMAN SPIEGEL SECONDED THE MOTION.

Assemblywoman Dickman:
At the hearing, we found that the Southern Nevada Health District does not want this, nor do they need it. It is a huge unfunded mandate, so I will be a no on this one.

Assemblyman Jones:
I would like to ditto my colleague's comments. It adds another level of bureaucracy. As I recall, the Health District already has the main person overseeing four departments. This would require that they only oversee two people. That is a redundant action and the Board of Health did not want it. I will be voting no, as well.

Assemblywoman Titus:
I also agree that this is another layer of bureaucracy that I am not sure fixes anything. If anything, it adds an unfunded mandate on a government level that I am highly opposed to.

Assemblyman Trowbridge:
I would also like to express my intention to vote no because of the cost and the additional layer of bureaucracy. It is not what we are here to do.

Assemblyman Araujo:
I will support this bill. I want to make sure that we all understand that this was a proposal that was identified as a priority for our Southern Nevada Forum delegates. I feel that it is important to allow for these conversations and to take the recommendations to heart. I will be supporting the bill.

Assemblywoman Spiegel:
I participated in the Southern Nevada Forum and this was part of the output and recommendations from that group. For those reasons, I am supporting the bill. There were hundreds of business owners who participated, many meetings and huge round-table discussions, and this is absolutely a priority for folks in southern Nevada. I urge the Committee members to support this.

Chair Oscarson:
Is there any more discussion? For the record, I will be voting no as well. I am voting no because I do not think there was a clear consensus from either board. We heard from one commissioner and one health district member and they were not in agreement. I felt there was not enough there. I do not think it is the responsibility of the Committee to tell the Board of Health how to structure and organize their board; they can do that themselves. I think it should go back to their board and the board should be responsible for that. We will take a voice vote on this bill.

Assemblyman Gardner:
I want to mention that I will also be opposing this bill. I do not understand why we would add the extra position based on testimony that it would help a lot. I am still wavering on it, and I do not see the point.

Chair Oscarson:
We will take a roll call vote.

> THE MOTION FAILED. (ASSEMBLYMEN DICKMAN, GARDNER, JONES, OSCARSON, TITUS, AND TROWBRIDGE VOTED NO. ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

Next will be Assembly Bill 279 on prescription drugs.

Assembly Bill 279: Revises provisions concerning controlled substances. (BDR 40-775)

Kirsten Coulombe, Committee Policy Analyst:
Assembly Bill 279 was sponsored by Assemblyman Sprinkle, and the members may recall it was heard at the joint hearing that we had with the Senate Committee on Health and Human Services on April 1, 2015. [Continued to read from work session document (Exhibit E).]

Assemblyman Sprinkle can answer any questions that you may have. I also want to make one other comment. There was no opportunity for testimony during the joint hearing on the fiscal note that the State Board of Pharmacy had put forward; however, representatives from the Board have indicated that the fiscal note is officially withdrawn because of the amendment.

Assemblyman Sprinkle:
Because of the lengthy hearing from having multiple bills, one aspect of this bill was not discussed on the public record. The intent of the bill is when pharmacists are mandated to supply information when they think fraudulent or inappropriate activities are occurring, it will be handled through regulation and anonymity for those reporting the incidents. The intent is for it to be handled through regulations and liability protections.

Chair Oscarson:
Is there a motion?

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS ASSEMBLY BILL 279.

ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Assemblywoman Titus:
Although I respect Assemblyman Sprinkle's hard work and the concept of reducing narcotic abuse in our society, I do not think this bill solves that problem. I feel that it penalizes the prescribers. It offers mandates that will be hard on the prescribers. I will be opposed to this bill.

Assemblyman Jones:
I, too, will be opposed to this bill. I value Dr. Titus' practical experience and expertise in this area. In her positions, she is very involved with drugs and such, so I will be opposed.

Assemblywoman Dickman:
Ditto.

Chair Oscarson:
Is there any other discussion? We will do another roll call vote.

THE MOTION FAILED. (ASSEMBLYMEN DICKMAN, GARDNER, JONES, MOORE, TITUS, AND TROWBRIDGE VOTED NO. ASSEMBLYMAN HAMBRICK WAS ABSENT FOR THE VOTE.)

Assemblyman Thompson:
Can you please clarify why this does not pass?

Risa Lang, Legal Counsel:
The Assembly rules require a majority affirmative vote of the Committee. There were only seven affirmative votes and eight were needed for it to pass.

Assemblyman Thompson:
Is that based on those in attendance at the time of the vote, or those on the roster?

Chair Oscarson:
It was based on those on the roster. There has to be a majority; that is the rule and we will not debate it. We will move to Assembly Bill 306.

Assembly Bill 306: Requires an employer to make certain accommodations for a nursing mother. (BDR 40-249)

Kirsten Coulombe, Committee Policy Analyst:
Assembly Bill 306 was heard on April 3, 2015. It was sponsored by Assemblywoman Spiegel. It requires public and private employers in this state to provide an employee who is a nursing mother reasonable break times, with or without compensation, and a clean, private place to express breast milk. [Continued to read from work session document (Exhibit F).]

Assemblywoman Titus:
As a point of clarification, did you remove the part on the last page that says in addition to any other remedies or penalties there might be a fine of $5,000? Is that still in there?

Assemblywoman Spiegel:
The specific penalty for $5,000 was taken out. However, the Labor Commissioner—per *Nevada Revised Statutes* (NRS) 607.160—has the ability to include penalties. It has gone through the Labor Commissioner and is not a separate process.

Chair Oscarson:
Is there a motion?

> ASSEMBLYMAN GARDNER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 306.
>
> ASSEMBLYWOMAN BENITEZ-THOMPSON SECONDED THE MOTION.

Assemblyman Jones:
Although I am very sympathetic to mothers who are feeding their babies, I will be voting no on this bill. This is another burden put specifically on private employers. As a private employer, the continual regulations that keep coming down are overwhelming. For the record, I have a little nursery set up in my business, but the problem is when regulators get involved. They come in and fine you and dictate what you can do. It is too overwhelming, so I do not think we need to add another layer of regulations. This would affect employers and will prevent additional employment in our state. Additionally, if the mothers find that their employer is not sympathetic to them, it is a free marketplace. Those employers who provide services get good employees, and those who do not provide good services get bad employees. The private workplace—the free

market—always rewards that which is best for the people. I will be voting a loud no.

Assemblywoman Dickman:
I feel the way Mr. Jones does. I will vote yes to get the bill out of committee, but I reserve the right to change my vote on the floor.

Assemblywoman Joiner:
I think this is an extremely important bill and I would like to reemphasize something that we learned in the hearing. This bill reflects what is already in federal statute. As tempting as it is to say that the house is going to fall down if this happens, it really just makes our public sector congruent with what is already federal law for a lot of other employers. I will be supporting the bill today.

Assemblywoman Titus:
Another clarification is that the statutes are already there to allow breastfeeding for nursing mothers in the private sector. The private sector already has to follow these rules based on federal regulations. This bill aligns our state regulations with federal regulations regarding public employees. Is that what this bill is doing?

Assemblywoman Spiegel:
Yes. On the record, under the Affordable Health Care Act, private-sector employees have already been covered with the right to have a clean place for breastfeeding and breaks if they are working for employers with 50 or more employees, which is part of why we amended the bill to change the number to 50 employees so there is no discrepancy for the private sector. It also increases this to public employees.

Assemblywoman Titus:
I will vote this out of committee, but I want to make sure we have an alignment with what the federal regulations are and what the state statutes are. This bill seems more onerous than what the federal regulations require. I want to make sure this does not make our standards stricter. I reserve my right to change my vote.

Assemblyman Trowbridge:
Ditto for me. I feel that the federal law covers public employers and would just add another level of regulations in the statutes that does not need to be there. I will vote to get it out of committee, but I reserve the right to change my vote. I will look into it to be sure I am not mistaken, and if I am mistaken, I will vote to support it.

Assemblyman Gardner:
I will be supporting this bill.

Assemblyman Thompson:
I will be supporting this bill.

Chair Oscarson:
Any other comments?

THE MOTION PASSED. (ASSEMBLYMAN JONES VOTED NO.)

Assemblywoman Spiegel will do the floor statement.

This is the first time we have had these situations arise. Thank you for getting us squared away. I will open the hearing on Assembly Bill 91. [Assemblywoman Titus assumed the chair.]

Assembly Bill 91: Revises provisions governing the admission of persons with certain mental conditions to and the release of such persons from certain facilities. (BDR 39-665)

Assemblywoman Teresa Benitez-Thompson, Assembly District No. 27:
It is a pleasure to bring Assembly Bill 91 to you today. This bill has been a work in progress, especially during the interim. I want to applaud everyone who worked on this issue through the interim. For those of us who came out of last session, we know that mental health issues came to a climax in this state and that we had a raging dumpster fire that we had to put out in terms of public policy. There was a lot of footwork done by individual legislators, as well as by the Governor. We asked how we can make sure we are providing services safely, effectively, and efficiently to the mental-health population. How can we create a better system of care and a better flow-through process to ensure we are not causing undue backlogs in the system itself? Over the summer, we had a very high and critical incident with our hospitals, especially in southern Nevada. We had mentally ill folks being admitted through the Legal 2000 hold system in the emergency rooms (ER), and then we had no way of getting them out, or a place for them to go with wraparound services. We heard from the hospitals, especially in southern Nevada, that they needed help. They needed public policy solutions to address this issue. We wanted to be responsive to that community. This bill is born out of that.

You will find amendments to the bill on the Nevada Electronic Legislative Information System (NELIS). They fall into two different places. The first one is the amendment (Exhibit G) to Senate Bill 7. This language came out of the

interim Legislative Committee on Health Care, and it came over to the Assembly side and then went over to the Senate side as well. We had two identical bills, one on each side of the house. The hearing on this bill on the Senate side produced really great language and amendments. We want to adopt them into this bill. That is why you see the Senate amendment uploaded. This is the language that has been worked on by many parties that we want to adopt. We will walk through that language in just a moment.

The other amendment is the proposed amendment from the City of Las Vegas (Exhibit H). This amendment allows for licensed paramedics to transport a person who they believe has a mental health crisis—but not other physical emergencies—directly to psychiatric care. In that way, those who need psychiatric care can get to the proper facility as fast as possible without first needing to go through the ER, tying up the ERs or having folks sitting in the ER waiting to be discharged. Instead, they can get right to the help they need.

This last piece was really highlighted for me when I went down last December to visit some of the hospitals in southern Nevada. Since I am from northern Nevada, I am very familiar with what I have in my own backyard, but wanted to be more familiar with what is happening in southern Nevada. I went to one of the hospitals, and one of the holding rooms was a big room with lots of beds. Folks were waiting to be discharged from the ER and waiting to come off their Legal 2000. It was heartwrenching to see hospital staff not know what to do with these folks, and not know how to make a discharge plan because there are no services to wrap around these patients afterwards. On the other hand, it was hard to see the patients waiting to be discharged with their fate in someone else's hands. Those are the two pieces that we believe will be good public policy. We are ready to contemplate some big changes to the status quo today.

With that being said, please go to the mock-up from Senate Bill 7, and Dr. Green will help go through the language with me.

Vice Chair Titus:
Let us make sure we all have that. I am looking at NELIS and it is not there.

Kirsten Coulombe, Committee Policy Analyst:
It is on NELIS under Amendment 7 and copies are being handed out to the members as well.

Vice Chair Titus:
I want to make sure we are all on the same page. This is the amendment to S.B. 7 and we should all have the same document.

Tracey D. Green, M.D., Chief Medical Officer, Division of Public and Behavioral Health, Department of Health and Human Services:
I want to set the scenario for this portion of the bill's amendment before I start the walk-through. The statutory definition of mental illness is when an individual is found to be at risk to hurt himself or others. If a person is found to be at risk to himself or others, he can be admitted or brought to an emergency room. In the ER, he is under the care of the ER doctor who admitted him. During the evaluation process under what is called the Legal 2000, they can be held against their will if they are at risk to themselves or others. This portion of the bill allows for the evaluation and completion of the evaluation by any provider on the list. Prior to the amendments to this bill, only the ER doctor could complete the Legal 2000 evaluation. What is occurring in the amendments is expansion to allow other professionals to complete the Legal 2000 evaluation document, but does not allow them to discharge the person from the ER. That is still the responsibility of the ER physician. I wanted to clarify that as I walk through this section of the amendments.

Vice Chair Titus:
We need some clarification for the folks who are not involved with mental health issues on what a Legal 2000 is.

Tracey Green:
A Legal 2000 is a mechanism or a tool for us to hold individuals for evaluation if they have expressed the desire to hurt themselves or others. Currently, as the law is written, there are a number of professions, as well as law enforcement, that can initiate a Legal 2000. This particular portion of the bill expands the individuals who can complete the Legal 2000 thereby making a determination whether the person is, in fact, mentally ill. Again, that definition is being at risk to himself or others, requiring an admission to an acute psychiatric facility. If patients were intoxicated—or for some reason misevaluated—they could then be released after the determination is made that they are not a risk to themselves or others.

First, as the law was originally written, only physicians could complete a Legal 2000. The language we are proposing as an amendment would allow physicians, physician assistants, clinical social workers, advanced practice registered nurses, or an accredited agent of the Department to complete the evaluation of the individual.

If you go to the next section, it also speaks to the completion of the certificate. It is more specific about the requirements for the individuals who can complete the Legal 2000, including a physician assistant under the supervision of a psychiatrist, a clinical social worker who has the psychiatric training and

experience prescribed by the Board of Examiners for Social Workers, an advanced practice registered nurse who has the psychiatric training and experience prescribed by the State Board of Nursing, or an accredited agent of the Department. Again, this section is specific to the evaluation and completion of the certificate, which would state whether the person meets the criteria of at risk to himself or others, or can be evaluated by the ER doctor for discharge to appropriate services. [Assemblyman Oscarson reassumed the Chair.]

Section 2 carries forward the language in section 1 that is specific as to who can sign the certificate. Section 3 further delineates the language for who could initiate an application, only it includes clinical social workers, advanced practice registered nurses, or an accredited agent. On page 7, this final section states that the Board shall adopt such regulations as are necessary and desirable to carry out the provisions of this chapter and to establish reasonable standards for the psychiatric training and experience necessary for a clinical social worker to be authorized to make the certification described above. This specifically allows for the social workers to specify what exactly the appropriate training will be that will allow them to evaluate the individual currently on a hold in the ER.

Assemblywoman Benitez-Thompson:
Because these are two different pieces, we would be open to taking questions if you agree on the language in the amendment to Senate Bill 7.

Assemblyman Jones:
Before this, only a physician or psychiatrist could hold someone, which means to take someone involuntarily and put him in a psychiatric ward against his will. Now we can have people as low as an accredited agent of the Department take someone's rights away and make them go into a psychiatric hold. Am I correct or missing this?

Assemblywoman Benitez-Thompson:
Right now, in status quo, there are people who can make a Legal 2000 hold. The piece that we are missing is on the back end to bring them off. This piece does not address who can petition the court for a Legal 2000 hold, to hold someone because you believe he is a threat to himself or others. It is the back end: who can take him off of the hold and restore his rights. We want to broaden the professions—once properly trained and accredited—to be able to say to that person that he can come off the hold and have his rights restored.

Assemblyman Jones:
I am glad I misunderstood that.

Assemblywoman Titus:
I am actually confused. I am not clear on what we are doing here. I am clear on what we are trying to do, but I am not sure this bill solves that problem. I am one of the physicians who has done many Legal 2000s on both; the Legal 2000 is not a single document. It has several components to it. I want to make sure that I am clear on what we are doing with this. It is not clear to me.

Right now, when an accredited social worker, mental health specialist, officer, family therapist, or counselor decides that someone is unsafe—and there is criteria on these forms that the members should see—and is going to hurt himself or someone else or cannot survive and is in imminent danger, he can be taken into custody with a mandatory 48-hour hold against his will. They need to have a medical clearance before I can get them retained in a mental health facility. That is the piece that is missing here, and I do not think that solves it. They still have to be brought in and be medically cleared. All of those folks may come in on the back end and clear him mentally, that he is no longer going to harm himself or someone else. There is a process for that. Who is the person by law who will be on this form and the one who medically clears him? It is mandated that I must be sure. I cannot get them shipped to Nevada Mental Health Institute without making sure that I have blood tests on him, that he is not impaired under the influence of alcohol or other drugs, or he will not be accepted. I have to clear him from other physical problems like diabetes, hypertension, cardiac disease, or whatever. I am not sure where that is all going to fall because it is not clear here. If these other folks can now clear them, are they going to be doing the medical clearance?

Assemblywoman Benitez-Thompson:
We do not change the process you are talking about, and all of the things that a physician is prescribed to do to provide a medical clearance per NRS 433A.165. I am going to have Dr. Green talk more about this, but the medical work is still done by the medical doctor. The positions that we are proposing to add do not do medical clearances. We will walk through a little more to help clarify that. It is a good question for the legislative record in case there is confusion down the road and folks can look back to this testimony for direction.

Assemblywoman Titus:
One of the things that the proponent of the bill has said is that the emergency medical system (EMS) can transport a patient directly to the mental health

facility so they are not sitting in an ER. The problem is, where does the medical clearance come from?

Assemblywoman Benitez-Thompson:
I thought you were addressing language specific to the amendment, but you are asking questions about the Las Vegas amendment. You are asking questions about a licensed EMS transporting to a psychiatric facility versus going to an ER.

Assemblywoman Titus:
It is all components of the medical clearance, which is still required for the Legal 2000.

Tracey Green:
What has occurred in our state is somewhat unfortunate because the actual medical clearance, as listed in statute, does not have to be in the ER. What has happened is there has been a default to bring individuals to an ER where they are to be evaluated for a legal hold. Medical clearances can be done prior to the evaluation. For example, if in my private practice I have seen an individual who is at risk to himself or others and I know him and I know that I can evaluate him medically, I can actually do the medical clearance in my office and that person can be directly admitted to the psychiatric facility. Unfortunately, what has been happening is that individuals have been sent to an ER. In NRS 433A.165, it says that a medical clearance can be completed at any location where a physician, physician assistant, or an advanced practice registered nurse is authorized to conduct such an examination. The confusion is that it is occurring in ERs by default. In fact, statutorily, it does not need to occur in an ER. That is one front-end piece of this.

The secondary piece of this, and the part that we are describing right now, is actually the evaluation of an individual who has been found to be medically clear, either outside of or within the ER. Now he needs an evaluation of his psychiatric status to determine if he is still at risk to himself or others, and whether he needs to be admitted to a psychiatric facility or if he can be discharged to an appropriate outpatient service.

Assemblywoman Titus:
One of the other reasons they end up in the ER is when someone decompensates and there is need for intervention, it is not usually nine to five when the doctor's office or clinics are open. It ends up being on an emergent basis where either law enforcement is involved or it is a direct referral from a mental health worker or clinic. I am curious still about the mandatory labs

that the state hospital requires of us. They must be done and cleared before I can transport them.

Tracey Green:
We do not require any mandatory labs. We do, however, require a urine pregnancy test and a drug screen. I know there have been a lot of suggestions and perhaps this has changed over the last couple of years, but, if a medical evaluation is to be done in an ER, none of this language changes the responsibility of the ER doctor to complete and provide that medical clearance. This amended language merely speaks to the individual who needs a psychiatric capacity evaluation. It does not change the responsibility of the ER for the medical component, nor does it take the responsibility of the ER doctor from the ultimate discharge. What it does is give the authority to someone else. I will give you a real-life example. Currently, we have state agents who are psychologists, licensed clinical social workers, and mental health clinicians who go into all of southern Nevada's emergency rooms and do client evaluations. Then they give that information to the ER doctor who makes a decision based on the secondary opinion of that person. This amended bill allows for those individuals to sign on the dotted line that they have evaluated the client in psychiatric crisis in person. They make a determination and complete the legal hold certificate stating the client either needs admission or is not currently at risk to himself or others. The chart is then turned over to the ER doctor for the final discharge.

Assemblywoman Titus:
At the time of the discharge, if someone other than the physician is releasing these folks—I am in the position where I see patients in the ER—we cannot get them transferred because the doctor will not accept them at the Nevada State Mental Institute unless there is a basic chemistry panel. Whether it is required by statute or not, the physicians' best practices say that we do it because it is the right thing. We are mandated; they will not take them without a blood test. They also will not take them if they are intoxicated. They have to be sober and mentally stable. We are obligated to keep them for that period of time. If I have kept someone who is now sober but still suicidal and I want to transfer them out, are you telling me that a physician assistant or someone else can come in and release that person if he determines the client is no longer suicidal? If they release him and he goes out and commits some terrible crime or hurts himself, who is going to be liable? Is it the person who does the release exam, or will it be back on the physician who is responsible for the choices of these other medical personnel?

Assemblywoman Benitez-Thompson:
I want to say again that none of the medical duties, including the discharge or medical clearance, are allowed to be done by these folks. That absolutely stays in the hands of the physicians where it ought to be. Things have changed some. During the interim, an infusion of money from Medicaid and changes in the way Medicaid funding is allowed and what it can support put more wraparound services in place. What I saw happening in southern Nevada ERs was they were not waiting for the doctors to complete the medical clearances, labs, and due diligence that you do as a physician. They were not waiting for a bed to open up to actually move them out. That was a big problem, and this is not meant in any way to rush the process. It is not meant to step on physicians' toes. The medical needs will always come first, but once those medical needs are over, it is about having a well-qualified, more diverse pool of clinicians who can go in and begin to undo and address the Legal 2000 component. If the physician does not think that the patient is ready to go, nothing happens. The physician is still driving the train. I want to make sure that is very clear for the record.

Chair Oscarson:
Are there any more questions? Does Mr. Slattery want to make some comments?

Assemblywoman Titus:
I am in support of improving the process of getting the patients out of the ERs. I know it is a problem. I have actually kept patients in our ER in Yerington for two days waiting for transportation to the state mental hospital because I felt they were unsafe. It is a huge issue, but not because of access to them or their being discharged. It was because we just could not get them beds or transported to where they needed to go. I know there has been previous testimony about family members who have been kept in the ER for days because they could not get them transported out. It would be very positive if this bill could help patients held on a Legal 2000 in the ER be cleared both medically and from their Legal 2000 by someone who is authorized other than the physician, but I am not sure this will do that. If we still do not have beds for these folks, what good is it going to do?

Tracey Green:
There have been a number of simultaneous changes that have occurred. In southern Nevada, for example, Medicaid has increased the reimbursement rate for medical facilities that have psychiatric beds. We have seen an increase in the number of free-standing medical facilities with psychiatric units. The second thing that happened is something called the "in lieu of." There is now an allowance for psychiatric facilities to get reimbursed by managed care

Medicaid for individuals. What we have seen is a reduced number, so the high of our wait list for the ER during the summer months was about 140 to 160. We currently run with the number of individuals waiting between 30 and 40. These changes and reimbursement—as well as additional beds—have changed things and will improve the problem that you are describing. We have seen a shift toward community capacity and reimbursement improvement that has helped assist with that problem.

David E. Slattery, Deputy Chief/Medical Director, City of Las Vegas Fire and Rescue:
Was there a specific question for me? I lost the flow of the conversation when we switched rooms.

Chair Oscarson:
I think it was said that you may have some comments pertinent to what Dr. Green and Assemblywoman Benitez-Thompson were discussing. If not, we can call on you in a few minutes when we call for other testimony.

Assemblywoman Benitez-Thompson:
He is the presenter for the second amendment that is coming from the City of Las Vegas. We have actually been discussing it quite a bit with Dr. Titus but did want to get his testimony on the record as the author of the amendment.

David Slattery:
I am here to testify in support of A.B. 91. I have a friendly amendment designed to expand the scope of the bill (Exhibit H). The purpose is to include licensed paramedics as one of the licensed health care providers who may, operating under medical oversight, perform the medical screening exam for patients with mental illness. [Continued to read from written testimony (Exhibit I).]

In southern Nevada, our practice and the evidence suggests that most of those patients—not all of the patients—need laboratory values, a good history, and an exam that can screen for the psychiatric mimics. Then, sometimes, the patient waits for days to be transferred to a mental health facility for definitive treatment. [Continued to read from written testimony (Exhibit I).]

Assemblyman Sprinkle:
Is this amendment considered a friendly amendment?

Assemblywoman Benitez-Thompson:
Yes, very much.

Assemblyman Sprinkle:
Since paramedics technically are not allowed to diagnose, would this have to be through direct radio communication with the ER physician? Is this going to be some type of protocol standard that will allow them to determine whether there is a medical condition outside of the signs and symptoms that would allow them to bypass and sign off on a medical release? I see a lot of potential liability for paramedics who are not technically allowed to diagnose.

David Slattery:
First of all, the intent and interest is that all paramedics operate under both online and offline medical control. There has been a national movement over the last five to ten years to move most of the medical direction to offline medical control. We entrust our paramedics—the men and women in this state who are paramedics and EMS professionals—to do a lot of things: deliver babies, rescue people from wrecked cars, resuscitate patients using advanced cardiac life support, and resuscitate babies. There are a lot of advanced protocols and skills that they use in the field. About 95 percent of those are without conversations with a physician. Because this is all time sensitive, those are driven by offline medical control, which is developed by the regulatory body and endorsed and authorized by the medical director for each EMS agency. The vision is that medical control and most protocols are offline. A paramedic would apply screening criteria to decide which patients need to go to an ER. Certainly there are medical conditions and traumatic conditions that mimic psychiatric emergencies, and that is why they need a medical screening exam. Paramedics do this all the time. They can tell sick versus nonsick. We charge them with diagnosing heart attacks and strokes. Although the usual discussion is that paramedics do not diagnose—which technically is true—what they do in a lot of these cases is make decisions that are close and analogous to what I do as a physician. It comes down to semantics, and I believe they do great work. We charge them to make decisions with more complicated and critical patients all the time. I am very confident that the men and women in our state could apply screening protocols and make decisions on which patients need to go to the ER and which ones need to go to a mental health facility if there is capacity.

With that being said, there is liability with this. There is liability with everything we do in emergency medical services. I strongly believe it takes strong medical direction and regulatory oversight. It takes crystal-clear, evidence-based protocols, and a robust quality assurance program for everything. If we are talking about delivering a baby at 3 a.m. in a hotel room or performing cardiac arrest resuscitation in the middle of the street, whatever it is, all of the

components are very important and all of them have risk. For too long we have not been looking at things differently. There is a huge problem statewide, and in southern Nevada especially, regarding the management of these individual mental health patients. We are currently holding a lot of patients in hospitals, and I know there is great work being done on multiple fronts trying to fix that problem. We have to start thinking differently; emergency medical services is a practice of medicine. It is the new subspecialty in the house of medicine. I am confident that we can manage it and should not let the fear of liability stop us from doing the right thing. If we are able to take five patients a day directly to a mental health facility that has the capacity—who does not have an injury or illness—this will be a win. It is not going to fix the entire problem, but it will be one piece of thinking outside the box and approaching this problem from a different perspective.

Assemblywoman Benitez-Thompson:
Nevada Revised Statutes 433A.165 talks about where the paramedics end up taking the patient. Paramedics do not act as a physician and make decisions. This bill says they can drive them to the ER or to a psychiatric medical facility. We are talking about the destination point and where they need to go. The scenario we are addressing—if you can imagine it in your head—is that there are people who are frequent utilizers of the ER system due to mental health issues and not physical issues. As a social worker, I work with frequent flyers. These are people who often, maybe once a week, take trips to the ER, are known by law enforcement, and who are probably known to paramedics. This bill just says the paramedic can drive them to a psychiatric health facility instead of the ER. The statute language already mandates they go to a location where a physician is located. I want to be sure that we do not get lost in the bigger picture when we are talking about the drive only.

Assemblywoman Titus:
I want to make it clear that we are not asking the paramedics to do the on-the-spot medical clearance exam that allows them to be transported to a mental health facility. We are also not asking the paramedics to sign the Legal 2000 form. We are just asking them to use discretion in deciding where they transport them. Is that correct?

Assemblywoman Benitez-Thompson:
This has nothing to do with the Legal 2000 process. We do not want those two things to be confused. That is why I wanted to do the primer about where they transport to, and that it has to be to a medical facility. They cannot decide that services are not needed.

Assemblywoman Titus:
They are not going to be allowed to sign the Legal 2000 because that is a diagnosis that they are signing.

Assemblywoman Benitez-Thompson:
In Senate Bill 7 and Amendment No. 25, when you look at the folks who are involved in the decertification of Legal 2000s, you do not see paramedics in that language.

Chair Oscarson:
We are going to take testimony now. We will take testimony from Las Vegas first in case we lose the feed down there. This will be in support of the bill. Is there anyone else testifying?

Joseph P. Iser, M.D., Dr.P.H., M.Sc., Chief Health Officer, Southern Nevada Health District:
As you know, we are the regulatory agency for EMS and trauma systems in southern Nevada. The agency has been involved in these issues since before I came down here a year and a half ago. One of the first things I dealt with was our emergency departments being inundated and going on bypass because they could not handle the bulk of the patients. I had a meeting with hospital personnel and asked them to look closely at not closing and causing more disruption to our facilities down here. My staff and I were involved with Dr. Dvoskin, the Southern Nevada Health Care Forum, Assemblyman Eisen, and Senator Jones and listened to a lot of testimony related to this. We are in full support of both of the amendments, particularly the one related to paramedics. We do not think this puts patients at harm at all. We had discussions with our advisory boards down here that advise me and the Board of Health on protocols and whether to accept them. We have unanimity in our medical advisory board in proceeding along the lines of what Dr. Slattery has just testified. I have had conversations with Dr. Green over the last couple of days, and I want to reassure the Committee that we are completely in support of this.

Leslie Dickson, Executive Director and State Legislative Representative, Nevada Psychiatric Association:
I am speaking in support of this amendment that Dr. Slattery has presented. Later, I will speak in opposition to other aspects of this bill. I think it would be acceptable for EMS to do some medical clearances in the field. In other words, rule out serious medical problems and make the decision, with supervision, that they could go directly to a psychiatric facility. I want to point out, however, that most psychiatric facilities do not have a physician waiting for patients to arrive on evenings and weekends. I would be concerned about what will

happen to the patient once he gets there. Generally speaking, I support the amendment.

Chair Oscarson:
Is there anyone else in Las Vegas to testify in support? Seeing no one, we will come back up to Carson City for testimony in support of the bill.

Dan Musgrove, representing The Valley Health System:
I am here as part of this mental health situation. Since 2001, I have represented local governments that have first responders involved with the police and fire. I represent hospitals that have been on the main line of dealing with these folks, and the overwhelming burden that occurs because ERs are the easiest place to take these folks. When you have ERs spread out throughout the Valley, it is logical to take them there. Since 2001 we have been tracking these folks, and only a small percentage—probably under 5 percent—need to be in a hospital for acute care needs. The reason they are there is they need the medical clearance and somewhere to be warehoused until they are in the system. That was Dr. Titus' comment about where they would go. This is one more tool in our toolbox, one more thing that we can use. Dr. Dvoskin and others have been on this issue for many years looking at ways we can handle the throughput better and get them where they need to be at the appropriate time and appropriate level of care. That is the trouble with what our current system was doing. They were getting stopped and backlogged because we did not have the ability to move them through the system.

I appreciate Dr. Slattery's amendment and the purpose of this bill. With the Medicaid expansion, we are getting more tools and locations that are not hospitals where it is appropriate to be. This bill helps us move one more rung up the ladder toward solving this problem that is in every community in the state.

Bill M. Welch, President/Chief Executive Officer, Nevada Hospital Association:
Like Mr. Musgrove, I have been working on this issue for many, many years. I have served on a multitude of task forces over the years where this issue has been considered. More often than not, we came back to providing services in the same manner that we always have. I am supportive of this with the amendments as have been presented today. I think we have to think outside the box. I am encouraged that this legislation helps expedite and ensure that the patient gets to the appropriate location and gets the care he needs much sooner than patients have historically with the system as it works today.

Erik Jimenez, representing Argentum Partners:
We are here on behalf of the behavioral health side of Universal Health Services of Delaware. Currently, we operate four behavioral health centers in Nevada. I want to echo the comments of Mr. Welch. We completely support this bill with the amended language.

George Ross, representing Hospital Corporation of America, Inc.; Sunrise Hospital and Medical Center:
I was the coordinator of the Southern Nevada Health Care Subcommittee of the Southern Nevada Forum, which dealt mainly with mental health. First, Sunrise has 55 beds in its emergency room. There were times when 41 of those were occupied by folks who were there under a Legal 2000. If they were able to get out in two days, it was wonderful. Many patients had to stay as long as four days. We strongly support Dr. Slattery's amendment. The Health Care Subcommittee made a number of recommendations to the Governor's council, and many of them were implemented by the Governor to try to intercept folks who were getting the Legal 2000 before they even got to the emergency room. The vast majority of those people did not need to go to the ER to get clearances. As Mr. Musgrove pointed out, there are mechanisms on the way that will help that, thanks to Medicaid expansion. Dr. Slattery's amendment is a key part of that.

We also support A.B. 91 and compliment Assemblywoman Benitez-Thompson for bringing it. I know there are some people on our subcommittee who would probably disagree with the list. As Mr. Welch and Mr. Musgrove said, we have been at this for many years, going over the same thing. I want to make a plea not to let the absolutely perfect bill be the enemy of a very good proposal because of one little objection that has kept us where we have done nothing about it for years. It is absolutely imperative that we take this opportunity to solve this problem, especially now that we have Medicaid expansion to help pay for this.

Ryan Beaman, representing Clark County Firefighters:
As Mr. Ross said, there were a lot of people involved in the Southern Nevada Health Care Forum. We were part of it and participated in many discussions and vetted a lot of these things. I appreciate everyone who participated. In Clark County, we run about 145,000 calls a year. My station is by Sunrise Hospital, and as Mr. Ross said, day in and day out we see those patients that the Assemblywoman said were frequent flyers. We actually know them by name and their date of birth before we pull up. Those are the types of patients who could be taken to locations other than an ER. We support the bill and the amendment put forward by Dr. Slattery.

Richard Baldo, representing Nevada Psychological Association:
We support some of the proposals of this bill. In section 2, we would like to see physician assistants given the additional privilege to make the evaluations because they are often on the front line. We have some concerns about other practitioners, especially in the decertification process. We do not want the frequent flyers—that is not the term used in the ER—to see the revolving door. We want to see a facility where they can be evaluated and put on hold in a safe place. I have done over 100 evaluations for legal holds in local ERs and we often have no place to put them, so they sometimes sit in dirty hallways. It is a very difficult situation. Hopefully, the place to hold people in a humane way will appear with the funding.

Chair Oscarson:
Is there any other testimony in support of A.B. 91, here or in Las Vegas? Seeing none, is there any testimony in opposition, here or in Las Vegas?

Leslie Dickson:
I would like to testify in opposition to some parts of the bill. I want to express my appreciation for the things that Dr. Green has enumerated that have made things much better in Clark County. Increasing the number of beds has been a big help. I do not want to take away from that; however, I have serious concerns about expanding the number of professionals who can do decertification.

The Senate amendment to increase the psychiatric training of those folks is laudable. However, a psychiatrist's training is a medical doctor degree, plus four years of residency. How we are going to train these other people equivalently eludes me. I think we need to think seriously about two things: the liability issues for people who are not used to making assessments of dangerousness in ways that they are responsible for the outcome, and doing a good diagnostic evaluation and initiating a treatment plan for patients in an ER setting. Many of these professionals are not capable of initiating a treatment plan. They cannot prescribe medications, and they do not know enough about medications to make the correct recommendation to the emergency room physician. We need to go in another direction. I submitted a two-page letter (Exhibit J) that I will not read now, but it enumerates what I think the real problems are and may point us in other directions for solutions to these problems. There is also a letter (Exhibit K) from Dr. Lisa Linning of the Nevada Psychological Association.

Chair Oscarson:
It is confusing when you testify in two different ways, for and against. Perhaps next time you should get a second person to testify one way because we do not know how to list you.

Assemblyman Thompson:
Assemblywoman Benitez-Thompson, thank you for bringing forth this bill. Previously, I served as the Southern Nevada Regional Homeless Coordinator and part of our continuum of care was working on this diversionary part. I understand that we are going to clog up the hospitals, but I really want to work with the other service providers because we have not heard testimony from them. They are going to need our help and resources. We tend to think because Medicaid has expanded it is automatic that we have all of these resources. I want to work with you on this because it is very important. Many of the people with whom the first responders are going to be working are our indigent people. They are going to qualify for Medicaid, but we cannot miss the mark about the actual service provider who is not going to be in the hospital. We have to make sure they have the capacity because that has been an issue for many years.

Chair Oscarson:
Is there any other testimony in opposition? Seeing no one, is there any testimony that is neutral?

Kim Frakes, Executive Director, Board of Examiners for Social Workers:
I provided testimony on Senate Bill 7, and based on the testimony, it appears that a lot of the amendments were included in Amendment No. 25. I will do a very brief overview of the testimony that I provided on S.B. 7.

It pertains to the actual Legal 2000-R form, which I have in front of me. Our Board rendered an official opinion on January 12, 2001—Advisory Opinion No. 8—pertaining to what levels of social work would be deemed appropriate at the various sections of the Legal 2000-R form as it was submitted at that point of time. The initiation, as you know, is basically a checklist of behaviors. There are four of them: someone acted in a manner that would be a danger to himself or others without intervention, they attempted or threatened to commit suicide, attempted or threatened mutilation or self-harm, or inflicted or attempted to inflict serious bodily harm. Then it asks for specific behavior. The initial portion of the Legal 2000 is behaviors that we are comfortable could be performed by all levels of social workers. We said no to the actual certification and decertification processes at that point in time because it had the language pertaining to the physicians, et cetera. The amendment does indicate that it is restricted exclusively to clinical social workers as one of the professionals who

can do that assessment. The boards of each of the professions would determine what basic experience and training that portion of the Legal 2000 would need. That would be why you feel the individual is a danger to himself or others and requires additional treatment and admission to a hospital.

Amendment No. 25 also appears to suggest that it must ultimately be followed by a consultation with the attending physician for that patient. The attending physician would be the one who ultimately says that he agrees with the professional, whether it is a clinical social worker, marriage and family therapist, or anyone on the list. The doctor can still say that he disagrees and that the person needs to remain. I support the amendments in Amendment No. 25 and hope the Committee will make those same considerations with A.B. 91.

Chair Oscarson:
Is there any other neutral testimony? Seeing none, please come to wrap this up, Assemblywoman Benitez-Thompson.

Assemblywoman Benitez-Thompson:
I want to address one of the comments that Dr. Dickson made regarding psychologists and psychiatrists. This bill grew out of the problem that we just do not have enough of those professionals to keep up with the flow through the ERs. It came out of a need to have a better flow process so people who need to come to the ER for a legitimate medical emergency could be seen by a physician in a timely manner and actually get a bed. You heard the hospitals talk about more than half of the 55 emergency room beds would be occupied by people who did not really need to be there. That affects our access and our ability to get help. This is about the flow process and a way to make this better for patients who need that care. The mentally ill really need to have psychiatric care and to get to where they can get it. I do not think we are compromising quality in any way, and I want to make sure that is said for the record.

This is a good public policy solution to a number of different problems that we have. I am grateful that we had legislators, public health officials, state employees, and interested businesses who came together in the interim to find a solution. Otherwise, we could be sitting here today with a big backlog problem in the ER with no solution. Everyone was very motivated to come together for the right reasons, and this bill is that solution.

Chair Oscarson:
We will now close the hearing on A.B. 91. We will now open the hearing on Assembly Bill 184. The presenter will be Assemblyman Elliot T. Anderson.

Assembly Bill 184: Revises provisions governing the involuntary commitment of certain persons to a hospital of the Department of Veterans Affairs. (BDR 39-539)

Assemblyman Elliot T. Anderson, Assembly District No. 15:
I am here to present the second in a series on Legal 2000 bills for your consideration. Assembly Bill 184 authorizes a health care provider employed by a hospital of the U.S. Department of Veterans Affairs (VA) to perform certain tasks related to the emergency admission of a person who may have a mental illness. [Continued to read from written testimony (Exhibit L).]

The VA hospitals do not require state licensure because they are federal facilities. The U.S. Attorney does something similar for lawyers. Federal facilities do not require licensure in a particular state. [Continued to read from written testimony (Exhibit L).]

As I understand it, you had testimony earlier from the VA that they are already doing this in some cases. I think this is a good cleanup measure. It would have been better if this bill had been passed before they started doing it. This will ensure that everything is in compliance and that we do not have any unintended consequences. We can give VA doctors, psychiatrists, and other professions the same ability under our law as our state-licensed doctors. I ask for your support and really hope we can get this through because it is a good way to ensure we do not have any hang-ups when a veteran needs help.

Assemblyman Jones:
In the description it talks about provisions governing involuntary commitment. I am confused when reading this. Where is the actual discussion about the involuntary commitment? What is the change with regard to the involuntary commitment? I am concerned about people being put in facilities against their will. It is one thing when you go there seeking treatment, but when you are forced against your will, that is different. How does that relate to this specifically?

Assemblyman Elliot T. Anderson:
It really just changes some of the requirements. Some of the statutes read that you have to be licensed in this state under particular provisions. Some are a little more vague and just say a license and that you have to be one of those professions. This is just a clean-up bill to ensure that doctors—and other associated professions—who practice in VA hospitals in this state who are licensed in another state have the same ability as our in-state licensed doctors already do. It is to stop any potential bureaucratic hang-ups that could end up costing a veteran his life because they are too worried about potential liability.

As I referenced earlier in the session, you heard from VA professionals who said they are, in some cases, already doing this. I want to make sure they are not subject to liability under the law because it is not clean enough. I understand your concern, but the veterans' community has been wracked by suicide. The armed forces in general have been wracked after all of these deployments and problems with post-traumatic stress disorder (PTSD). We really need to help them help themselves in many cases. I can assure you that this is not seeking to put more people away against their will but to protect people from themselves in cases where it is really needed.

Chair Oscarson:
We will now take testimony in support of A.B. 184, either here or in Las Vegas.

Leslie Dickson, Executive Director and State Legislative Representative, Nevada Psychiatric Association:
I support this bill. I was a psychiatrist with the VA system for many years. This is the first state where we ran into this problem where psychiatrists who were not licensed in this state could not complete the Legal 2000 forms. I actually got a Nevada license right away so that I could do it because I ran an inpatient unit for several years. A lot of psychiatrists who work for the VA do not get a Nevada license and they can be very limited, especially in the evening when they need to have a Legal 2000 completed and there is no one around to sign it. I checked this out with the chief of staff of the VA hospital and he is very happy with the way the bill is written. I have also submitted a letter of support (Exhibit M).

Chair Oscarson:
Is there any other testimony in support? Seeing none, is there any testimony in opposition either here or in Las Vegas? Seeing none, is there any neutral testimony? Seeing no one, Assemblyman Anderson will wrap up his presentation.

Assemblyman Elliot T. Anderson:
I appreciate your consideration, and I hope you will process this because it is an important measure to ensure bureaucracy does not get in the way of helping veterans.

Chair Oscarson:
It seems that some of these things could be aligned with the bill that we just heard. I do not know if there is a way to work together with the sponsor of the last bill. If there is an opportunity to do that, would you be amenable?

Assemblyman Elliot T. Anderson:
I will take my cues from Assemblywoman Benitez-Thompson on this because she knows this area of law better than I do. I am always willing to work with anyone.

Chair Oscarson:
If there is no further testimony, I will close the hearing on A.B. 184. I will open the hearing on Assembly Bill 242. Assemblywoman Benitez-Thompson will present this bill.

Assembly Bill 242: Prescribes requirements concerning the care of patients in facilities for skilled nursing. (BDR 40-417)

Assemblywoman Benitez-Thompson, District No. 27:
Assembly Bill 242 and the amended language (Exhibit N) have been put on the Nevada Electronic Legislative Information System (NELIS). This is one of the classic examples of "please read the amended language and not the bill." This bill came out of the Interim Legislative Committee on Senior Citizens, Veterans and Adults with Special Needs. At a couple of those meetings, we had very good conversations about Nevada's skilled nursing facilities—also referred to as post-acute facilities—the quality of care, transitions, and other things that were happening. What A.B. 242 was asking for initially was to look at staffing requirements. This has been addressed and is coming online with federal regulations.

What this bill is proposing to do now is have the Legislative Commission appoint an interim committee that would meet to further discuss post-acute care and options in the state of Nevada. There are a couple of different things happening. I do not think my colleagues would appreciate it if we had a full hearing on all of the documentation we have related to skilled nursing care. I have in front of me quarterly federal and state reports that the long-term care industry must abide by. I think this is an area where Assemblyman Jones and I would agree that regulation is quite heavy-handed. I also have all of the complaints from skilled nursing facilities given to me by the Bureau of Health Care Quality & Compliance. I have talked about the industry with some of the complainants and how those complaints are evaluated and measured.

What we know is that we are not at the point where we have a legislative or policy fix to address some of the complaints and quality issues, but we are at the point of saying that legislators in the interim, along with industry, should have continued conversations about what is happening. There is a quality issue that no one will deny. We have some phenomenal post-acute care institutions in the state providing amazing care. We have other ones that keep popping up

in the complaint book and have imminent danger days—days where they are not allowed to take new patients due to serious harm with a severity level of 4. We know there needs to be more conversations. We, as legislators, have to keep our fingers on the pulse of this changing landscape. There are federal regulations coming down that the industry is responding to that are going to impact the way things happen in our state. We need to keep abreast of those, and that is why I brought this proposal for an interim committee.

Section 1 is the language for the Legislative Commission to set up the committee and how the committee will be comprised: members from the Senate and members from the Assembly. The studies say that it will include a review and evaluation of alternatives to institutionalization for providing post-acute care, including the Home and Community-Based Services Waivers program. The last time a committee like this convened during the legislative interim was the 1999 Interim. That was the last time we, as a legislative body, focused specifically on this issue. A lot has changed since 1999, but out of that interim committee came the proposal for a plan for our case mix index (CMI) Medicaid plan for waivers to allow for the home and community-based programs that we have right now. I know that the Chair has been looking at the funding sources for those and funding them in the Assembly Ways and Means Subcommittee on Health and Human Services. We know, right now, that there is still a huge wait, almost a year long. If you are an impoverished senior and are no longer safe taking care of yourself in your house and you need to be in a higher-level care setting, you can go onto a year-long wait list with the State of Nevada. Hopefully you will find a way to keep yourself safe for a year before you get into a group home or receive community services to come into your home. We know this is a good program, but one of the things I would like the interim committee to talk about is a way to support and grow that program. They need to look at what we have put in place since 1999 with the group homes, if they have been effective, and if they are serving the public policy purpose that this legislative committee intended it to do.

The study must include costs of the alternatives, including cost savings from waiver programs to institutionalization and the cost of it for persons receiving post-acute care in this state. We know that the base of this is that the care inside a skilled nursing facility is phenomenally expensive. We know that care through other types of venues, such as group homes, can be much less. We want to explore and see what the trend is and whether the cost savings that we talked about in 1999 actually materialized the way we thought.

The study must determine the positive and negative effects for the different methods of providing post-acute care services on the quality of life of the person receiving those services. That is a big issue because many of the

complaints coming in are based on quality of life issues and standards. Going into a congregate care setting can feel very intrusive and can be a hard transition for folks who have led a very independent life. We want to talk about those factors.

A review of national and state quality measures for post-acute care required to be reported by Medicare, Medicaid, and the State of Nevada is something that I would like the committee to talk about. Another review would be of state and federal funding trends for post-acute care and consideration of the State of Nevada funding formula plan. This would be considerations of the way the State of Nevada Medicaid dollars are used and leveraged and how they could potentially be leveraged to better support those post-acute care facilities that have better quality measures than others. When I say have better quality measures, there are 2,659 of them. There is a lot of data to sort through and we definitely want to get at what data measures seem to be telling us the most accurately about people's quality of life inside of post-acute, long-term care nursing home facilities. We will see after we have a couple of meetings as a legislative subcommittee and we do our due diligence and talk to all parties and have a good conversation if there needs to be a legislative change. This bill allows for such bills to come forth if we find that there are changes that we can make happen that do not have to be wrapped up in a bill draft request. The committee can get behind that as well, but I think it is an important conversation to have during the interim.

Assemblywoman Titus:
For a point of clarification, the title of this bill is related to patients in facilities for skilled nursing and providing other matters properly relating thereto. When you use the terminology of post-acute care and long-term care facilities, are you wrapping the definition of skilled nursing facilities under the umbrella of all long-term care facilities?

Assemblywoman Benitez-Thompson:
Absolutely. These will be free-standing, swing beds, long-term care, Medicare and Medicaid, and all of those subcomponents that are the intent of this legislation.

Assemblyman Jones:
Thank you for looking at ways to get rid of regulations and to make things more efficient. Can you say something like that in this bill? Do we actually state that we want to be more efficient? I would really appreciate that because I believe the free market and less regulation always results in better service and care.

Assemblywoman Benitez-Thompson:
My intent is to say that additional legislation—considering the changing federal landscape and what will be happening in the next couple of years—is not necessarily warranted right now. There needs to be a conversation about how we in Nevada are going to be proactive in addressing some of those regulations, and how to make sure our own state system falls in line with them. At this point, I do not think there are many laws that we want to throw at the industry because they have a lot of things coming down federally. However, I think it would be a disservice to our constituents to not engage them in conversations during the interim. It is easier to stay abreast of issues when we have committees like this. For me, some of my most productive time as a legislator is during interim committees for that year and a half that we are off. The conversations are meatier, the type of work you get to do is more interactive, you have time to go away and think about things and marinate on it, and then come back and meet as a group. I believe some of the most well-thought-out policy is developed over the course of a year through good conversations. That is what I am proposing for this.

Chair Oscarson:
Your statement on the legislative record states your thoughts and what you think that should be. We will make sure it is in the legislative record, which Mrs. Benitez-Thompson reminds us all the time is critical so that we have that record in order to go back and look at what the intent was.

Assemblyman Trowbridge:
I got as far as section 1, subsection 1, and started scratching my head. How in the world are we going to regulate "A facility for skilled nursing shall ensure that each patient in the facility receives not less than 4 hours and 6 minutes per day . . . " and then continues with "1 hour and 18 minutes of which must be provided by a registered nurse"?

Assemblywoman Benitez-Thompson:
Excellent question, but all of that language is gone. There were certain staffing regulations. There were lots of discussions and the issues that we were trying to address were issues that the interim committee discussed. We got some not-very-good grades from a national report regarding skilled nursing facilities in the state of Nevada. In the most recent report we came up a little; we went from an F to a C. The industry is committed to better quality care and to making changes. They sat down and had numerous conversations with me. There is a lot happening within the industry. What I am proposing is an interim study committee. For those of you who are new to this process, they typically meet twice—with one work session—to come together and have conversations on the policy points outlined in the bill.

Assemblyman Trowbridge:
So the bill I am reading is outdated.

Assemblywoman Benitez-Thompson:
Yes. It is now the one that is on NELIS. I promise it is all good.

Assemblywoman Titus:
I am curious about one thing. The bill that you presented we are now striking. Now you are suggesting an interim committee. Assembly Bill 242 was on behalf of the existing Committee on Senior Citizens, Veterans and Adults with Special Needs. You are now looking at appointing another committee having nothing to do with the committee that suggested this language, but creates yet another committee.

Assemblywoman Benitez-Thompson:
I was the chair of that committee, but there are a host of different interim committees. I invite you to look up the committees on the legislative website. There are interim sessions right under the regular sessions. You can pull it up and see the committees that exist. There is a health care committee, and an Interim Committee on Senior Citizens, Veterans, and Adults with Special Needs. Chair Oscarson and I both sat on the interim Legislative Committee on Health Care and attended those meetings. I chaired this committee, and you would be amazed. You would think with all the times that we came together we would have discussed everything ad nauseam and be done with it. For as much time as you have to come together on different committees, if you really want to focus on a specific public policy issue, I am proposing that this is the way to do it. It dedicates the efforts to one single subject versus a host of hundreds of subjects. As a chair, it was always a juggling process to figure out what issues the committee was going to address and discuss, and which ones just could not fit on the agenda. When you do, you have a whole subject matter—like mental health—and one hour to figure it out. Sometimes that produces good public policy and sometimes you need more time. I am proposing there is enough going on federally, and enough data that comes from this industry, that two meetings, work sessions, and time to talk between those meetings will produce good results.

Assemblyman Trowbridge:
I went online and you are right, this is a good bill.

Chair Oscarson:
Are there any more questions or comments? Is there anyone who wants to testify in support of the bill? Mr. Mathis, we have your letter. If you could summarize it for us, we would appreciate it.

Daniel Mathis, President/Chief Executive Officer, Nevada Health Care Association:
I have been in touch with Assemblywoman Benitez-Thompson, and I see that she brought the short report for you to review. There is a staggering amount of data that can be looked at, and one good reason why we need to have a study in the interim session. I have three main reasons in the letter that I have submitted (Exhibit O). The Improving Medicare Post-Acute Care Transformation, or IMPACT 14 Act, was signed into law by President Obama in October 2014. It incorporates standardized assessment tools for skilled nursing, home health, long-term care hospitals, and inpatient rehabilitation facilities. Basically, what they are doing is combining the data for all post-acute care providers, and this includes the waivers that allow assisted living residential facilities for groups to access Medicaid funding.

The second one is the Nevada State Innovation Model (SIM) Grant. The SIM grant was awarded on December 14, 2014, with a start date of February 1, 2015. It is a planning grant as well. It articulates a broad vision for statewide health care transformations and describes ambitious, realizable programs in identified areas of the state. They are working on a program to address care in Nevada.

The third one is that there are already components in place. The increased quality of care, Nevada budget account 3160 is Nevada's pay-for-performance for skilled nursing. Currently, they use 5 of 18 quality measures to impact Medicaid reimbursement for skilled nursing faculties. Of the 18 quality measures, all but 2 have shown improvement over the last two years. The Centers for Medicare & Medicaid Services (CMS) is in the development of a staffing quality measure that may be an additional quality measure. If that happens, and we predict it will, the State of Nevada could use that quality measure in its budget account 3160 pay-for-performance.

I like the study because the earth is moving under our feet as we speak on this issue. Historically, Nevada developed the Increased Quality of Nursing Care provider tax in 2003. [Continued to read from written testimony (Exhibit O).]

Historically, we have done all kinds of things to improve care in post-acute care, but I think with the federal regulations, the SIM grant, and the increased quality of nursing care budget that we already have, we will take the 18 months of the interim session to come up with some really good regulations that would improve the quality of care in this state. We are in support of the bill and the amendment.

Chair Oscarson:
We have had a lot of discussions over the interim and you have shown me through some of your facilities. I look forward to continuing the discussion and the relationship during the interim.

Joan Hall, President, Nevada Rural Hospital Partners:
Having this study as has been proposed is a tremendous idea. I heard once that long-term care is regulated second only to nuclear power; there are that many regulations. Certainly those individuals are at the highest risk and need the best care. It is often difficult to provide that care, so regulation is good. Having a study that actually looks at this and educates more individuals about what is really going on is an excellent idea. I support this wholeheartedly.

Chair Oscarson:
Is there any other testimony in support? [Submitted but not discussed was (Exhibit P).] Seeing no one, is there anyone who wants to testify in opposition here or in Las Vegas? [There was no one.] Is there any neutral testimony? Seeing none, do you want to say anything else? [The sponsor shook her head no.] I will close the hearing on A.B. 242. I am going to ask for any public comment. [There was none.] For those of you who are excited about going home, I am going to recess until the call of the Chair. Please be prepared this afternoon to come back after the discussion from Congressman Hardy. We are recessed until the call of the Chair [at 4:04 p.m.].

Chair Oscarson:
[The meeting was reconvened at 6:10 p.m.] This meeting is adjourned [at 6:10 p.m.].

RESPECTFULLY SUBMITTED:

_____
Karyn Werner
Committee Secretary

APPROVED BY:

_____
Assemblyman James Oscarson, Chair

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Health and Human Services

Date: April 8, 2015 **Time of Meeting: 1:54 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 200	C	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
A.B. 232	D	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
A.B. 279	E	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
A.B. 306	F	Kirsten Coulombe, Committee Policy Analyst	Work Session Document
A.B. 91	G	Assemblywoman Benitez-Thompson	Proposed Amendment to Senate Bill 7, Amendment 25
A.B. 91	H	Assemblywoman Benitez-Thompson	Proposed Amendment from the City of Las Vegas
A.B. 91	I	David Slattery, City of Las Vegas Fire & Rescue	Written Testimony with Amendment
A.B. 91	J	Lesley Dickson, Nevada Psychiatric Association	Letter and Written Testimony
A.B. 91	K	Lisa Linning, Nevada Psychological Association	Written Testimony
A.B. 184	L	Assemblyman Elliott T. Anderson	Written Testimony
A.B. 184	M	Lesley Dickson, Nevada Psychiatric Association	Letter of Support
A.B. 242	N	Assemblywoman Benitez-Thompson	Proposed Amendment
A.B. 242	O	Daniel Mathis, Nevada Health Care Association	Proposed Amendment and Written Testimony
A.B. 242	P	Rochelle Rosa, School of Community Health Sciences	Statement of Intent and Climate Analysis