

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

**Seventy-Ninth Session
April 28, 2017**

The Committee on Health and Human Services was called to order by Chairman Michael C. Sprinkle at 12:21 p.m. on Friday, April 28, 2017, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblyman Michael C. Sprinkle, Chairman
Assemblywoman Amber Joiner, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblyman Richard Carrillo
Assemblyman Chris Edwards
Assemblyman William McCurdy II
Assemblywoman Brittney Miller
Assemblyman Tyrone Thompson
Assemblywoman Robin L. Titus
Assemblyman Steve Yeager

COMMITTEE MEMBERS ABSENT:

Assemblyman John Hambrick (excused)
Assemblyman James Oscarson (excused)

GUEST LEGISLATORS PRESENT:

Senator Julia Ratti, Senate District No. 13
Senator Pat Spearman, Senate District No. 1

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Committee Policy Analyst
Mike Morton, Committee Counsel
Kailey Taylor, Committee Secretary
Trinity Thom, Committee Assistant



OTHERS PRESENT:

Kirsten Coulombe, Deputy Administrator, Administrative Services, Division of Public and Behavioral Health, Department of Health and Human Services
Paul Shubert, Chief, Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services
Jared Busker, Policy Analyst, Children's Advocacy Alliance
Stephanie Woodard, Senior Advisor on Behavioral Health, Division of Public and Behavioral Health, Department of Health and Human Services
Leon Ravin, Statewide Psychiatric Medical Director, Division of Public and Behavioral Health, Department of Health and Human Services
Sandra K. Stamates, past President, National Alliance on Mental Illness Nevada
Connie McMullen, representing Personal Care Association of Nevada
Michael DiAsiao, Board Member, Personal Care Association of Nevada
Ryan Gerchman, representing United Veterans Legislative Council
Richard Carreon, President, Nevada Veterans Association
Christiana Cabrera, representing YMCA of Southern Nevada

Chairman Sprinkle:

[Roll was called. Committee rules and protocol were explained.] I will open the hearing on Senate Bill 46 (1st Reprint).

Senate Bill 46 (1st Reprint): Revises provisions governing background checks of operators, employees and certain adult residents of a child care facility. (BDR 38-131)

Kirsten Coulombe, Deputy Administrator, Administrative Services, Division of Public and Behavioral Health, Department of Health and Human Services:

Our staff in the south will walk you through the bill regarding adding background checks to our child care facilities.

Paul Shubert, Chief, Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services:

Senate Bill 46 (1st Reprint) bill essentially incorporates some of the criminal offenses that are prohibited in the federal block grant that pays for a lot of the work that we do concerning child care licensing. There were a couple of offenses that are not currently in the statutory language, so we wanted to ensure we included those offenses so that when we do background checks for persons who are wishing to become licensed as child care facility operators, we would actually be able to exclude them. If there are any questions, I am available.

Chairman Sprinkle:

Thank you for that brief overview. This language will help our state statutes correspond with federal statutes. Is that correct?

Paul Shubert:

Yes, that is correct. This will align our statutory language with the federal language.

Assemblyman Yeager:

I know over prior sessions, it has been noted that there is a bit of a disconnect when it comes to battery and domestic violence, which is referenced in this bill on page 2, line 32. This is because the federal law tends to be a little more restrictive in how domestic violence is defined, whereas in our state, domestic violence can be between brothers or former roommates; it is a little more expansive. I know there has been some legislation in the past where we have done something like this. With respect to domestic violence, they have tried to incorporate the specific federal section that defines domestic violence so that we are capturing the spirit of federal law. Do you know whether battery/domestic violence in the federal legislation has the same definition as the state? Would you be willing to look at making sure this language mirrors the federal definition?

Paul Shubert:

I do not have that understanding of the federal domestic violence issues; but certainly, we would want to provide you with a good response, and I recognize that we would want that language to mirror or accommodate the federal language. We will respond back to you on that.

Chairman Sprinkle:

We will open for testimony in support.

Jared Busker, Policy Analyst, Children's Advocacy Alliance:

We are in full support of this legislation as it brings us into compliance with the recently reauthorized Child Care and Development Block Grant. Thank you.

Chairman Sprinkle:

Is there anyone else in support of S.B. 46 (R1)? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone neutral? [There was no one.]

Kirsten Coulombe:

We are always happy to work with individuals who are interested in having some amendments that are deemed appropriate. We will follow up with Assemblyman Yeager. Thank you.

Chairman Sprinkle:

Thank you for the overview of this bill. We will close the hearing on S.B. 46 (R1). I will open the hearing on Senate Bill 50 (1st Reprint).

Senate Bill 50 (1st Reprint): Provides for advance directives governing the provision of psychiatric care. (BDR 40-174)

Stephanie Woodard, Senior Advisor on Behavioral Health, Division of Public and Behavioral Health, Department of Health and Human Services:

I would like to thank both the Nevada chapter of the National Alliance on Mental Illness and the Nevada Psychiatric Association for their valuable collaboration on the development of this bill. Psychiatric advance directives allow individuals with mental illness to advocate for their desired care on their own behalf and uphold core principles in the provision of health care, such as the preservation of patients' rights to self-determination and self-direction in guiding their own care. Psychiatric advance directives allow individuals to direct providers of health care on how they wish their psychiatric care to be provided in the event that they are incapable of making decisions concerning such care or incapable of communicating those decisions.

Additionally, psychiatric advance directive laws allow individuals to authorize a person to designate another person to make decisions on their behalf in the event that they become incapable of making health care decisions. Over half of the states in the United States have provisions that allow for psychiatric advance directives. Current research demonstrates that when patients with mental illness are given the opportunity to use psychiatric advance directives to direct their care, their instructions are considered feasible, useful, and consistent with standards of care, are helpful to patients and clinicians to reach collaborative treatment outcomes and decisions, and may avert hospitalizations and expedite the provision of needed psychiatric care.

Psychiatric advance directives allow patients the opportunity to ensure their wishes for care are known, and Senate Bill 50 (1st Reprint) allows for an advance directive for psychiatric care to be added to the current definition of advance directive in Nevada statute. This will allow the registering of such advance directives with the Secretary of State for deposit in the Living Will Lockbox. The proposed addition of psychiatric advance directives utilizes a process and procedure similar to that of existing health care advance directives law. This bill provides that an advance directive for psychiatric care validly executed pursuant to the laws in another state is also valid here in the state of Nevada.

Senate Bill 50 (1st Reprint) authorizes a person to designate another person to make decisions for him or her in the event that he or she is incapable of making such decisions and also sets forth a sample form that may be used by a person wishing to execute a psychiatric advance directive. This bill establishes the circumstances under which an advance directive for psychiatric care becomes operative and that a physician or health care provider may assume that such an advance directive is validly executed.

Our intention with S.B. 50 (R1) is to ensure patient protections are in place and are consistent with existing advance directive laws. To this end, we are committed to working with interested parties to ensure that language within this bill upholds patient protections. Senate Bill 50 (1st Reprint) requires a physician or other provider of health care to enter an advance directive for psychiatric care or a revocation of an advance directive into the medical record of the person executing the advance directive or revoking it.

In conclusion, I would like to reiterate psychiatric advance directives allow individuals with mental illness a valuable tool to exercise self-advocacy, self-direction, and self-determination in guiding their own mental health care.

Assemblyman McCurdy:

We do not give the patient or the family any recourse within section 16, subsection 2. The immunity would allow those people not to be made whole if there was something that went wrong throughout the scope of practice. What is the thought process behind that, and how can we allow individuals the right to the courts if there was something that went wrong?

Leon Ravin, Statewide Psychiatric Medical Director, Division of Public and Behavioral Health, Department of Health and Human Services:

This language is consistent with the immunities that other states provide to professionals who are involved with psychiatric advance directives. They are only covered in situations when the physicians and other mental health professionals are acting in good faith. Unfortunately, during the times of crisis when psychiatric advance directives are presented to the treatment team, some of the information may look conflicting, based on the paperwork presented as well as the stated wishes of a patient's family. As is stated in this bill, some of the paperwork may be presented from other states. In order to facilitate a treatment team acting in a patient's interest as stated by the patient and the person appointed to act on behalf of the patient, this would add liability protections or would allow greater comfort for the treatment team to engage the person and facilitate providing patient care as described in psychiatric advance directives.

Assemblyman McCurdy:

When we read it, it says, "A physician or other provider of health care is not subject to civil or criminal liability, or discipline for unprofessional conduct. . . ." Then from paragraphs (a) through (h) it goes on to tell us what exactly we are talking about there. If there was a provider of this type of care that did something that was unfitting to the patient or the patient's family, we are saying the patient or the patient's family would not be able to get any type of recourse for anything that happened. I would recommend taking another look at this section. It is concerning.

Leon Ravin:

I would like to emphasize that this covers only the decisions that are made in good faith as described in the *Nevada Revised Statutes* (NRS). Any actions by the mental health professionals that are not in good faith would not be covered by those liability protections.

Assemblywoman Titus:

The way I read this is that the physician or provider who either witnesses, signs off on, or is presented with this document will follow the patient's wishes based on the document. If we, in good faith, follow what we believe the patient has written down on this piece of paper, we would not possibly be prosecuted or liable for that. However, if we, at the same time, made bad medical decisions not related to this advance directive while caring for the patient, we would be liable for those decisions.

Leon Ravin:

You are correct. The liability protections strictly cover any concerns that may arise from a lack of clarity or perceived lack of clarity on the paperwork presented to the treatment team, not specifically to the care provided by the treatment team.

Chairman Sprinkle:

Legal counsel has informed me that this specific language is already present in other forms of advance directives. This is just mirrored language to what is already in existence. I will take testimony in support.

Sandra K. Stamates, past President, National Alliance on Mental Illness Nevada:

National Alliance on Mental Illness Nevada (NAMI) supports Senate Bill 50 (1st Reprint), as individuals with mental illness are often well aware that they may go through periods of instability where they are unable to advocate for themselves for treatment that they need or forms of treatment that they do not wish to receive. An advance directive for psychiatric care will assist individuals with mental illness and their treatment providers to collaborate on describing care that should be provided during periods of psychiatric instability. Thank you.

Chairman Sprinkle:

Is there anyone else in support? [There was no one.] Is there anyone in opposition? [There was no one.] Is there anyone neutral? [There was no one.] Do you have closing comments?

Stephanie Woodard:

No, not at the moment. Thank you.

[([Exhibit C](#)) was submitted but not discussed.]

Chairman Sprinkle:

I will close the hearing on S.B. 50 (R1). I will open the hearing on Senate Bill 318.

Senate Bill 318: Revises provisions relating to the payment of wages to certain employees. (BDR 53-1088)

Connie McMullen, representing Personal Care Association of Nevada:

[Read from ([Exhibit D](#)).] We support Senate Bill 318, which would add personal care attendant agencies to *Nevada Revised Statutes* (NRS) 608.0195, which would enable a caregiver to provide personal care services in the home, time for sleep, and the ability to enter into a written agreement for specified periods of time.

Senate Bill 318 would extend NRS to include nonmedical caregivers who work 24 hours or more, enabling them to enter into their agreement, provided both parties agree not to be paid and provided there are adequate facilities to sleep. If the sleep period is less than five hours, the employee must be paid for the entire period. If the sleeping period is interrupted, they must be paid for the hours worked.

Senate Bill 318 is excellent public policy as it benefits both the care receiver and the agency hired to provide the care because, oftentimes in that 24-hour period, they have to change out the caregiver and bring at least one new one in. That is a cost-savings to them. Also, it continues the continuity of care. A person who is accustomed to seeing their caregiver, oftentimes develops a bond. Seeing someone new may throw them into an untrusting emotional situation. When a caregiver has worked 24 hours, the agency may switch out the employee for another to take their place.

In 2015, NRS was amended to include periods of sleep in residential facilities for groups for live-in workers. In 2016, the U.S. Department of Labor issued a memorandum on the exclusion of sleep time from hours worked under the Fair Labor Standards Act, recognizing the need for this important discussion regarding care of vulnerable populations. Senate Bill 318 will give the caregiver valuable rest so they can continue to provide quality around-the-clock care in the home for very sick people. Thank you for the opportunity to speak on this important bill.

Chairman Sprinkle:

This individual would still be in the residence of the care facility or the home residence. They are taking time out to sleep according to the provisions in the bill. But, if I am understanding this correctly, they may or may not get paid for that time, depending on the agreement they have with their employer. Am I understanding this correctly?

Connie McMullen:

They would not be paid. They would sleep because they would be working 24 hours. However, if the client did need something and they were called to service and their sleep was interrupted, they would be paid for that time; if they did not sleep for the five hours they would be paid for the whole period.

This is a win-win situation for everyone. This is a benefit to the personal care agencies as well because oftentimes they have to find another caregiver to be at that place rather than putting them somewhere else in the community where they are needed. It is a cost-savings for them as well.

Chairman Sprinkle:

Maybe I am not quite understanding how this is a win-win, because the way that I see it, if that individual is being required to be there, they are being required to respond, which goes along with the training levels and everything else they are providing as valuable employees, regardless of whether they are sleeping or not. At any time, they may be called upon to act. In many professions, that is called on-call. I am not quite sure how this would be a win for them if they are no longer being paid simply because they are sleeping, but they are still being required to be there.

Connie McMullen:

The person who is being cared for is obviously very sick. They need 24-hour care. The caregivers have 8 hours of work, and then they get the other 8 hours of work and now they

are in overtime. If they get that final 8 hours, they are really in overtime. That is why they are often pulled out to put someone else in their place. This just makes it more convenient because chances are that person will come back the next day anyway.

Chairman Sprinkle:

I understand the convenience for the employer, but I am still not seeing how this benefits the employee if they are being required to be there.

Connie McMullen:

Caregiving is a funny thing. Oftentimes, the caregiver really is attached to the person receiving the care, and they want to be there for them. There is a very special relationship for people who, in this situation, are very sick and most likely towards the end of their life. This is a unique situation. This bill would add personal care to an existing NRS that was passed last year for those caregivers who are in the small group home setting and they are already living there, but they need extra time off as well and do not have to drive back to their own home. It is different for everyone because it helps the person receiving the care get the care he or she needs. If you have someone come into your home and he or she is strange, it can be scary for a lot of people, especially people who have cognitive issues. Caregiving is a personal commitment, and oftentimes a caregiver will work beyond the time offered or even paid for under Medicaid just because they are committed to that person. That is how it benefits them.

Chairman Sprinkle:

I agree with everything you have just said. My opinion is that they should be paid for being there as well.

Assemblywoman Benitez-Thompson:

Do you see this as a tool for the caregiver and family to use if a family has become particularly attached to a caregiver? If they would like to have them there more consistently, they would be able to stay the night. If they slept five hours, they are not paid for that time, but if the person who needs care were needing help every three hours, interrupting their sleep, they would be paid continuously for that time. In the morning hours, is there a sign-off on the hours worked during the night? Most personal care attendants have a journal that they are writing in for the family to see and keep track of the things happening with the patient that day. Is that where they would record what the night's activities were?

Connie McMullen:

That is exactly how it works.

Assemblywoman Benitez-Thompson:

Is there something like a reset after 24 hours? Let us say that a caregiver, for consistency, wanted to do three days on with overnights and then they can look back and see how often they were up during those nights. Then is there an opportunity to go off shift if the employee has been up with less than five hours of sleep for three nights? Is there some kind of a check

and balance to ensure that they are not overworked? I think the Chairman's concerns are that we do not want an employee who is being exploited. Is this a 24-hour clock or a 48-hour clock? Is there a look-back for an employee who works consistently through the nights?

Connie McMullen:

Most of the employees that work for personal care agencies are part-time anyway. The employer has to meet all of those federal job requirements and all of those standards. They do take care of their caregivers. If an employee were being exploited, I would imagine they would not stay in the job or they would file a complaint.

Chairman Sprinkle:

Thank you for your presentation. Is there anyone wishing to come forward in support of Senate Bill 318?

Senator Julia Ratti, Senate District No. 13:

I am here today as the Vice Chair of the Senate Committee on Health and Human Services. We did bring this forward as a committee bill. I apologize for not being here to introduce the bill with Ms. McMullen; we were in the middle of the John Carpenter memorial on the floor of the Senate. Otherwise, I would have been sitting next to Connie to present the bill. The bill was requested by the Personal Care Association of Nevada. Senator Spearman and I were able to take a look at the concept, specifically understanding that the same structure had been granted back in 2015 to certain other residential facilities. We felt that there was a compelling case and that this made sense for equalizing the treatment across this unique set of service delivery mechanisms to make sure that we are reaching the goal of helping people to age in place.

Unfortunately, I was not able to catch the entirety of the hearing so far, but based on the little bit I did catch, this is a unique delivery system. We have a huge challenge in the state of Nevada in terms of helping our seniors and disabled population age in place. There are not as many good solutions as we would like to see in this area, particularly when we start talking about our rural communities and an unemployment rate of 4 percent. These are difficult positions to fill and creating situations that work for the employer, the employee, and the family is challenging. I appreciate the concerns that were raised, but I think that when we allow families and caregivers to come to agreements that work for them, then we are going to advance the goal of helping our seniors age in place. In this situation, both the caregiver and the organization have to sign off to confirm that this makes sense for the situation. I certainly would not be here if I believed this bill took advantage of employees or a group of employees. I think that deserves strict monitoring, but because we have already had some success with this in the residential care facility world, I think it makes sense to equalize the personal care agency world as well. I would ask you to consider supporting S.B. 318.

Chairman Sprinkle:

If you do not mind, I will allow a couple of questions.

Senator Ratti:

I will say that Ms. McMullen definitely has more hands-on and technical experience to answer questions, but I will do my best.

Assemblyman Thompson:

It sounds like we are really looking at hourly employees. Has there ever been any consideration for these classifications to make them salaried and for doing an assessment of what would be a good package for that employee so you do not have to face the issues we are asking about today?

Senator Ratti:

I am not sure if we would need a human resource specialist to answer this, but I will build on my role as the chief executive officer of the Girl Scouts of the Sierra Nevada. I do not believe the personal care assistants would meet the federal guidelines to qualify as an exempt status. I do not think any one organization gets to unilaterally decide when we are going to move from hourly to a salaried-level position. In most cases, in order to achieve that exempt status, they would need to be in a management position, supervisory position, or have budget authority. There is a list of items that comes from the federal government. My suspicion, though I am not a human resources professional, is that we would have a hard time classifying personal care assistants as exempt.

Assemblywoman Miller:

If we were to take out those five hours while the staff was working, I understand if they are sleeping for five hours, the proposal is not to pay them for those five hours. What about in situations where they are delivering home health care, if they are the only adult or staff in that residence at the moment because the family leaves or does not come home until later? If that individual is sleeping, they are still working and would be responsible if something happened in the middle of the night.

Senator Ratti:

Many of these individuals are not living with family members; they are living by themselves. The role of a personal care assistant is to assist with activities of daily living. Many times, during the day, the personal care assistant may be there but they are not necessarily assisting with an activity of daily living so they are not necessarily assisting with bathing or cooking. They are there to make sure that for those activities of daily living that are necessary, there is that support system there. Hopefully during most evenings, those activities of daily living are not necessary and a good night's sleep is what we are hoping for. That is how the model works. It is not necessarily 100 percent on-time supervising or offering assistance at all moments. It is there to keep a person in their home and assist them with their activities of daily living, which is what is preferred by that individual and the family so they do not have to end up in an institution. It is also much less expensive for the system as a whole. It is not necessarily about always having someone there in a supervisory capacity; it is more about having assistance with those tasks.

Connie McMullen:

These people are nonmedical caregivers. They are paraprofessionals, so they are not the skilled provider. That is the home health agency, which is more intense. These people do bathing, grooming, dressing, and all of those types of things. Oftentimes, they even do homemaking.

Nevada became what we call an "Olmstead-friendly" state back in 2002, meaning that we support the concept, under the Americans with Disabilities Act, that whenever possible, we allow people to age in place in their own community in the least restrictive setting. Nevada has primarily had an institutional bias to immediately place people who are vulnerable but can very well live on their own in more advanced skilled settings such as nursing homes or assisted living facilities. This keeps people where they want to be, in their own home, among their own items, and sleeping in their own bed. Oftentimes, their family is not around and, especially in the rural communities where there is very little help, these people rely on their neighbors. If you have no neighbor within 15 miles, the personal care situation is perfect.

I understand your sentiments about their being taken advantage of, but I do not see that happening. This is already in NRS. Under Medicaid, they are paid by the hour, \$17 per hour broken up into four quarters. These people go into this profession because they are special people. This is hard work, it is one-on-one, not everyone will want to do it, but they do it because it is what they want to do. Without them, there would be a lot of people in skilled nursing homes and Nevada would be overwhelmed.

As far as keeping track of the hours, the federal government has required that all personal care agencies adopt something called the electronic visit verification system. That is going into effect in January 2017. Medicaid has notified all of the personal care agencies. There are about 200 agencies in the state, and many of them are having a very difficult time staying in business. They will be having workshops on how they will adapt this electronic visit verification system which actually clocks the time that they work. I am not sure what the device is, but Nevada will have to buy in to that. As far as being accountable to the care they provide, come this January, the whole state will have to do that.

Assemblywoman Miller:

I am not at all implying that the quality of service being delivered is not there. I have been a caregiver in my life and I know that it is 24 hours in the home. It was not just that once you go to sleep, the person does not need assistance. Someone who needs assistance during the day may need to get up in the middle of the night to go to the bathroom or bathe. There are still times where they would need assistance. I am just looking out for the workers themselves. Sometimes our senior citizens are up all night. I want to make sure people are being paid for the hours and the services they are providing.

Connie McMullen:

My husband has cancer; I am his caregiver, and you are right—he is up all night. He is sleeping many times during the day. As the rule says, they would go back on the clock. Otherwise, if this is not an agreement they could come to, a new employee would replace them.

Senator Ratti:

I do think it is absolutely admirable that we are making sure the employees have the protection they need, because these are challenging jobs. We have all met the advocates who come to make sure that we can increase the Medicaid rates so that we can get to a place where perhaps we are not paying people such low wages to do the most important work in our communities, which is to take care of each other. I just want to make sure that we are emphasizing here that what this bill does is allow, but does not mandate, a person-centered approach where a consumer and provider can choose to enter into a mutually beneficial agreement. The sleeping arrangements are not like a firehouse, for lack of a better example, where there is a dorm or rooms specifically for sleeping. We are talking about someone's spare bedroom and long distances of travel if the caregiver lives in one community and the person they are caring for lives thirty minutes away. What this allows for is those parties to come up with something that is a commonsense approach to making sure that the employee can still maintain that employment and that the individual can still receive care from a caregiver whom they want to stay. It is enabling legislation that allows for that mutually beneficial agreement; it does not mandate that agreement.

Chairman Sprinkle:

That actually helped clarify things a little, but I will just reiterate my concerns to you because you were not in here earlier. What I understand from this bill is that at all times the employee is in the presence of the person he or she is taking care of, even if they are sleeping, there is a requirement for the employee to act if there is a need. For me, that means they are technically still on the job. I have a problem with their not being paid, even if they are sleeping, because at any minute they could be asked to do their job and their duty. What we are saying now is that they only are paid if they are woken up. When this was being heard in the Senate, was there any talk about putting in some form of compensation mechanism at a lesser rate, such as an on-call or standby rate, so that they are still being compensated for the time they are spending in that residence?

Senator Ratti:

It really did not come up. We did not receive any concerns from employees. All of the testimony was in favor.

Chairman Sprinkle:

One of the reasons I ask that is I agree 100 percent with everything you just said about what amazing people these are. This might be one more way to attract more people into the profession. I will leave it at that. Thank you once again for coming up. Is there anyone else wishing to come forward under support of S.B. 318?

Senator Ratti:

There was a gentleman in the military who wanted to testify, but he had to leave, so I will make sure he gets something in writing to you.

Michael DiAsiao, Board Member, Personal Care Association of Nevada:

For clarity, this proposed legislation is already on the books; we are just adding our industry to the existing legislation. This is already permitted in other senior caregiving services. In fact, in those other caregiving services, they have one employee there around the clock trying to take care of six to ten people. Our care is one-on-one.

This legislation would also mirror the federal government as far as providing services. This will actually save money for seniors, allowing them to stay in their home. It will save them about 33 percent on their 24-hour care bill. It will also allow us to pay our caregivers more because right now when we do 24-hour care, we rotate in three caregivers working 8-hour shifts so that none of them gets into overtime. Under this method, we could have a caregiver there 24-hours a day getting paid 8 hours of regular time, 8 hours of overtime, and then if they are interrupted during the night they are paid for that, which would be used by method of a monitor or the honor system. They are actually being paid more. This is used in other states and in other industries.

Chairman Sprinkle:

We will move on to testimony in opposition. [There was none.] Is there neutral testimony? [There was none.] Are there closing comments?

Senator Ratti:

Thank you for taking the time to hear what we think is a very important bill. We think this is a practical solution that meets both the needs of the individuals who prefer to age in place and also the needs of the caregiving employee, who has to sign on to a mutually beneficial agreement to be placed in this situation.

I think we are going to take a step back in order to bring the employees' points of view for you. Perhaps that was missing in today's hearing. I am not proud of our Medicaid rates for personal care assistants. As a matter of fact, I think we should all be ashamed of our Medicaid rates for personal care assistants. If we can build on the testimony of the gentleman in the south, where really the effect for the employee is that they are getting eight hours of pay plus eight hours of overtime, whereas before, they were having to do multiple shifts. We can bring that forward in a way that paints a better picture for you.

Connie McMullen:

Thank you for allowing me to present this bill today with Senator Ratti. This is very important because without this care, people will be placed in a higher level of care and the cost will go up. Generally, the cost is already high for people who are this sick and need this kind of care. This is just another way to keep them in their homes. This is not a way to discriminate against employees or keep them from being paid.

For the past two years, I have lobbied to raise the rate to the national average of \$21 an hour. It is not in the Governor's budget. We have even signed on to the provider rate in Senate Bill 509, which the nursing homes are currently operating under. They are assessed a fee, and then they bring it down through Medicaid and leverage the dollars. If that goes through, we will be the first personal care state doing that in the country. We are looking for a solution to keep people at home. Thank you.

[[\(Exhibit E\)](#), [\(Exhibit F\)](#), and [\(Exhibit G\)](#) were submitted but not discussed.]

Chairman Sprinkle:

Thank you. I will close the hearing on S.B. 318. I will open the hearing on Senate Bill 326.

Senate Bill 326: Requires a child care facility to grant priority in admission to children of a parent serving or who has served in the Armed Forces of the United States. (BDR 38-558)

Senator Pat Spearman, Senate District No. 1:

I am going to echo what Senator Ratti said with respect to our Medicaid rates. They are very low, but we have a lot of robust legislation that, I think, will expand our renewable energy industry. If the economic reports are correct, we are looking at about \$700 billion in economic boosts because of that over the next three to five years. Hopefully, we will take some of that money and do the right thing.

I am here today to present Senate Bill 326 for your consideration. Senate Bill 326 requires a child care facility to give priority admission to certain children, to the extent authorized by federal law. Specifically, the bill requires a child care facility to grant such priority to a child who has a parent or guardian currently serving on active duty in the Armed Forces of the United States, a parent who was killed or died as a direct result of injuries received while serving honorably on active duty in the armed forces, or a parent who is currently or was recently missing in action or a prisoner of war.

Many military families rely on quality child care as an integral part of their support network. Military spouses often play the role of a single parent, whether because the other parent is serving on active duty, was injured or killed in the line of duty, or was reported as a prisoner of war or missing in action. In addition, military spouses often work or continue their education, meaning that child care is often required. The U.S. Department of Defense oversees more than 800 child development centers on military installations worldwide. These are not necessarily available to or convenient for all military families or to families who have lost a parent who served honorably in our country. This bill aims to help certain military families easily access child care by giving them priority admission to child care facilities. This is one small gesture we can make in Nevada to thank the brave men and women for their service and their sacrifice and to make their lives a little easier.

This is the second time I have presented this bill. It came around last session and, unfortunately, did not make it. The irony is that the week it was put on the desk was the

same week that we had two platoons of a military police company of the National Guard leaving to go to Afghanistan. I cannot make this stuff up. When National Guard or Reserve parents have to deploy, of those who have been in since September 11, 2001, many have deployed six, seven, or even eight times. We have one active military base here, Nellis Air Force Base. Our other active military are National Guard and Reserves, which means that they are citizen soldiers. That means that whenever they are called up to go to Afghanistan, Iraq, or wherever they are called to go, they take off their civilian clothes and put on their military clothes. One thing I have heard from several people who have been in that situation is that it is difficult to find child care.

The other people I thought about while I pulled this legislation together is what we call "Gold Star families." Gold Star families are those whose parent or family member has paid the ultimate sacrifice. I had the privilege of sitting with a Gold Star family last session. The mother told me about her son who was killed in action and about how, when she got the news, for about two or three weeks her daughter-in-law was in and out; the trauma was too much to bear. Imagine going through that while having to settle military affairs and at the same time you are trying to figure out where you are going to have child care. Some spouses are in school. You have all of this to deal with at the same time you are looking for quality child care. I think that since we ask so much of our military men and women, this is the least we can do.

We are not asking for the child care facilities to do that for free. They will be compensated. There is a federal law that allows subsidies for military families who do not live close to military bases and are looking for quality child care. We are not asking for a free ride. We are simply asking people to take into account that the children who will have priority placement are those who are with a parent that is on active duty, a parent who has been killed, or a parent who has been captured and is considered a prisoner of war. I hope that you will think about that as you deliberate this bill. I like to say these words, "All gave some, and some gave all." Thank you.

Ryan Gerchman, representing United Veterans Legislative Council:

I am sitting in for our chairman, Kevin Burns. He had to be downstairs for another committee hearing. I would just like to echo the words of our Senator as well as point out that places such as North Carolina, with major military installations such as Camp Lejeune, have things in place to take care of their children when parents are deployed. With Nevada having most of its military men and women in the National Guard and in rural areas, we do not have these things in place. It often takes some time to get a child into a good child care facility. There are waiting lists for over two months sometimes. If someone is activated and has to go somewhere, that is just another burden they have to worry about—how their child is going to be taken care of.

Assemblyman Carrillo:

Obviously, this is an issue and something you feel is important to address. Is it currently a problem? Are service members not allowed to come to the front of the line currently? Obviously, they have needs that need to be taken care of if they have to serve. I am trying to understand. Can they just place the child in the facility, or can they allow the child to be taken care of while the other parent is off serving? Normally, the child is dropped off in the morning and picked up in the afternoon. Is that the scenario we are looking at?

Senator Spearman:

Many of the military families are single parents, and they are geographical single parents because one parent may be deployed somewhere else. If you have two parents present, you have someone to fall back on. When you have one parent there, it gets dicey. Here is a true story: The same week that this bill was put on the Secretary of the Senate's desk last session, I went to one of our National Guard units in Las Vegas. Half of the company, two platoons, were deploying. I had an opportunity to talk to some of the neighbors of the people who were deploying. They said things like, "Wow, you know they are going to be gone for X number of months and I have offered to pitch in where I can, but I am not sure how long I will be able to do that." Or, "They have another member of the family who is coming from someplace else in order to help take care of the child." What this bill is designed to do is to take one more thing off of their minds so that when they deploy, if they are on active duty, if they are killed in action or a prisoner of war, that life can go on to the extent that it can be normal.

I wish I could tell you I thought of this particular legislation myself, but it was passed in a bipartisan way in Tennessee four years ago.

Assemblyman Carrillo:

So obviously, there have been cases where service members have tried to get in and have not been able to. There are some places that do not have room or cannot facilitate more kids for whatever reason, but if they could handle more kids, they will. I did not know if that has been the case where they cannot handle the kids. That may be an issue.

Senator Spearman:

There may be some for which that may be an issue. For those with space, we are hoping that this legislation will tell them to please put these children to the front of the line. Especially in the rural areas where child care may be scarce. There was a lady who testified last session that her overhead had gone up and she did not know how long she was going to be able to keep her business. This is one way. When that child of a military member is in your child care facility, you will be paid.

Assemblywoman Titus:

Thank you for looking out for the military families. I appreciate your passion for that. I am wondering if there is a shortage of facilities. Is there a waiting list that you have identified where military families cannot get into these? Would you suggest they bump kids that are

already in there? I get the need to help servicemen and servicewomen as much as possible, but I am not seeing where this guarantees those facilities will also be paid? You mentioned that this would guarantee they are paid, and I am just not seeing that.

Senator Spearman:

This does not say to bump the kids that are already there. There is federal legislation that provides a subsidy for military families who cannot get onto military bases for child care there. You are asking if there is a shortage, and there is a shortage at Nellis Air Force Base. About 80 percent of the child care facilities on military bases around the country are full to capacity. Then, trying to find quality child care out in the community is sometimes difficult. For those children who are already there, they will stay there. If there is space available in other places, what we are really seeking to do is say please give priority placement to these children.

Assemblywoman Titus:

Do most military bases or all military bases have child care facilities on the base?

Senator Spearman:

Most of them do. Some of the larger facilities like Camp Lejeune do. There is also Fort Bragg, which is one of the largest bases in the world by population, and they have child care facilities. One of my younger sisters was the deputy director for the National Capital Region Child Care Centers there in Washington, D.C. She told me they always have problems trying to get children in to the facilities, especially those whose parents are deploying. She said, "You would think that people would say to a mother or father who just lost their spouse that they would help out" but, she said, "you would be surprised at the number of people who do not." She said that just trying to place them becomes a problem.

In Nevada, we do not have multiple active bases. When Reserves and National Guard are deployed, they can be deployed anywhere from nine months to a year, sometimes longer. With multiple deployments, you can count on their being home probably a total of about four months. Once they are alerted, they get ready to go, then they start going to their unit to prepare, and within three months, they are usually in California training. After training, they go to wherever they are deployed. The Army has a year time limit on deployment. Sometimes the unit may be extended for mission-essential reasons, and they come back, do out-processing and then can go back home. Then, about three or four months later, they could be alerted again.

When I was at the Pentagon, I was the personnel officer for the Department of the Army. I was the one responsible for looking at all of the orders that were coming down requesting troops for wherever they were supposed to go. During the three years that I was there, I saw some of the same units about two or three times.

Assemblywoman Titus:

I just want to thank you for your service to Nevada and to our country.

Chairman Sprinkle:

Thank you for your presentation. We will open up for testimony in support of S.B. 326.

Richard Carreon, President, Nevada Veterans Association:

We support this bill, S.B. 326. I will break down some of the numbers that were asked today. Prior to my retirement three years ago, I was the president for Better Opportunities for Single Parents in Fort Bliss, Texas. Under my program, I had approximately 3,000 single-parent military families. The biggest issue that we had, especially being a rapid deployment installation, was the fact that if there was a catastrophic incident overseas, we could not provide child care for the caregivers that stayed at home for those children. In 2010, a study was given to both the Senate and House Armed Services Committees saying that 10 percent of National Guard and Reserves are either single parents or dual military with a projected annual growth of 1.5 percent. That was because National Guardsman and Reserves are not full-time troopers and they have full families and an established civilian life much better than if they were on active duty. In Nevada, between Creech, Hawthorne, Nellis, and the 6th Recruiting Brigade out of North Las Vegas National Guard, and numerous other rapid deployment units, there are about 30,000 personnel that are active in some way, shape, or form.

Since this last legislative session for this particular bill, three National Guard units from Nevada have deployed. When you are a National Guardsman or Reserve, either dual military or single parent, you are mandated by federal law to have a family care plan, which means that someone here, whether or not it is a civilian or family member, has to be responsible for your children. The issue with that is that those folks who are tasked to be caregivers are not necessarily homed into the family readiness groups, so they do not know how to maneuver within the military's Family and Morale, Welfare, and Recreation programs for child care. This bill would provide an opportunity for them to tap directly into the child care services outside of the military installations, especially for those who do not have access to Nellis Air Force Base. The other thing I can also say is that if there is a fatality overseas, more often than not, whoever stays behind, whether it is the spouse or a caregiver for that child, has to have immediate child care provided for that family member for two reasons: One is to facilitate the ease of having to plan funeral arrangements, and the other is to give some time so family members that are not here can come help take care of the child. Whether or not there is a need, I can tell you that statistically there are not enough child care centers in Nevada. Even on larger military installations and the communities that surround Fort Hood and Fort Bliss, they do not have the appropriate number of child care facilities to care for those families.

Christiana Cabrera, representing YMCA of Southern Nevada:

The YMCA has had a long history of supporting active military and their families, dating all the way back to the Civil War. In addition to the invaluable services provided by 13 armed service YMCAs located on military bases, YMCAs throughout the country support military families and veterans, including through prior partnership with the Department of Defense to provide YMCA memberships to military families, in which the YMCA of Southern Nevada is actively engaged. The YMCA is a leading provider in child care and

understands how important it is to know that your children are in a safe environment with nurturing staff providing quality early education that enables your children to thrive. But for active military families, that relationship with their child care provider becomes even more essential with support to help the entire family thrive during a stressful and difficult time. The YMCA of Southern Nevada strongly supports this bill. Thank you.

Chairman Sprinkle:

Is there anyone else here in support of S.B. 326 here or in southern Nevada? [There was no one.] Is there anyone to testify in opposition? [There was no one.] Is there anyone neutral to this bill? [There was no one.]

Senator Spearman:

Thank you for listening. I hope that you will give positive consideration to this legislation. One of the things I think is important to know is that National Guard and Reserves have twice the problems that active components have. Not only are they not situated close to an active military base, but many times they are out in communities where, unlike 10, 15, or 20 years ago, most of the people never served. They do not understand. What this does is help give the parent or guardian piece of mind, and it takes one more thing off their list to worry about. Thank you for your indulgence.

Chairman Sprinkle:

Thank you for bringing this forward, I appreciate that. I will close the hearing on S.B. 326. I will open up for public comment here or in southern Nevada. [There was none.] We are adjourned [at 1:39 p.m.].

RESPECTFULLY SUBMITTED:

Kailey Taylor
Committee Secretary

APPROVED BY:

Assemblyman Michael C. Sprinkle, Chairman

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a letter in support of Senate Bill 50 (1st Reprint), dated April 27, 2017, to Chairman Sprinkle and members of the Assembly Committee on Health and Human Services, from Lesley R. Dickson, State Legislative Representative, Nevada Psychiatric Association.

[Exhibit D](#) is written testimony in support of Senate Bill 318, dated April 28, 2017, presented by Connie McMullen, representing Personal Care Association of Nevada.

[Exhibit E](#) is a statement in support of Senate Bill 318, submitted by Michael DiAsiao, Board Member, Personal Care Association of Nevada.

[Exhibit F](#) is written testimony in support of Senate Bill 318, dated May 3, 2017, submitted by Michael DiAsiao, Board Member, Personal Care Association of Nevada.

[Exhibit G](#) is a bundle of letters in support of Senate Bill 318, submitted by Senator Julia Ratti, Senate District No. 13.