

**MINUTES OF THE  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Eighth Session  
March 11, 2015**

The Senate Committee on Health and Human Services was called to order by Chair Joe P. Hardy at 3:32 p.m. on Wednesday, March 11, 2015, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Joe P. Hardy, Chair  
Senator Ben Kieckhefer, Vice Chair  
Senator Mark Lipparelli  
Senator Joyce Woodhouse  
Senator Pat Spearman

**STAFF MEMBERS PRESENT:**

Marsheilah Lyons, Policy Analyst  
Eric Robbins, Counsel  
Ellen Walls, Committee Secretary

**OTHERS PRESENT:**

John Sande IV, ADDUS Healthcare, Inc.  
Monica Bush, ADDUS Healthcare, Inc.  
Connie McMullen, Personal Care Association of Nevada  
Peter Morris, BrightStar Care  
Laura Coger, Program Manager, Consumer Direct  
Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services  
Lisa Foster, State of Nevada Association of Providers

**Senator Kieckhefer:**

We will open the hearing on Senate Bill (S.B.) 198.

**SENATE BILL 198**: Requires an agency to provide personal care services in the home to adopt an electronic visit verification system under certain circumstances. (BDR 40-830)

**Senator Kieckhefer:**

Senate Bill 198 requires agencies that provide personal care services or medical services in the home setting who are covered under Medicaid to adopt an electronic verification of each patient visit. The concept of the electronic visit verification (EVV) is not new. Other states' Medicaid programs have experimented with various types of technology in this area for years. As baby boomers age and Medicaid expenses consume greater portions of the State budget, this technology becomes increasingly relevant. New and innovative ways to contain Medicaid costs are needed. The elderly and disabled are choosing to remain in their own homes. They need assistance with medical conditions and activities relating to daily living. Having these individuals remain in their own homes is beneficial, as it lowers State Medicaid costs and results in better quality care. It improves patient satisfaction and achieves the goal of keeping people in their own homes and communities. The cost is high for providing these services. Home-based services are not centralized as in a hospital or residential care setting. The EVV technology can improve accountability. The EVV systems help to ensure that an agency's caregivers provide appropriate personal care, and that monetary charges to the State Plan for Medicaid are accurate.

Section 2 of this bill defines the term "electronic verification system" as an automated system that verifies that services are provided and documents the time at which the provision of services begins and ends. Section 3 of this bill requires an agency to provide personal services in the home that receives payment pursuant to the State Plan for Medicaid to adopt an EVV system that meets certain requirements to monitor services provided pursuant to the State Plan for Medicaid. This includes the documentation of data such as the name of the employee and the patient or client, the date and times the service begins and ends, the service location and any change made to the originally reported data. The patient must be able to verify this information for accuracy. The information must be compliant with the Health Information Portability and Accountability Act. Section 4 requires an in-home personal care services agency that adopts such a plan to adopt a disaster recovery plan that meets certain requirements. The agency must provide training and technical support concerning the EVV to employees, provide notice of the requirement to adopt an

EVV system to employees and recipients of the services, and to complete certain forms prescribed by the Division of Health Care Financing and Policy (DHCFP) documenting the use of an EVV system. The Division of Public and Behavioral Health may adopt any regulations to carry out the provisions of this act.

The intent of this bill is to cut down on Medicaid fraud and to ensure that people who need the care in their homes are receiving appropriate care.

**John Sande IV (ADDUS Healthcare, Inc.):**

Senate Bill 198 is an attempt to begin a discussion on how to deal with Medicaid fraud. We have met with other organizations that are opposed to this bill. We are aware there is no single solution to health care fraud but feel this is the right time to address the problem. Ensuring that Medicaid clients receive timely care is important to home health care businesses. Equally important is the adoption of policies to ensure taxpayer dollars are not subject to waste and fraud. These two goals can coexist. Providers can improve delivery of health care to cut down potential fraud through the use of the EVV system. At the federal level, according to the Health Care Fraud and Abuse Control Program report issued in early 2014, the federal government's health care fraud prevention efforts recovered \$4.3 billion during fiscal year 2013 from those who attempted to defraud federal health-related programs. Over the past 5 years, enforcement efforts have recovered \$19.2 billion. The EVV system allows a personal care agency to know when their worker arrives at the client or patient's correct location and to understand how much time the worker spends with the patient. The EVV system can clarify correct services were provided. Tracking for the billing of Medicaid claims can be accomplished. It is more comfortable for patients to receive care at home than at a hospital, rehabilitation center or nursing home. The costs of health care services provided in the home setting can be less expensive. The personal health care industry is expanding. Now is the time to implement the EVV system to eliminate abuse and fraud. Our State cannot afford the costs associated with abuse and fraud. Discussion about Medicaid fraud is necessary.

Some concerns about EVV implementation have been brought up by those opposed to these computerized systems. One concern is that S.B. 198 only applies to providers of health care that offer Medicaid services. This is preferred, as State funds are not being used for services delivered by private insurers. We are willing to extend the provisions of this bill to providers of insurance other

than the State Plan for Medicaid. There are also concerns that EVV requirements could discourage providers from providing services in rural areas. It is possible to explore limiting the scope of the bill solely to providers who provide home health care services within Clark and Washoe Counties. There were reporting requirement concerns, especially in making the EVV system compatible with the Department of Health and Human Services. We are looking at how to address this in a less burdensome manner. Finally, we are looking at how to increase the reimbursement rate for providing health care services in the home setting. Home health care agencies are operating at 2003 Medicaid reimbursement levels. Understandably, there are constraints with respect to funding—but we would like to get this low reimbursement issue noted.

It is good policy to implement technology that can reduce waste, fraud and abuse, and this is the time for the solution that EVV systems can provide.

**Monica Bush (ADDUS Healthcare, Inc.):**

I support S.B. 198. Home health care is the preferred and most affordable, least-restrictive care. As a provider of home health care, we look for ways to raise accountability and to reduce fraudulent activity for the Medicaid program. Providing services in the home makes accountability of services more challenging than in a traditional facility setting. Our company has successfully implemented EVV systems in other states; our company does not use these systems in our Nevada offices. There have been cost savings related to the use of EVV systems. Fifteen states have mandated EVV systems in Medicaid personal care programs. Many other states have approved the use of the EVV system and strongly recommend it. Some of the states have mandated use of one specific vendor's software system. This has not worked out well, and we would prefer an open system. There are providers of home health care who have existing EVV systems, either in Nevada or in other states. We would like them to be able to use those systems and not have to change out to a mandated software system for the EVV. As home care agencies begin to use the EVV system, they will understand the value of the use of the system, especially in terms of delivering efficient care, processing payroll, claim billing, filing and record retention. The EVV system helps with the deterrence and detection of fraud perpetrated by home health care personnel. Fraud can never be eliminated completely, but the implementation of systems can help to deter fraudulent activity. Having real-time information is valuable for good customer service. When using paper-based tracking systems for home health care delivery, we do not know if the employee was actually at the patient location

until the patient calls and advises the caregiver has not arrived. The EVV system has the ability to send out alerts. This is important for the most vulnerable patients who cannot go without care. We need to know if a caregiver has not arrived to assist them at the scheduled time. We welcome the opportunity to proactively address home health care integrity and improve the viability of the personal care program through higher standards of accountability and by implementation and use of EVV systems.

**Senator Kieckhefer:**

How does the EVV system work, and how much does this software system cost to implement?

**Ms. Bush:**

There are a number of software vendors for the EVV. Our company has used the EVV system for a number of years. We have an "advanced system." A lesser system is available that uses the patient's telephone in their home. The caregiver can call into the office from the patient's telephone, and it will register that the caregiver is at the patient's home for home visit-verification purposes.

**Senator Kieckhefer:**

How does the EVV system work if the patient does not have a landline?

**Ms. Bush:**

We can give our caregivers smart phones. These phones are used for employee timekeeping as well as to chart the patient's condition. Perhaps this system is not the most affordable, but there are biometric recognition and electronic random numbers devices available. This is a small device that is kept in the patient's home. The caregiver calls the patient's device and it would supply a random number. These numbers change every 1 or 2 minutes. This device will time stamp and validate that the caregiver is in the patient's home. I can provide more literature on these methods.

**Senator Kieckhefer:**

There is a rate increase in the budget proposed for registered and licensed practical nurses who provide home care, but we have been discussing personal care attendants, correct?

**Mr. Sande:**

Yes, that is correct; we are discussing “unskilled” personal care attendants who are providing the home health care.

**Connie McMullen (Personal Care Association of Nevada):**

After speaking with Mr. Sande and Ms. Bush, the Personal Care Association of Nevada (PCAN) opposes S.B. 198. Our organization represents over 33,000 nonmedical personal caregivers. The fiscal impact of S.B. 198 cannot be determined for either the State or the personal care agencies. The EVV system for data collection is not used among providers of personal care in our State. Representatives of ADDUS Healthcare Inc., who initiated this bill, did not speak to DHCFP personnel before it brought forth this bill. The costs and adaptability of the bill cannot be determined. Our State does not sponsor an EVV system.

The PCAN was not briefed concerning this bill. Neither was the Personal Care Agency Advisory Council, sponsored by the Division of Public and Behavioral Health. The PCAN members are solidly opposed to S.B. 198 due to the cost required to implement the system, monitor data and assure IT integrity should the system fail.

Many agencies that provide personal care in Nevada are small businesses and would be burdened by the costs and oversight without receiving compensation to implement the EVV system. This is new technology our industry feels it does not need in order to provide oversight and auditing functions for required reporting.

Many small personal care agencies in the rural areas would not be able to use the EVV system since technological services are not reliable in many outlying communities. These small agencies do not serve large populations. This fact makes installation of the EVV system unfeasible. In most cases, the personal care agencies would stop accepting Medicaid clients. Access-to-care issues would arise. Medicaid reimbursement for personal care services has not changed since 2003. There is no incentive to change to a system of reporting for only one agency, that being ADDUS Healthcare, Inc. The Division of Aging and Disability Services acknowledged this when it wrote on the fiscal note: “The cost to personal care providers to adopt an electronic visit verification system cannot be determined at this time but may result in a reduced level of service or a discontinuation of service, especially in rural areas.”

**Peter Morris (BrightStar Care):**

We are a personal care agency and a Medicaid provider. We oppose S.B. 198. This bill creates an unnecessary burden on personal health care providers. This mandate of an EVV system is not of any value to the individual personal care agency or to the recipients of the care. That is the primary issue. My business is relatively small compared to others who are heavily invested in providing Medicaid services. I provide Medicaid services because I believe this population should be served. It is not a moneymaker for me. I state for the record—if this bill were to pass, then I would probably elect not to continue to serve the Medicaid population. I am a member of the PCAN, but I am speaking today as an individual business owner who provides personal care to Medicaid clients. I have contacted other agencies in Nevada, and they have expressed major concerns about providing Medicaid services under this EVV system mandate.

This bill adds significant costs to the Medicaid program. It seems these costs have not been evaluated, particularly concerning the necessity of any number of EVV systems that personal care agencies can implement. The bill does express that the Medicaid agency would have access to that information. The State Medicaid program would also have to update its own computer systems in order to receive the electronic data. I do not see the fiscal note about that in this bill.

As a provider of personal care, there are significant costs with regard to setting up the EVV system. There are ongoing costs to maintain it. There are costs for a disaster recovery system for the data, as well as costs for IT personnel needed to bring up the system if it fails. My company is part of a franchise. There are approximately 300 BrightStar agencies in the Country. Some of the owners of this franchise in other states use various EVV software systems. They complain when the system does not function properly. Additional overhead dollars are necessary to fix the computer-based problems. These costs are an added burden on small business. I disagree that now is the time to visit this proposed solution to Medicaid fraud. If there was major increase in reimbursements for Medicaid services, perhaps small businesses could afford the EVV systems. The Medicaid system for personal care in the home works very well. We were audited recently by Medicaid and had no problems with the way we manage employees, particularly with respect those who do or do not show up to the client's home. There is no need for this mandate. There are no funds in the personal care system to implement this. I strongly oppose this bill.

**Laura Cogger (Program Manager, Consumer Direct):**

I am opposed to S.B. 198 for the same reasons previously mentioned. We need to think about clients and caregivers. There is a caregiver shortage. It is difficult to recruit people to perform these caregiver services. I am concerned that without a reimbursement increase from Medicaid, this bill's mandate could cause agencies to cut wages for those who provide personal care services. The Personal Care Agency Advisory Committee works with all of the regulatory agencies to determine how improvements can be made. That is the correct venue to discuss matters such as this one. Perhaps by the next Session, if there is a reimbursement rate increase, all the stakeholders can work together to put this mandate in place at that time.

**Elizabeth Aiello (Deputy Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services):**

We are neutral concerning S.B. 198; however, there are some issues of concern. There are quite a number of personal care agencies that have numbers of employees ranging from under 4 to over 100. It could be quite expensive for these small agencies to implement an EVV system. There are access-to-care issues should those agencies decide to stop serving the Medicaid population because of fiscal reasons. There are concerns about access to care for the Medicaid population in rural areas. Some areas do not have many personal care agencies to provide services. It is difficult for clients to find care. Another concern relates to the time frame to implement the EVV system. The bill's deadline of January 2016 may be too soon. It could be difficult for personal care agencies to meet that deadline. This bill does not include personal care services provided by an intermediary service organization (ISO). As defined by *Nevada Revised Statute* 449.0021, an agency to provide personal care services in the home specifically excludes ISOs, because they are recipient-managed. Conceptually, we are supportive of this bill, but we are concerned about the access-to-care issues.

**Lisa Foster (State of Nevada Association of Providers):**

We would like to propose an amendment ([Exhibit C](#)). Our organization provides services to individuals with intellectual disabilities. The State of Nevada Association of Providers would like to be exempt from the mandates of this bill. The homes are supported living arrangements (SLA) and provide personal services that are Medicaid-funded. They use their own staff. They have a concern that their own staff would be required to perform monitoring. There have been few times when an outside personal care attendant service had to be



used by this organization. They have no issue with being included in the bill for these few and unusual situations; however, with regard to their own SLA staff, they request an exemption.

**Senator Kieckhefer:**

So, are these SLA homes staffed by employees who are in the homes full time?

**Ms. Foster:**

Yes. These homes have rotating staffs. The homes are funded by Medicaid and personal care services are provided.

**Senator Spearman:**

Are some of these providers of personal care family members?

**Ms. Foster:**

The groups that I am discussing are private organizations.

**Senator Kieckhefer:**

We will close the hearing on S.B. 198.

**Chair Hardy:**

We will open the work session on S.B. 110.

**SENATE BILL 110:** Revises provisions governing the disposal of abandoned recreational vehicles. (BDR 43-609)

**Marsheilah Lyons (Policy Analyst):**

I will read from the work session document for S.B. 110 ([Exhibit D](#)).

SENATOR KIECKHEFER MOVED TO AMEND AND DO PASS AS  
AMENDED S.B. 110.

SENATOR WOODHOUSE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Hardy:**

I will open the work session on S.B. 172.

**SENATE BILL 172**: Makes various changes relating to the authorized activities of medical students. (BDR 40-797)

**Ms. Lyons:**

I will read from the work session document for S.B. 172 ([Exhibit E](#)). There is a proposed amendment from Touro University Nevada and Renown Health. I will read the proposed amendment from the work session document, [Exhibit E](#).

SENATOR WOODHOUSE MOVED TO AMEND AND DO PASS AS AMENDED S.B. 172.

SENATOR SPEARMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Hardy:**

I will open the work session on S.B. 177.

**SENATE BILL 177**: Allows a person to designate a caregiver when admitted to a hospital or in an advance directive. (BDR 40-512)

**Ms. Lyons:**

I will read from the work session document including a proposed amendment for S.B. 177 ([Exhibit F](#)). There is no fiscal note for this bill.

SENATOR SPEARMAN MOVED TO AMEND AND DO PASS AS AMENDED S.B. 177.

SENATOR LIPPARELLI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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**Chair Hardy:**

There being no further business before the Committee, this meeting is adjourned at 4:12 p.m.

RESPECTFULLY SUBMITTED:

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Ellen Walls,  
Committee Secretary

APPROVED BY:

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Senator Joe P. Hardy, Chair

DATE: \_\_\_\_\_

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1		Agenda
	B	4		Attendance Roster
S.B. 198	C	1	Lisa Foster	Proposed Amendment
S.B. 110	D	2	Marsheilah Lyons	Work Session Document
S.B. 172	E	1	Marsheilah Lyons	Work Session Document
S.B. 177	F	11	Marsheilah Lyons	Work Session Document