MINUTES OF THE
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Seventy-ninth Session
February 15, 2017

The Senate Committee on Health and Human Services was called to order by Chair Pat Spearman at 3:34 p.m. on Wednesday, February 15, 2017, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 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 Pat Spearman, Chair
Senator Julia Ratti, Vice Chair
Senator Joyce Woodhouse
Senator Joseph P. Hardy
Senator Scott Hammond

STAFF MEMBERS PRESENT:

Megan Comlossy, Policy Analyst
Eric Robbins, Counsel
Debbie Carmichael, Committee Secretary

OTHERS PRESENT:

Jennifer Williams-Woods, State Long-Term Care Ombudsman, Aging and Disability Services Division, Department of Health and Human Services
John Yacenda, Ph.D., President, Nevada Silver Haired Legislative Forum
Barry Gold, AARP Nevada
Helen Foley, Nevada Assisted Living Association
Peter Reed, Ph.D., Vice Chair, Task Force on Alzheimer's Disease, Aging and Disability Services Division, Department of Health and Human Services
John Wagner
Wendy Simons, Task Force on Alzheimer's Disease
Terri Laird, Executive Director, Retired Public Employees of Nevada
Lauren Mazurowski

Jacob Harmon, Regional Director, Alzheimer's Association; Task Force on Alzheimer's Disease
Lori Chatwood

CHAIR SPEARMAN:
I open the hearing on Senate Bill (S.B.) 123.

SENATE BILL 123: Revises provisions relating to the State Long-Term Care Ombudsman. (BDR 38-507)

SENATOR JULIA RATTI (Senatorial District No. 13):
There is a rule change at the federal level that reauthorizes the Older Americans Act. Changes must be made at the State level to comply with the federal act. If the State does not make changes, it could lose funding from the Act. The Act supports the Long-Term Care Ombudsman program. The Ombudsman program has a wonderful reputation and has become an incredibly valuable asset in the State. The State Long-Term Care Ombudsman makes sure consumers of long-term care have an advocate on their side should they run into challenges in the facilities. The consumers know there is a team of passionate professionals on their side to be their advocates. Senate Bill 123 adds language that will place the *Nevada Revised Statutes* (NRS) into alignment with the federal rule change. It revises the provisions to authorize the Ombudsman to independently analyze, monitor and provide recommendations for federal, State and local government actions. It transfers authority to the Long-Term Care Ombudsman and will exempt the Ombudsman from being a mandated reporter. It allows the Ombudsman to advocate for all individuals regardless of age.

JENNIFER WILLIAMS-WOODS (State Long-Term Care Ombudsman, Aging and Disability Services Division, Department of Health and Human Services):
The State Long-Term Care Ombudsman program advocates for Nevada's long-term care residents. The Older Americans Act was reauthorized in 2016, and with that came changes to the Long-Term Care Ombudsman program nationally. All State Long-Term Care Ombudsmen have gone through a rigorous process of updating processes and policies. Each state's program was reviewed by the Administration for Community Living, which provided feedback and determined whether the program met the intent of the federal law. The proposed changes to the NRS will bring Nevada's Long-Term Care Ombudsman program in compliance with federal law and ensure continued federal funding.

Senate Bill 123 proposes a revision to section 1, subsection 2, paragraphs (d) through (g) of NRS 427A.125 to authorize the Ombudsman to independently analyze, monitor and provide recommendations for federal, State and local governmental actions and policies relating to the facilities of long-term care. The requirements in this rule list more specific actions that are the responsibility of the Ombudsman related to the system's advocacy such as commenting on, recommending changes to taking positions or communicating on long-term care issues without preapproval. As a side note, Ombudsman refers to the State Long-Term Care Ombudsman, and those in the field are referred to as advocates.

Another proposed change in the bill revises section 2, subsection 1 of NRS 427A.127, to transfer the authority from the Administrator of the Aging and Disability Services of the Department of Health and Human Services (DHHS) to the Ombudsman to appoint advocates and create and administer a volunteer advocacy program, which is the function and responsibility of the State Long-Term Care Ombudsman.

Senate Bill 123, section 3 of NRS 427A.145, subsection 1 would require the Ombudsman and his or her advocates to comply with certain federal regulations relating to consent before inspecting the medical and personal financial records of the resident. More specifically, informed consent may be obtained orally, visually, in writing or through the use of auxiliary aids in accordance with the provisions of Title 45 CFR section 1324.11 paragraph (e), subparagraph (2).

Exemption of the Ombudsman, advocates and volunteers from acting as mandated reporters is a proposed modification to NRS 200.5093, subsection 4, paragraph (g) to reconcile it with 45 CFR 1324.11. Confidentiality consent and self-determination are important aspects of the Ombudsman program. If presented with a situation of possible abuse, advocates will ask the resident for consent to report to Elder Protective Services. If residents cannot make a decision for themselves, the advocates, with the support of the State Long-Term Care Ombudsman, will seek out the resident's legal representative to obtain consent or move forward in the resident's best interest to make a report to Elder Protective Services. If the Ombudsman, advocates or volunteers witness abuse, a report is immediately sent to Elder Protective Services.

Under the proposed bill, NRS 427A.136 is repealed. This section is no longer needed. The Ombudsman program advocates for all long-term care individuals regardless of age by federal law. There are no provisions in the final rule which limit the Ombudsman program services to individuals based on age.

JOHN YACENDA, PH.D. (President, Nevada Silver Haired Legislative Forum):
I support S.B. 123. The focus on the independence of the Ombudsman program to make decisions relating to the protection of health, safety, welfare and the rights of residents in facilities of long-term care is necessary. The bill empowers the Ombudsman to act immediately on issues that may arise. The use of multiple means to get consent broadens the idea of getting consent in all forms, but is not married to those means. Getting consent from the resident establishes an ethical basis of inquiry which shows to the family, extended family and to all those who are under the custody of confidential information that the Ombudsman, advocates, or volunteers are serious about collection of information. When information is released, it is done with the highest of authority. Adding, "except the State Long-Term Care Ombudsman appointed pursuant to NRS 427A.125 and any of his or her advocates or volunteers where prohibited from making a report of abuse pursuant to 45 C.F.R.§1321.11" creates an ethical shield. The Ombudsman, advocates and volunteers can unite in the understanding and observations and can learn about violations of the law and how to prevent them from happening again. There is a reporting avenue, but it is not under the law.

BARRY GOLD (AARP Nevada):
The AARP Nevada supports S.B. 123. The Ombudsman program is so important because it is the critical voice for the most vulnerable among us.

HELEN FOLEY (Nevada Assisted Living Association):
The Nevada Assisted Living Association supports S.B. 123. We like having mandatory reporting, but understand it is federal law and the need to change the law. Every issue needs to be taken seriously. When speaking to representatives of assisted living centers, a sense of trust and working out an issue can be accomplished when they feel they will not be reported. Maybe someone will come forward and share his or her ideas and frustration of what has occurred if that person does not have to worry about reporting. The Nevada Assisted Living Association wants to make sure if an Ombudsman discovers bad treatment of someone, he or she will come forward and report it so no one is left harmed in a situation.

There is another bill, S.B. 97, that expands the authority of the Office of the State Long-Term Care Ombudsman. It is for all the facilities in the State that provide services to seniors and others under the age of 60 that are infirm and in need of help. Not all the facilities are listed under NRS 449.004, but under NRS 433 and 435. There needs to be a greater emphasis on covering everyone within the State that needs the services of some type of Ombudsman. It may not be the Ombudsman described in S.B. 123 if the mental health services are not taken care of in senior living arrangements or community-based services.

SENATE BILL 97: Expands the authority of the Office of the State Long-Term Care Ombudsman. (BDR 38-371)

SENATOR RATTI:
I also had concerns when S.B. 123 came before me. The federal regulations provide a path forward for the Ombudsman, advocates and volunteers when there is a significant situation they feel compelled to report. The first thing they would do is ask the patient for consent. If patients give consent, then they would move forward. If patients were not able to provide consent, they would seek a legal representative, such as a relative, for consent. The federal law does have options if there is something compelling to provide clearance to proceed with reporting. That gives me a level of comfort. The logic behind removing the mandatory reporter is to give space for the advocates to create a trusting relationship with the patients. What happens in a facility gets around the facility quickly. If a patient has something reported that they were uncomfortable having reported, it can damage the ability of the advocate to create a trusting relationship with other patients. Everyone else in the facility is a mandatory reporter. I had that confirmed by the Legislative Counsel Bureau, which gives me a higher level of comfort.

CHAIR SPEARMAN:
I would like to clarify my understanding. It is not mandatory to report abuse and it is not prohibited. Is that correct?

SENATOR RATTI:
Yes, that is correct.

CHAIR SPEARMAN:
I will close the hearing on S.B. 123 and I will open the hearing on S.B. 92.

SENATE BILL 92: Revises provisions relating to the Task Force on Alzheimer's Disease. (BDR S-270)

SENATOR JOSEPH P. HARDY (Senatorial District No. 12):
Senate Bill 92, section 1 removes the expiration date of the Task Force on Alzheimer's Disease. The Task Force was started in 2013, met in Interim meetings and has come up with recommendations. The Task Force has been very instrumental in helping people who have Alzheimer's Disease and their families. It is interesting to see the fruition of the many recommendations the Task Force has made through its State Plan to address Alzheimer's Disease. Five new recommendations have been made for 2017. The Task Force vets many recommendations that come from different sources and entities and translates those into action through legislative or regulatory changes.

PETER REED, PH.D. (Vice Chair, Task Force on Alzheimer's Disease, Aging and Disability Services Division, Department of Health and Human Services):
The Nevada Task Force on Alzheimer's Disease supports S.B. 92. Valerie Wiener, Chair of the Nevada Task Force on Alzheimer's Disease, could not be here today so I will read her testimony (Exhibit C). The Task Force on Alzheimer's Disease Annual Report (Exhibit D) and The Nevada State Plan to Address Alzheimer's Disease (Exhibit E) have been submitted to the Committee.

I will also read my testimony in support of S.B. 92 (Exhibit F).

MR. GOLD:
The AARP Nevada supports S.B. 92.

JOHN WAGNER:
I have a brother in Aptos, California who has Alzheimer's Disease. He has had it for several years. I just found out that he cannot feel pain. That is common for people with Alzheimer's Disease. Some people say that is a good thing. It is if you stub your toe, but not good if there is something wrong in your body. My brother was recently hospitalized. Anything that can be done for Alzheimer's patients is fine. The testimony just heard seems to cover patients as they progress. I would like to see something that addresses what causes it and a fix for it. This disease seems very hard to fix. I support S.B. 92.

CHAIR SPEARMAN:
One of the things that will happen with the rescission of the Task Force's sunset is some of the issues you brought up will be studied, and eventually an answer will be found.

WENDY SIMONS (Task Force on Alzheimer's Disease):
I am in support of S.B. 92 regarding the consideration of removing the sunset date of the Task Force for Alzheimer's Disease. I have had the privilege of serving on the Task Force since its inception. With my passion for veteran services and advocacy, recommendation No. 13 was added to the Nevada State Plan to Address Alzheimer's Disease, Exhibit E, page 10. I will read my testimony (Exhibit G). There is much more to be done to keep Nevada progressive in the area of dementia-related issues and care. Please consider the opportunity to utilize a task force that has demonstrated dedication to this important work.

TERRI LAIRD (Executive Director, Retired Public Employees of Nevada):
The Retired Public Employees of Nevada support S.B. 92. I will read my testimony, (Exhibit H).

DR. YACENDA:
The Nevada Silver Haired Legislative Forum supports the efforts of the Task Force on Alzheimer's Disease. The Forum recognizes the Tasks Force's emphasis on an individual's respect and dignity when considering the design of the delivery of services. Reflecting on the Forum's sentiments in the report and as we understand the efforts of the Task Force, the sunset provision should be stricken. The Nevada Silver Haired Legislative Forum supports S.B. 92. The Task Force has important policy guidance, program planning and service initiating influence on the future of policies, directions and thought in terms of guidance and resource delivery to people with Alzheimer's Disease and other dementia. We see the Aging and Disability Services Division of DHHS relying on the Task Force. Any Statewide referral system for people living with Alzheimer's Disease and other forms of dementia had to connect its caregivers and its families with local case managers and support services who anticipate being more likely to promote well-being and preserve dignity, support value and inclusion into local communities. The Task Force connects people with people; caregivers with support services.

LAUREN MAZUROWSKI:
In my freshman year of high school, my dad was diagnosed with frontal temporal degeneration, which is a rare and terminal form of dementia that causes atrophy of the brain. My entire family's world was shattered. I became a 14-year-old caretaker. My dad had lost his job and my mom had to go back to work full-time after being a homemaker of 22 years. She would work all day then come home and we would take care of my dad after school. My mom would go back and work nights to support the family. My brothers were also high school age and college age and cared for our dad. For the next 4 years, my dad required intensive 24-hour care as the disease progressed. This included bathing, changing diapers, feeding directly, changing his clothes and changing his bed sheets. We had to have padlocks on everything in the house and we administered morphine before he passed away. I missed many different normal teen things. I remember once I was about to go to the first cheerleading practice of the year and I was not able to because when I walked into the kitchen there was diarrhea on the floor. Most of the time I would not start my homework until 10:00 p.m. or later. Apart from how hard it was to watch my own father forget my name and who I was, being a parent to my own parent was much harder. The only respite my family was able to get and the times we were able to do normal things were because of S.B. No. 86 of the 77th Session. My father was diagnosed at 52 years old, and he died at 56 years old. Before S.B. No. 86 of the 77th Session was passed, a patient had to be 60 years old to get any kind of respite, and without the bill, my family would have never been able to have any sense of normalcy. Being a caretaker is extremely draining, physically and emotionally. There are over 150,000 different Alzheimer's Disease and dementia caretakers in Nevada. I promise you, these respite hours make a huge difference in caretakers' lives. I encourage the continuation of the Alzheimer's Task Force.

JACOB HARMON (Regional Director, Alzheimer's Association):
Lauren's testimony is a perfect example of the impact the Task Force has on the lives of Nevadans. There are many professionals on the Task Force who can speak eloquently on how important the Task Force's work is, but Lauren and her family's story is a real life example of the positive impact the government has made on the lives of Nevadans. The Task Force's work on S.B. No. 86 of the 77th Session allowed Lauren's family to achieve some sense of normalcy. There are thousands of Nevadans who have similar stories about the way the Task Force has affected their lives that were unable to make it here today.

LORI CHATWOOD:
I have had the honor of being the caregiver for both of my parents. My dad had Alzheimer's Disease and my mother had short-term dementia due to heart problems. When I first started taking care of my father in the late 1980s, there was no respite care, support groups and very little knowledge in the medical field of how to take care of a patient with dementia. Dementia is not visibly obvious to someone as with other diseases such as devastating cancer, but it is just as real. It is just as devastating; sometimes it is quick; and sometimes it is long—over 20 to 30 years. I lost my mother in 2013 due to complications of short-term memory loss as well as her body failing her. It is real and we need to know how to take care of it. The Task Force has come a long way in sharing knowledge to the caregivers, doctors and the community. One assumes when a loved one gets a disease that there is help, care and counseling available and that you can find out what services the government provides. It was not there in the 1980s, but it is starting to happen now. People with dementia have good days and bad days. On a good day, people wonder why you are asking for care for your loved one because his or her cognition is there. They can answer questions one day, but the next day they do not know where the restroom is. People with dementia do not know if it is nighttime or daytime. They do not know if they ate breakfast at 8:00 a.m. in the morning or at 10:00 a.m. Education is needed for the common citizen, caregiver, medical community and for insurance providers. To fight with an insurance provider over long-term care because your loved one needs custodial care and not a registered nurse is difficult. Your loved one can get hurt being left alone. It is difficult to see a loved who does not know how to take a shower, make his or her own dinner, turn on the television or not to become a victim of telephone solicitors. This Task Force is very much needed and I encourage the passage of S.B. 92.

CHAIR SPEARMAN:
All too often, there is a tendency for people to forget that Alzheimer's Disease and the other dementia diseases are not attached to a certain age group. In preparation for this hearing, I read a story, which I do not know if it was anecdotal or true, but it punctuates the point of continuing the Task Force. The story spoke of a man who was rushing through a morning appointment with his doctor. The doctor asked him why he was in a rush. The man said he was going to have lunch with his wife and he has done that every day at a certain time for the last five years. The doctor asked, "Why do you do that?" The man said his wife has Alzheimer's Disease and she has not recognized him for about

five years. The doctor asked the man, "Why do you do that if she does not know who you are?" The man replied, "I do that because I know who she is."

As a society, I hope we will begin do more for the elders. In the Bible, there is scripture that says I call the young because they are strong and they can walk the way, but the old are called because they know the way.

I close the hearing on S.B. 92.

The Committee has two bill draft request introductions, and pursuant to Joint Standing Rule No. 14, Committee members must vote to request the drafting of legislative measures requested by the Senate Committee on Health and Human Services. A vote today in favor does not indicate support for the bills, but rather allows these bills to be drafted.

I request a motion for the Committee to request a bill draft to revise provisions related to sleep time rules for overnight caregivers.

> SENATOR WOODHOUSE MOVED TO INITIATE A BILL DRAFT REQUEST TO REVISE PROVISIONS RELATED TO SLEEP TIME RULES FOR OVERNIGHT CAREGIVERS.
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> SENATOR HARDY SECONDED THE MOTION.
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> THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:
I request a motion for the Committee to submit a bill draft request to align Nevada law with federal requirements related to child welfare to maintain federal funding.

> SENATOR HARDY MOVED TO INITIATE A BILL DRAFT REQUEST TO ALIGN NEVADA LAW WITH FEDERAL REQUIREMENTS RELATED TO CHILD WELFARE TO MAINTAIN FEDERAL FUNDING.
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> SENATOR RATTI SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR SPEARMAN:
Seeing no further business on the agenda, I adjourn this Committee meeting at 4:36 p.m.

RESPECTFULLY SUBMITTED:

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Debbie Carmichael,
Committee Secretary

APPROVED BY:

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Senator Pat Spearman, Chair

DATE:____________________________________

EXHIBIT SUMMARY

Bill	Exhibit / # of pages		Witness / Entity	Description
	A	1		Agenda
	B	5		Attendance Roster
S.B. 92	C	4	Peter Reed/Task Force on Alzheimer's Disease	Written testimony from Valerie Wiener
S.B. 92	D	7	Peter Reed/Task Force on Alzheimer's Disease	Task Force on Alzheimer's Disease Annual Report
S.B. 92	E	21	Peter Reed/Task Force on Alzheimer's Disease	The Nevada State Plan to Address Alzheimer's Disease
S.B. 92	F	1	Peter Reed/Task Force on Alzheimer's Disease	Written testimony
S.B. 92	G	1	Wendy Simons	Written testimony
S.B. 92	H	1	Terri Laird, Retired Public Employees of Nevada	Written testimony