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

Eightieth Session
May 10, 2019

The Committee on Health and Human Services was called to order by Chairwoman Lesley E. Cohen at 1:12 p.m. on Friday, May 10, 2019, 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Lesley E. Cohen, Chairwoman
Assemblyman Richard Carrillo, Vice Chairman
Assemblyman Alex Assefa
Assemblywoman Bea Duran
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Lisa Krasner
Assemblywoman Connie Munk
Assemblywoman Rochelle T. Nguyen
Assemblywoman Robin L. Titus

COMMITTEE MEMBERS ABSENT:

Assemblyman John Hambrick (excused)

GUEST LEGISLATORS PRESENT:

Senator Joseph (Joe) P. Hardy, Senate District No. 12
Senator James Ohrenschall, Senate District No. 21

STAFF MEMBERS PRESENT:

Marsheilah Lyons, Committee Policy Analyst
Karly O'Krent, Committee Counsel
Christian Thauer, Committee Manager and Secretary
Alejandra Medina, Committee Assistant

OTHERS PRESENT:

Helen Foley, representing Nevada Center for Assisted Living
Sarah Green, Vice President of Operations, Mission Senior Living, Carson City, Nevada
Nova Murray, Deputy Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services
Kimberly Surratt, representing Nevada Justice Association
Jennifer Noble, representing Nevada District Attorneys Association
Jeffrey J. Witthun, Director, Family Support Division, Clark County District Attorney's Office
Dan Musgrove, representing CSAA Insurance Group
Lea Cartwright, representing American Property Casualty Insurance Association
Steve Spentzakis, Co-founder, Minds Matter LV, Las Vegas, Nevada
Ronald Sumbang, Vice President, Adult Residential Care Providers of Nevada
Jennifer Jeans, representing Legal Aid Center of Southern Nevada; Washoe Legal Services; Southern Nevada Senior Law Program; and Volunteer Attorneys for Rural Nevada
Liz Angat, representing Klas Enterprise, LLC, Las Vegas, Nevada
Marieta Narciso, MIJN Corporation, Las Vegas, Nevada

Chairwoman Cohen:
[Roll was called. Committee policies were explained.] We will be going out of order because Senator Hardy is here. We will thus start hearing Senate Bill 362 (1st Reprint). Then we will move on to our work session. With that, I will invite Senator Hardy to present S.B. 362 (R1).

Senate Bill 362 (1st Reprint): Revises provisions concerning the placement of persons with dementia in a residential facility for groups. (BDR 40-611)

Senator Joseph (Joe) P. Hardy, Senate District No. 12:
Senate Bill 362 (1st Reprint) came about as we started looking at our aging population and how we treat them. Helen Foley, who is here with me, was instrumental in getting this bill off the ground.

The bottom line is, when you have senior dementia or senile dementia, you are not necessarily a single-diagnosis patient. This type of dementia is instead diagnosed on a continuum of symptoms. You can have a little bit of dementia or you can have a lot. If you have a little bit of dementia, you do not need to be locked up. If you have a lot, you should probably be in a controlled environment.

As a physician, I went into a care center to see one of my patients. When I was ready to go, I asked, "Can you let me out?" The response was, "The combination is 4127." I thought, "Oh, no, now everybody is going to be able to get out—except for the patients who could not remember it." The test for me was, can I remember it? I did, so I did not have to stay there.

If you have dementia and you become a danger to yourself or others, you need to be assessed by a physician to determine what needs to happen. This bill deals with that. I will let Helen Foley see if she can explain it without confusing you any more than I already did.

Helen Foley, representing Nevada Center for Assisted Living:
I represent the Center for Assisted Living here in Nevada. We thank Senator Hardy for introducing this bill. For many years we have had what they refer to as an Alzheimer's endorsement. There is also a mental illness endorsement that assisted living facilities and small group homes that take care of the elderly apply for, and for which they go through training. There are also some very strict requirements that can occur with Alzheimer's—for someone who may be a risk to themselves or others. A person with Alzheimer's may walk out thinking that he or she is going to go home and leave the nice hotel that they have just been in. That person may have forgotten where she or he was.

There is a very large difference between someone who has been diagnosed with early stages of Alzheimer's or early stages of some type of cognitive impairment or vascular dementia and someone who is truly a danger to themselves or others. My mother is 92 years old. She has vascular dementia. She can tell me stories forever about the old days. She sees me and is so happy to talk to me and knows me quite well. But if one of her friends came over earlier in the day and I know that and ask her if she had any friends over, she will not say no because she knows better than that—and she does not want to sound old. Instead, she will say, "You are going to have to help me out on that one." But she truly does not know. For her to take her medications, for her to remember to lock the doors, for her to even cook and not leave the oven on would be quite a challenge. So she does need someone 24 hours per day. But she certainly does not need to be locked up.

I am sure many of you have gone to assisted living facilities, with some of them being memory care facilities. If you go to an assisted living facility, you will see a whole bunch of ladies playing bridge or bingo or having fun. There might be some entertainment. They cannot take care of themselves. That is why they are in these facilities. But then you go to a memory care facility, and it is very different. People are slumped over and they cannot really talk to you intelligently in several sentences about their lives or what is going on. They have passed into a stage where they really need a much higher level of care, much higher level of staffing, and they need to be protected from wandering off or from hurting themselves or others.

There is a wide range of care for someone who has been diagnosed with dementia. How do we determine the best level of care? A technical bulletin that came out on September 1, by Dr. Julie Kotchevar, Administrator of the Division of Public and Behavioral Health in the Department of Health and Human Services, unfortunately set the industry on fire. It said that anyone who had been diagnosed with dementia, organic brain syndrome, or other cognitive impairment had to be living in a facility that had an Alzheimer's endorsement and the very strict environment that comes with it. Well, if you put someone like my mother in that category, she would die. So many other people would be so eternally depressed by that, which is really not what we need. Instead, we need the level of care that is the least restrictive for these individuals while at the same time still being able to care for their lives.

We sat down with the Division and with our team from the Center for Assisted Living and came up with some language and asked Dr. Hardy to introduce it. We think that it makes perfect sense. We want physicians for the elderly to adequately and truthfully diagnose what level of care is needed and what stage of illness they are in. If a patient has early stages of dementia, we want to know that. We want to be able to care for them, watch them a little more closely and see if they are progressing in that area. But we also want their families and the facilities to be involved. They see them every day. It could be just a matter of a couple of days and all of a sudden there is a change. It could be a stroke or it could be other issues such as urinary tract infections—from which they can recover—that makes them that way. It takes that whole systemic approach of the three prongs of family, physician, and facility to be able to diagnose whether or not a patient needs a higher level of care—and that is only when they are a threat to themselves or others.

I am privileged to have Sarah Green with me, to whom I will turn it over now.

Sarah Green, Vice President of Operations, Mission Senior Living, Carson City, Nevada:
I have been in the industry for over 20 years, from the care level all the way through to management. I think the most important thing about my career and my personal path is caring for family members who have gone through the diagnosis and disease process of Alzheimer's and dementia all the way through hospice and passing.

At this point in time, we are very pleased with where the collaboration has come from the technical bulletin already mentioned by Ms. Foley—that really took us from a minor topic to the extreme. That extreme was that the diagnosis of dementia or cognitive impairment was so broadly defined that anyone in the wide spectrum of that diagnosis would be placed in a secured community. When you talk about the environment of a secured community, it is not just that the doors are locked. It is about the cognitive abilities of the people who surround you. It is about the ability to engage and utilize the assets that you still have, your mental and physical capabilities. If you do not utilize the skill, including your brain, you will lose it. The impact on the emotional, financial, and mental status of somebody who is put in a secured setting before it is necessary is significant and almost instantaneous.

Care teams consist of the physician, family, and/or the directly involved individuals as well as the care team of the community—the administrators, the wellness team such as nurses, and most importantly the frontline team in the community that is providing care and services to seniors every day. These teams are very familiar with the normalcy of activity and daily living and when things are transitioning, meaning there are indications that the disease process is developing. In this case more assistance is needed. It is a fine line. For example, when a resident walks out of the community, is it really clear where he or she is going or why he or she is going? If not, that would be an indication of the need of a transition that the care team would see day by day. At that point, the resident should be transitioning to an environment that does limit the natural choices that could put her or his life in jeopardy. I am happy to answer questions.

Chairwoman Cohen:
Could someone please walk us through the bill?

Helen Foley:
The bill foresees a physician conducting an annual physical exam of the resident in the facility. The physician is also required to do an assessment of each of the residents and to look at their daily activities. This would certainly involve talking to the facility staff. The physician would then assess the needs of the resident to determine whether the resident meets the criteria of section 1, subsection 2. As soon as someone gets to a facility, that person will have that medical examination. The physician is also supposed to meet with the family of the resident to find out if there are any issues involved. If it is determined by the physician that the patient suffers from dementia to the extent that he or she may be a danger to himself or herself or others if not placed in a secure facility, then the resident will have to be moved to a higher level of care.

Prior to that, it was simply the diagnosis of dementia—and that included early stages of dementia—that would mean under the strictest interpretation of the law that the resident would have to be locked up. Not only is that terrifying for the individual, but it is also very costly for the family. The physician can determine that a resident, if she or he does not suffer from dementia or suffers from dementia but is no threat to herself or himself or to others, can stay where he or she is. That is basically it concerning the bill. It lays out a team approach, according to which the individual is watched over longer stretches of time, and the family's considerations are taken into account. It also foresees that if there are any changes whatsoever with that resident, a reassessment by the physician will be made at a later stage.

Chairwoman Cohen:
When we are discussing the family being part of the evaluation in section 1, subsection 1, paragraph (c), subparagraph (2), some people do not have family, but they have their church family or their neighbors. By using the term "family," are we restricting the ability of the facility and the doctors to reach out to neighbors and friends who are in place of a family?

Sarah Green:
You bring up a valid point. We could continue with resident family or we could moderately change it to resident representative. That representative would encompass the neighbor, church, power of attorney, and the court-appointed guardian.

Chairwoman Cohen:
The term representative—does that not make it too official? Are we creating an official position of the representative? I do not know if that is necessary. Maybe to designate family and/or friends, fictive kin—that type of position—would be better.

Helen Foley:
We would certainly be open to that. Maybe legal counsel can help us to find the right wording?

Chairwoman Cohen:
I am getting word from legal counsel that she would be happy to do that.

When we are talking about a secure unit with six residents for every one staff member in section 1, subsection 2, paragraph (a), is that standard language for facilities now?

Sarah Green:
Yes, that is standard regulation, including training and other requirements.

Assemblywoman Gorelow:
Regarding the physician conducting the physical as laid out in section 1, subsection 1, paragraph (c)—we have had a lot of discussions on scope of practice in this Committee. Knowing that we have shortages of physicians in rural areas, would that be something an advanced practice registered nurse (APRN) or a physician assistant could also do? Or is this at a higher level that requires a physician?

Senator Hardy:
Physician assistant, APRN, physician—all would be capable of doing that. That is an excellent point. That would be a very valid addition.

Assemblywoman Titus:
In previous testimony this week, Assemblyman Carrillo asked the question, Are we going to see any more of these APRN and physician assistant bills? I think it would be prudent to add "provider" as opposed to specific designations—because that is where the standard is going as we change the statutes. I would just put the word "provider" of the physical exam in there. That would save us from having to come back next session to fix this.

In the original version of the bill, you did not say how often the physical exam had to be done. Now you designate annual physicals. Mental capacity conditions change frequently, and it can be as simple as someone mentioned already, a bladder infection that caused it. Just because suddenly a patient is incapacitated or confused, it does not really change the underlying diagnosis—it does not say that the patient has vascular dementia or Alzheimer's dementia. Once you do your initial physical and you have a diagnosis of, say, early onset Alzheimer's dementia—where does it allow you to readjust as your diagnoses change? Does this have the potential to be more frequently than annually? Should the language say, "as often as necessary" rather than annually?

Senator Hardy:
In line 15 of page 2, your point could be adequately added, I believe. In line 16 the bill talks about "the observations of the administrator or the staff of the facility." That could be at any time. Quite frankly, that is what happens. As you well know, someone will call you at

5:30 p.m.—because that is when you are at dinner—or at 11:30 p.m. when the shift changes. That is when the staff is going to call and say, I think so-and-so has got a problem. I think those are all very valid opportunities to include.

Assemblywoman Titus:
This is a good bill, and I want to make it a great bill. I think that some simple changes could help in that. Mental capacity is very fluid, and it changes. Somebody can have early onset Alzheimer's disease but in less than a year that can change unexpectedly.

Helen Foley:
That is really what we were trying to do. Maybe it is not as clear as it could be. But starting on page 2, line 15, it states, "If a physical examination, assessment of the history of a resident or the observations of the administrator or staff of the facility or the family of the resident indicate . . ." that there is a need for additional help. Maybe that language is not enough.

Sarah Green:
My suggestion would be to add "a notice of a change of condition" to the text.

Assemblywoman Titus:
Indeed that would be something that the staff would have the medical provider document. That is really what the requirement is going to be. It will require the medical provider to document that, once the staff has observed that change.

Helen Foley:
That would be fine with us.

Assemblyman Assefa:
Section 1 talks about the examination being done upon admission to the residence or facility, and periodically thereafter. I do not assume that these facilities have physicians or physician assistants on-site. Will they be inviting someone to come on-site, or will they be sending them somewhere else?

Senator Hardy:
Yes, some facilities will have physicians on-site, if they are big enough. But most of the places will have someone on call or someone who is the family physician or the family APRN who visits on a periodic basis. It can be a combination of somebody on- and off-site. I think most facilities have somebody on call—if not directly for the person, for the group of people in the facility.

Chairwoman Cohen:
Seeing no other questions from the Committee, we will invite anyone in Las Vegas and Carson City to testify in support. [There was no response.] Is there anyone in Las Vegas or Carson City wishing to come forward in opposition? [There was no one.] Is there anyone in Las Vegas or Carson City wishing to come forward in the neutral position? [There was no one.]

[A number of testimonies from home care providers, residents, and private citizens were submitted via email and will become part of the record as (Exhibit C), (Exhibit D), and (Exhibit E).]

I will invite the sponsors up for concluding remarks.

Senator Hardy:
Thank you for your questions and comments, and for making this a great bill.

Chairwoman Cohen:
I will close the hearing on S.B. 362 (R1). We will now start the work session.

Ms. Lyons, please begin the work session.

Marsheilah Lyons, Committee Policy Analyst:
The members of the Committee have in front of them the work session documents prepared by staff, which are also available on the Nevada Electronic Legislative Information System to members of the public.

The first measure on the work session document is Assembly Bill 498.

Assembly Bill 498: Revises provisions relating to fictive kin caregivers. (BDR 38-452)

Marsheilah Lyons, Committee Policy Analyst:
[Marsheilah Lyons read from the work session document (Exhibit F).] Assembly Bill 498 requires the Department of Health and Human Services to include in the State Plan for Temporary Assistance for Needy Families, to the extent authorized by federal law, child-only assistance for a caregiver who is caring for a child in foster care and who is not related by blood to the child but has a significant emotional and positive relationship with the child. This caregiver is referred to as "fictive kin." The measure also establishes that fictive kin are eligible for assistance pursuant to the Kinship Guardianship Assistance Program.

There was an amendment proposed to this measure which revises the effective dates to allow the Division of Welfare and Supportive Services time to make the technology enhancements necessary to implement the policy. Rather than what was originally written in the work session document (Exhibit F), the recommendation is to make sections 1, 10, and 8 of this act become effective on July 1, 2020. Sections 2, 3, 4, 5, 6, 7, and 9 of this act become effective upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act.

The amendment was submitted by Denise Tanata, Children's Advocacy Alliance. The changes to the amendment were submitted per the recommendation of the Division of Welfare and Supportive Services.

Chairwoman Cohen:
Committee, do we have any questions on this measure? [There was no reply.] I will take a motion to amend and do pass.

> ASSEMBLYWOMAN TITUS MADE A MOTION TO AMEND AND DO PASS ASSEMBLY BILL 498.
>
> ASSEMBLYWOMAN DURAN SECONDED THE MOTION.

Are there further comments? [There was no response.]

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

Assemblywoman Gorelow will take the floor statement.

Marsheilah Lyons:
Moving on to Senate Bill 178 (1st Reprint).

Senate Bill 178 (1st Reprint): Creates the Council on Food Security and the Food for People, Not Landfills Program. (BDR 18-57)

Marsheilah Lyons, Committee Policy Analyst:
[Marsheilah Lyons read from the work session document (Exhibit G).] Senate Bill 178 (1st Reprint) creates the Council on Food Security within the Department of Health and Human Services. The duties of the Council include increasing access to improved food resource programs, increasing participation in federal nutrition programs by eligible households, and increasing capacity to produce, process, distribute, and purchase food in an affordable and sustainable manner. The Council must submit an annual report to the director of the Department and the director of the Legislative Counsel Bureau regarding the accomplishments and recommendations of the Council.

The bill also creates the Food for People, Not Landfills Program within the Department. The director is responsible for administering the Program and is, among other things, required to:

1. Set forth goals and objectives for the ensuing 5 years to increase the amount of food diverted from landfills and utilize such food to increase food security;

2. Establish the criteria for a food donor to participate in the Program; and

3. Submit an annual report to the Legislature concerning the Program.

The only amendment to this measure in the work session document is to add Assemblyman Richard Carrillo as a cosponsor.

Chairwoman Cohen:
Are there any questions about this measure? [There was no response.] I will take a motion to amend and do pass.

> ASSEMBLYMAN CARRILLO MADE A MOTION TO AMEND AND DO PASS SENATE BILL 178 (1ST REPRINT).
>
> ASSEMBLYMAN ASSEFA SECONDED THE MOTION.

Are there further comments? [There was no response.]

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

Assemblyman Carrillo will take the floor statement.

Marsheilah Lyons:
Next is Senate Bill 234 (1st Reprint).

Senate Bill 234 (1st Reprint): Makes various changes relating to the participation of providers of health care in network plans of insurers. (BDR 57-527)

Marsheilah Lyons, Committee Policy Analyst:
[Marsheilah Lyons read from the work session document (Exhibit H).] Senate Bill 234 (1st Reprint) requires the commissioner of insurance, Division of Insurance, Department of Business and Industry, to develop and make available on the Division's website a form that a health carrier must use to notify a health care provider of the denial of his or her application to be included in the health carrier's network of providers. A health carrier must send a copy of the letter to the commissioner at the same time the letter is sent to the health care provider whose application to be included in the health carrier's network is denied. The bill requires the commissioner to compile an annual report on trends including, without limitation, information such as the number of denials and reasons for application denials. The report must be provided to the Legislature, the governor, and posted publicly on the Division's website. There were no amendments in the work session document for this measure.

To clarify a question that came up, the Legal Division of the Legislative Counsel Bureau has determined that nothing prohibits the form from being electronic.

Chairwoman Cohen:
Committee, do we have any questions on this measure? [There was no reply.] I will take a motion to do pass.

> ASSEMBLYWOMAN NGUYEN MADE A MOTION TO DO PASS SENATE BILL 234 (1ST REPRINT).

ASSEMBLYWOMAN TITUS SECONDED THE MOTION.

Do we have a discussion on the motion? [There was no response.]

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

I will assign the floor statement to Assemblywoman Nguyen.

Marsheilah Lyons:
We will move on to Senate Bill 291.

Senate Bill 291: Revises provisions governing the testing of infants for preventable or inheritable disorders. (BDR 40-111)

Marsheilah Lyons, Committee Policy Analyst:
[Marsheilah Lyons read from the work session document (Exhibit I).] Senate Bill 291 requires the State Board of Health to adopt regulations regarding examinations and tests in infants for preventable or inheritable disorders that include each disorder recommended by the Health Resources and Services Administration of the United States Department of Health and Human Services by not later than four years after the recommendation is published. The State Board of Health may exclude any such disorder upon the request of the state chief medical officer or the person in charge of the State Public Health Laboratory based on:

1. Insufficient funding to conduct testing for the disorder; or

2. Insufficient resources to address the results of the examination and test.

The bill repeals outdated language related to contracting with a laboratory and mandates required examinations or tests that must be performed by a laboratory to be sent to the State Public Health Laboratory. If the State Public Health Laboratory increases the amount charged for such examinations or tests, the Division of Public and Behavioral Health of the Department of Health and Human Services must hold a public hearing during which the State Public Health Laboratory shall provide a written and verbal fiscal analysis of the reasons for the increase. The only amendment in the work session document is to add Assemblywoman Gorelow as a cosponsor.

Chairwoman Cohen:
Are there any questions on this measure? [There was no response.] I will take a motion to amend and do pass.

ASSEMBLYWOMAN TITUS MADE A MOTION TO AMEND AND DO PASS SENATE BILL 291.

ASSEMBLYWOMAN MUNK SECONDED THE MOTION.

Are there further comments? [There was no response.]

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

Assemblywoman Gorelow will take the floor statement.

Marsheilah Lyons:
Next would be Senate Bill 370 (2nd Reprint), but we will consider Senate Bill 457 (1st Reprint) first.

Senate Bill 457 (1st Reprint): Revises provisions relating to health care facilities. (BDR 40-1143)

Marsheilah Lyons, Committee Policy Analyst:
[Marsheilah Lyons read from the work session document (Exhibit J).] Senate Bill 457 (1st Reprint) revises the definition of "sentinel event" to include any death at a medical facility, facility for the dependent, or home operated by a provider of community-based living arrangement services. Such facilities must report to the Division of Public and Behavioral Health of the Department of Health and Human Services the date, time, and a brief description of each sentinel event, including each death that occurs at the facility. The bill also broadens the applicability of existing law regarding reporting and investigating sentinel events to apply to these facilities and homes. The bill provides that a health facility is not required to investigate a death confirmed to have resulted from natural causes, and certain facilities that care for elderly or terminally ill persons are not required to investigate a death that appears to have resulted from natural causes. In addition, the bill requires the Division to compile and post on an Internet website it maintains information concerning the licensing status and quality of certain facilities and programs for the treatment of alcohol or drugs.

There is an amendment to this measure by Senator Julia Ratti which proposes to:

1. Add the provisions of Senate Bill 288 to Chapter 458 of *Nevada Revised Statutes* (NRS). These provisions prohibit certain entities that provide treatment for the abuse of alcohol or drugs or a person that provides advertising or marketing for such an entity from:
    a. Providing false or misleading information about the products, goods, services, or locations of the entity in marketing or advertising materials or on the Internet;
    b. Including on the Internet website of the entity false information, an electronic link to false information or an electronic link that surreptitiously directs the reader to another Internet website;

   c. Soliciting or receiving a commission, benefit, bonus, rebate, kickback, or bribe or engaging in a split-fee arrangement in return for a referral or an acceptance or acknowledgement of treatment from the entity;
   d. Entering into a contract with a provider of marketing services that agrees to generate referrals or leads for the placement of patients with the entity over the phone or the Internet, unless the entity discloses the arrangement to the patient and provides the patient with instructions for accessing a list of entities that provide treatment for alcohol and drug abuse that is maintained by the Division of Public and Behavioral Health of the Department of Health and Human Services.

2. Make it a misdemeanor to engage in activity prohibited by item 1. Additionally, amend NRS 449.160 to allow the Division to take disciplinary action against a licensed facility, including a residential alcohol and drug treatment program, a halfway house for recovering alcohol and drug abusers, a facility for modified medical detoxification, a psychiatric hospital, or a mobile unit that engages in an activity prohibited by item 1.

3. Exempt from paragraph (d) of item 1 a state agency or entity that receives financial support from the State which refers a person to drug and alcohol treatment that is operated by or receives financial support from the State.

Sample language:

> *The provisions of paragraph (d) of subsection 1 do not apply to a state agency, a contractor thereof or an entity that otherwise receives financial support from the State which refers a person to a treatment provider, facility or alcohol and drug abuse program that is operated or financially supported by the State.*

Chairwoman Cohen:
Committee, do you have any questions?

Assemblywoman Titus:
I would be hesitant to support this. I was going to support the bill until I saw this amendment. I will not be able to support it until I see the actual written amendment, especially now that we are adding misdemeanors and some other potential penalties. I need to first see that in writing in the final amendment before I can support this.

Chairwoman Cohen:
Are there any other questions?

Assemblyman Hafen:
Could I please just say ditto?

Chairwoman Cohen:
We will roll the bill. Committee Counsel Karly O'Krent believes that we can see a mock-up by Monday. That way we will have more of an opportunity for people to have a chance to review the amendment. [S.B. 457 (R1) was rescheduled.]

Marsheilah Lyons:
Next is Senate Bill 370 (2nd Reprint).

Senate Bill 370 (2nd Reprint): Revises the State Plan for Medicaid and the Children's Health Insurance Program. (BDR 38-966)

Marsheilah Lyons, Committee Policy Analyst:
[Marsheilah Lyons read from the work session document (Exhibit K).] Senate Bill 370 (2nd Reprint) requires the director of the Department of Health and Human Services to include in the State Plan for Medicaid and the Children's Health Insurance Program a requirement that the state pay the nonfederal share of expenditures incurred for the screening and treatment of fetal alcohol spectrum disorders for certain children. There are no amendments for this measure.

Chairwoman Cohen:
Are there any other questions on S.B. 370 (R2)? [There was no reply.] I am looking for a motion to do pass.

> ASSEMBLYWOMAN KRASNER MADE A MOTION TO DO PASS SENATE BILL 370 (2ND REPRINT).
>
> ASSEMBLYWOMAN MUNK SECONDED THE MOTION.

Are there further comments? [There was no response.]

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

Assemblywoman Krasner will take the floor statement.

With that, I will close the work session and open the hearing on Senate Bill 33 (1st Reprint).

Senate Bill 33 (1st Reprint): Revises provisions governing enforcement of child support obligations. (BDR 38-199)

Nova Murray, Deputy Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services:
Our program has 89,000 cases, and of those 50,000 are greater than $500 in arrears. In the state fiscal year 2018, the program collected $221 million for families. This bill comes forward as a collaborative effort through strategic planning with the state and the nine county

partners. The program was ranked approximately fifty-second in the nation about 10 years ago. It moved to twenty-fifth in 2016, and now, unofficially—though the audit is already completed—we have hit thirteenth in the nation in 2017. All signs point to continuing that progress for 2018. The numbers are looking good. I love to say that. I love to shout out to the staff, who are doing a great job.

I also want to thank the stakeholders for working with me on this bill. We have been working on it since last session. I worked with the insurance industry, the Nevada Justice Association, and the Division of Insurance. They helped me to create protections for entities in the bill.

The problem is that child support receives pending bodily injury and workers' compensation claims from approximately 70 percent of the insurance industry through voluntary agreements. The balance of the industry, including several major insurers, are not participating, leaving us no opportunity to collect for those families when a lawsuit is received. Existing state and federal law authorizes child support to attach certain insurance settlements and benefits due claimants when court-ordered child support is in the arrears. To solve the problem, the agency is seeking to require insurers—as a condition of doing business in Nevada—to provide the child support program with claim information prior to issuing a payment for a tort liability, workers compensation, or life insurance benefit.

This bill requires insurers to share data with the child support program, and when notified, to withhold past due child support from insurance payments in accordance with *Nevada Revised Statutes* (NRS) Chapter 31A. It affords an up-front process for the claimants and their attorneys to receive notification their claim may be attached when child support arrears have been identified. It requires the program to consider attorneys' fees, medical expenses, and property damage when determining the child support lien and exempts claims made under first-party coverage—with first-party coverage referring to compensation under your own insurance as a result of causing damage to your own property, such as when your dishwasher floods.

This will get the attention of the nonpayers and maybe help us to cultivate a regular payer. We have an opportunity to talk to him. We also have an opportunity to negotiate how much we will lien. It is going to increase child support collection for Nevada's families and reduce dependency on public assistance programs. To date, since I first introduced this bill, a major insurance carrier moved to voluntary reporting. It increased our data match twofold—and that was just one of the big ones. This is an important bill for us. There is an existing process in place for them to match with us that is at no cost to them. They report to the Insurance Services Office, which they currently use for statistical and actuarial purposes. There are quite a few things that entity does for them. With the agreement to allow that entity to share data with our program, everything is already in place, it all hooks up, and the process starts. So they really do not see it on their side. That is the big picture.

In cooperation with the insurance industry, I have also proposed an amendment (Exhibit L), which removes the Insurance Services Office, the entity which does that business now, and replaces it with an insurance claim data collection organization approved by the Division. That way, if that entity folded and somebody took their place, we would not have to come back and update the legislation. There was also a little piece in there that said "a person" instead of "an entity." The amendment also proposes this replacement.

Chairwoman Cohen:
Could you please walk us through the bill, including the amendment?

Nova Murray
Section 1, subsection 1, requires the insurers to share the data with our agency. Subsection 2 gives the requirements of how they are going to do that—within five days, they are going to withhold the payment from the claim, and they are going to remit that amount to our agency after we have developed that lien. There is a piece in here that if there are multiple payouts—sometimes you see that in workers' compensation—and one of those payouts has already been released, it does not mean that you are off the hook for holding up the lien on the additional ones. Subsection 4 establishes that we, as a program, will give priority to "attorney's fees or costs, medical expenses" prior to creating our lien. Subsection 5 includes some protections for the insurance industry by stating that it is not liable for us having that information if, for whatever reason, something happens on our side. Subsection 6 lays out that insurers should not delay the payment. A lot of that information already exists in other language. It was just placed here again to protect the entities.

The amendment goes back into subsections 5 and 8, and substitutes "Insurance Services Office, Inc." with "an insurance claim data collection organization approved by the Division." It also creates the definition of an insurance claim data collection organization approved by the Division in subsection 9, paragraph (d).

Chairwoman Cohen:
Concerning the insurance claim data collection organization—is that a standard definition?

Nova Murray
I am not sure if that is a standard title. It was provided to me by the insurance industry. I can ask and get back to you. They are here in the room. But I just heard from them that they are not sure, for the record. I will have to find out through the legal counsel.

Chairwoman Cohen:
You mentioned the periodic payments in section 1, subsection 7. Does that also encompass when you sell your settlement? Sometimes people who get into a car accident know there is going to be a large settlement and want—as the commercial says—cash now. They sell whatever they are going to get from these future proceeds for a smaller lump-sum payment from a private company.

Nova Murray
Normally, at this point, we have already put a lien on that product. We have either been paid ahead or have liens riding on it.

Kimberly Surratt, representing Nevada Justice Association:
We did have some conversations about that with Ms. Murray. The reason why it states in the bill that it is "Not later than 5 days" [section 1, subsection 2, paragraph (a)] after opening a tort liability claim is to give some time for them to get in there and figure out what is going on. As soon as you tell the insurance company and the claim is opened, they can start doing their magic. The original language we were working off of had to do with the closing out of a case, when you are way too far down the road to be worrying about whether or not they have sold their claim off yet.

Chairwoman Cohen:
That sounds as if we are hitting them before the sale and are not trying to claim it after the sale.

Kimberly Surratt:
Hopefully, yes.

Chairwoman Cohen:
But if someone can sneak in and get the sale done, are we still going to be able to capture that?

Nova Murray
That is not something we discussed. I am going to assume we are going to hit it prior to anything happening. We are going to get our lien on it first, because it is supposed to happen before the settlement even starts. So I am going to assume we are there and if it is a payment process, we have put a lien on it.

Kimberly Surratt:
People always slip through the cracks. That has been the historical problem of child support. We cannot get our hands on everything and make everybody behave. There is always that potential. But the bill allows the lien to be made really early in the process—far earlier than any family law attorney or the Division has any access to on a typical basis.

Chairwoman Cohen:
Do we have any questions from the Committee?

Assemblywoman Titus:
First, let me acknowledge what a great job you are doing. Collecting from folks who are in arrears does not only concern dads, but moms can also be responsible for child support. I appreciate that, for once, Nevada is not fiftieth in something, but that we have actually improved, thanks to you and your Division's work. Second, I am glad you are not just going after hunting licenses. I appreciate that there are some other avenues on this.

Please explain the process to me: what is the order of payment if somebody has an accident and is reimbursed by an insurance company—who has priority? Some of that money has to go to the provider who gave them care—the hospital bill, et cetera. If you put a lien on that and they do not have any insurance, how will that work? Do you get your money first before the people who offered lifesaving care for this person?

Nova Murray:
This bill carves us out of a process. According to NRS Chapter 31A, I have the authority to take the entire claim. I have priority over all liens on money received. This affords us a process as a program to consistently allow the property, the attorney fees—all of those pieces—to be accounted for before I create my lien. But I do not have any authority to say who gets paid first. My lien is first and foremost. This forces our program to take all those things into consideration before I decide how much I am going to lien that claim.

Assemblywoman Titus:
If someone was in a car accident, sued, and was reimbursed for medical bills but owed $1 million in child support, do you have the discretionary ability to be paid ahead of other bills someone has accumulated?

Nova Murray
That is how the current law stands. This bill changes that and says to everybody participating in my program—I have county entities and state entities—we are going to decide how much our lien will be after all those other pieces are paid first: your car or your home or whatever property is placed first, then your medical bills are paid off and your attorney fees.

Assemblywoman Titus:
How does the process actually work? When you negotiate with the insurance companies that come on board, do they, before they make a payment, now look to see if there is a list of folks in arrears? How do they make that connection? You will be notified—do I understand it correctly that there is an insurance company triggering the process? How do you even know that a person who is in arrears got into an accident?

Nova Murray:
The beginning of the process is that the claimant gets the injury and the insurers themselves send their data to the Insurance Services Office, which sits on a database they use for some other purpose. With this bill, they allow our agency to receive that data. We do a data match. The data match comes back to our staff. Our staff begins to work the case. They work the case by trying to figure out, is there something we can get to? Is it big enough to worry about? Then they send a lien to the insurer saying, child support has a lien on this money, do not forget about us. The notice may tell them how much or that we are working on determining the sum. At that point, we decide what is happening with that claim, how much the child support agency is going to lien.

Assemblywoman Titus:
You guys already have access to the system, and then there is a little light bulb indicating, Hey, this person just got in an accident and we matched him to somebody on our list—and

that is all done electronically, and so it comes up on one of your workers' screens—and then you do your process.

Nova Murray
That is correct.

Chairwoman Cohen:
Do we have any questions from the Committee? [There was no response.] We will move on to testimony in support.

Kimberly Surratt:
To be extra clear, on behalf of the Nevada Justice Association, we are in support of this bill. Both the domestic committee and the tort bar are happy with it.

Jennifer Noble, representing Nevada District Attorneys Association:
We are in full support of this bill. I would like to throw it down to Clark County, if I may, to Jeffrey Witthun, the Director of the Clark County District Attorney's Child Support Division.

Jeffrey J. Witthun, Director, Family Support Division, Clark County District Attorney's Office:
We do support this bill. As Ms. Murray was saying earlier, this is something that the local child support agency divisions of the district attorney's offices here in Nevada have wanted since we have observed other states like Texas having a mandatory notification provision. We have also observed what the resulting statutes did in terms of increasing the ability of these agencies to receive notification on insurance claims of child support obligors who—due to some unfortunate circumstances—have fallen behind on their child support. We saw this, as said, first in the state of Texas. We worked with the Division, which has done an outstanding effort in terms of getting the insurance companies, the Nevada Justice Association, the District Attorneys Association, and other folks together. It has been my pleasure to watch these folks work together for the benefit of the child support programs, where the day-to-day casework is done.

I have 60 percent of the Nevada caseload here in Clark County. This is an especially useful tool for us, and will be even that much more so when this notification provision is passed. I do want to thank everyone involved in the process. Hopefully, with this final amendment, we have arrived at language with which everyone can live based on the understanding that the interests of all—including the attorneys and the other participants, the hospitals, et cetera—will ultimately be protected.

If passed, this bill would have the positive effect of allowing obligors—who have unfortunately fallen behind on their child support obligations—to reengage with our program and get on the right track as concerns the support of their children. Oftentimes, when that happens, obligors—who may have been a little self-conscious, embarrassed, or feeling badly about not paying their child support—once they reengage with us, they also have the added benefit of reengaging with their children. We know how important that is, statistically, for the children's future: the full emotional support as well as financial support of two parents.

Finally, I believe that this bill would substantially increase our overall child support collections. Ms. Nova Murray talked about the state ranking and the improvement in our program that we have made over the last ten years. This would allow us to continue to do that. Most importantly, however, behind these numbers are children and families. Over 94 percent of child support money that is collected by the State of Nevada by whatever means goes directly through to the families. That makes a real difference in the lives of Nevada's children and families, many of whom in our program are low- to middle-income. Having the ability to collect child support in these cases, perhaps for the first time, will allow us to help lift those children and families out of poverty and create the opportunity for them for a better future. Frankly, that is what this program is all about and that is what we are here to do.

Chairwoman Cohen:
Thank you. Just to be clear, we want to make sure everyone who is listening understands that child support is not tied to visitation, and parents can still have visitation if there is a problem and they are not paying their child support. I do understand that in Clark County and in Washoe County as well, there is a mediation program through your office for visitations. I just want to make sure the narrative is clear that child support and visitations are two different things.

Jeffrey Witthun:
Yes, they are two different things. It would be against the law to withhold visitation for not paying child support—a provision I absolutely agree with. That is how it is in most places. There are, however, statistics showing that when parents are engaged in terms of paying child support, some of them become more emotionally involved. Most parents naturally want to be involved. But when they are also financially supporting their children and are emotionally involved, that is the best outcome. We do not render custody or visitation orders here in Clark County. But we try as hard as we can to steer families who do not have such an order to an access, mediation, and visitation program through our office and through the courts.

Dan Musgrove, representing CSAA Insurance Group
We are better known as AAA Insurance. We are absolutely in support of this legislation. I was able to phone a friend regarding the definition of "insurance claim data collection organization." We feel that is absolutely appropriate. The Insurance Services Office is what exists today. In case there is a successor organization, I think that definition would absolutely capture that and allow the statute to go forward without having to be changed if the Insurance Services Office morphed into something else.

Chairwoman Cohen:
Karly O'Krent our legal counsel has informed me that the definition is not in the NRS, so it is good to have that perspective on it. If there is anyone else in Las Vegas in support, please fill in the chairs.

Lea Cartwright, representing American Property Casualty Insurance Association:
We are pleased to support S.B. 33 (R1), which would have insurers share information on specified insurance claims to help with the collection of child support. Representing nearly 60 percent of the U.S. property casualty insurance market, the American Property Casualty Insurance Association promotes and protects the viability of private competition for the benefit of consumers and insurers. The American Property Casualty Insurance Association appreciates the work done by the Division of Welfare and Supportive Services to craft legislation that provides for a better collection of child support while recognizing the existing voluntary efforts that are currently being done by the insurance industry.

Chairwoman Cohen:
This is a very good example of a bill on which the sponsor, Ms. Murray, has worked with many people during the legislative interim. We very much appreciate that. Is there anyone else in support in Las Vegas or Carson City? [There was no response.] We will move to opposition. If there is anyone in opposition, please move forward. [There was no one.] Is there anyone in neutral in Las Vegas or Carson City wishing to come forward? [There was no one.] Ms. Murray, do you have closing remarks?

Nova Murray:
Thank you for the opportunity to present this legislation. It is important to the program. Although I retire this year, it will take the program to a path to do even better. I expect in the next years we will see it in the top five in the country.

Chairwoman Cohen:
I will close the hearing on S.B. 33 (R1) and open the hearing on Senate Bill 424.

Senate Bill 424: Revises provisions governing services for persons with a mental illness. (BDR 39-964)

Senator James Ohrenschall, Senate District No. 21:
I represent Senate District No. 21, parts of Henderson and unincorporated Clark County. I know the hour is late, and I know you have had a long agenda. Senate Bill 424 comes out of a conversation I had in my district with constituents who assist adults who cannot live on their own. There was a concern about services provided and trying to make sure that people are getting the services they need and that there is an appeal process if the patient or the provider feels that there is not a good fit in terms of services recommended versus what is needed. That is what the bill tries to accomplish.

There was no opposition in the Senate. I did have a good conversation yesterday with folks from the Department of Health and Human Services. There may be an amendment coming. I am happy to work with them and with the stakeholders I have been working with. Now I am happy to answer any questions.

Chairwoman Cohen:
Can you walk us through the bill?

Senator Ohrenschall:
The bill amends *Nevada Revised Statutes* (NRS) 433.3315. *Nevada Revised Statutes* 433.3315 talks about regulations being adopted. The bill adds language to categorize patients by the kinds and number of services that patients need. It also provides a process—to be specified via regulation—through which the provider or the patient can appeal that. For example, Northern Nevada Adult Mental Health Services says that a certain patient needs 30 hours of treatment or care every week. The provider feels that the patient needs 50 hours of care. The bill provides for an appeals process. It is a short bill, but one that has the potential to help patients and providers give these adults the care they need.

Chairwoman Cohen:
Could you give us more information as to which patients we are talking about and what process is envisioned by the bill? What are the considerations behind the bill, and what are the possibilities the bill creates concerning the treatment patients could be getting versus what is currently being offered?

Senator Ohrenschall:
The way it works with Northern or Southern Nevada Adult Mental Health Services is that, when patients who are covered under this NRS chapter are in living arrangement homes and there is the hope of their living independently, certain amounts of hours and care are authorized. The bill would allow an appeal of these authorized hours of care. I will reach out to providers who are in Las Vegas who will provide more information.

Steve Spentzakis, Co-founder, Minds Matter LV, Las Vegas, Nevada:
The Senator is referring to the individual contracts that we get. Some of them start off at, for example, 200 hours per month for basic skills training—helping the individual budget, create a nutritious grocery list, keep house, and take care of personal hygiene. But then at some point, for example, about six months into a one-year contract—and irrespective of whether there is progress or regress—all of a sudden the number of assigned hours may drop down to 60 hours per month. There is nothing that would allow us to identify how that happened. We have been working with the individual and we have not seen any progress. But maybe because of budget constraints or for whatever reason, it drops down to 60 hours—yet the providers are working a lot more than that to maintain that individual.

Ronald Sumbang, Vice President, Adult Residential Care Providers of Nevada:
We are doing business as ECHO. I want to add to what Steve Spentzakis has said already. It appears that the providers look bad when there are certain inspections made because they are allegedly not doing what they are supposed to do, service-wise. But what happens is, as Steve Spentzakis has already explained, you are given a contract and then you are supposed to provide an X amount of hours. Then, all of a sudden and for no reason, they drop that contract. What do you expect in this situation? It is clear that in this situation we will have a problem. These people need more care. Yet, the hours are cut down with no justification. Hopefully, with this bill, we are resolving this issue with an appeals process that allows providers to question, Why are you taking away the hours when the progress of the patient does not seem to allow for him or her to be independent? Furthermore, hopefully, this bill

will become a template on the basis of which other providers will also have an appeals process. Right now, other providers do not have an appeals process that is in place to help them as far their concerns in their respective industries go.

Senator Ohrenschall:
Senate Bill 424 is based on a model in the Medicaid guidelines called Level of Care Utilization System.

Steve Spentzakis:
The Senator is referring to Medicaid Chapter 400, which has a build-in tier system which identifies clients by tier 1 up to tier 6. That is the clients' level of serious mental illness. We get services approved according to the tier classification. If the individual has dropped down to a tier 2, then it does not justify it to do all these other things that were initially granted.

Chairwoman Cohen:
How does the Division currently categorize a consumer—is this based on scope and type of services needed by the consumer?

Steve Spentzakis:
It has not designated any tier system yet. We are hoping that maybe at some point in the near future they can adopt that same system.

Ronald Sumbang:
Right now they have social workers and caseworkers who do the evaluation. Those are the people who make the decisions about how many hours and what services need to be provided.

Chairwoman Cohen:
How is the consumer, the patient, reevaluated down?

Steve Spentzakis:
At the moment, it is whenever the consumers go to their doctors' appointments, which are monthly. They see what the assessment of the doctor says and of the whole treatment team. We as providers are, however, not included in that decision. We would like to have that type of appeal process or an inclusion in that process.

Assemblywoman Titus
Senator, do you know if solutions to other medical problems than mental health problems have an appeal process if the agency lowers its services?

Senator Ohrenschall:
We based this on the Medicaid Chapter 400 that Mr. Spentzakis referred to. I am not sure about any others.

Ronald Sumbang:
As far as we know, we do not have a specific appeals process in other industries for providers. We have had some dispute resolution, but there is really nothing in place as far as care homes are concerned, as far as mental illness is concerned, as far as community-based living arrangements are concerned. It is only through this bill that this deficit is being addressed. We are hoping that with this bill other providers will also be able to have an appeal process so that, at the end of the day, we could really provide the necessary care for the most vulnerable citizens of our state.

Assemblywoman Titus:
As opposed to carving out an appeal process just for mental health service changes or denials, why not make sure that there is an appeal process for all persons receiving assistance? I have numerous patients who all of a sudden are being told by the state, "No, we are not going to allow you a caregiver five days per week, you are doing better, so you will only get it three days a week and your husband has to do the rest." I am concerned that this will just be an appeal process for mental health issues.

Senator Ohrenschall:
The bill came out of a conversation I had with a group of constituents, and as it is written it is limited to mental health. But I am certainly open to suggestions. I met with the Division yesterday, and I am happy to work with you, Assemblywoman Titus, and the folks down in Las Vegas, to try to find common ground with everybody.

Assemblywoman Titus:
A question to our legal counsel, is this all in the same NRS chapter and would it not just be limited to the mental health services appeal?

Karly O'Krent, Committee Counsel:
I will take a look and report back to the Committee on that.

Assemblywoman Titus:
I would really appreciate it, if it is possible, that this not just be limited to mental health appeals. If there is a sudden change in the care that is being offered by our services, I do not see that there is an appeal process. I am wondering if this bill would allow that—to change it from just limited to mental health. Perhaps that is one for the next session, but I am curious.

Senator Ohrenschall:
I am certainly open to good ideas and willing to talk to everyone to try to see how we can make the bill better.

Ronald Sumbang:
Thank you, Assemblywoman Titus. Yes, we do need to have a general appeal process. The only appeal that we are going through at the moment is via Margot Chappel, the Deputy Administrator of Planning and Regulations within the Division of Public and Behavioral Health, Department of Health and Human Services. She has been doing a great job helping

us. But that is the only appeal that we have, and it is very informal. If we have that appeal process, it will really help a lot of the providers. At the moment they are very disheartened. Given the chance to appeal will revive our industry. There are a lot of facilities that are considering closing right now. I am currently helping somebody who is considering closing 30 beds of an Alzheimer's facility because of the lack of a proper appeal process.

Chairwoman Cohen:
Are there any other questions from the Committee? [There was no reply.] We will call up anyone for support in Las Vegas or Carson City.

Jennifer Jeans, representing Legal Aid Center of Southern Nevada; Washoe Legal Services; Southern Nevada Senior Law Program; and Volunteer Attorneys for Rural Nevada:
I would like to try to provide a little bit of clarification concerning the question posed by Assemblywoman Titus. Currently our laws already require an administrative appeal process for most other state benefits, including Medicaid and Medicaid personal care services. There is an appeal process for that, as well as for unemployment compensation, welfare, food stamps, and even county-provided assistance. In my opinion, this is a requirement of due process. However, in this case that process seems to be missing and unclear, at best. For those reasons, we support this bill very strongly.

Many of our clients are relying upon these mental health services provided by the Northern and Southern Nevada Adult Mental Health Services. They are a provider of last resort. These services essentially keep our clients housed, out of jail, and having their most basic needs met. Seventy years ago, The Supreme Court of the United States determined that due process must be afforded by an administrative agency to the extent that its actions may condemn an individual to suffer grievous loss. Here, I would submit that an individual who has been denied mental health services by a provider of last resort will most certainly suffer that grievous loss. I think the lack of an appeal process for these services is a deficiency in our laws. It has been overlooked for far too long. For that reason, I genuinely thank Senator Ohrenschall for addressing this oversight and urge your support.

Chairwoman Cohen:
Do you know why this is the only place where we are seeing no right to appeal?

Jennifer Jeans:
I do not know the answer to that question. I do not know why there is something missing here. We do have the Administrative Procedure Act. I think there is the possibility for an argument being made that this act could be utilized in this case. But typically, every benefit has its own chapter and its own appeal process set forth in the NRS. I am not clear why we are missing that process in this case.

Chairwoman Cohen:
We are going to Las Vegas to hear more support.

Liz Angat, representing Klas Enterprise, LLC, Las Vegas, Nevada:
I support S.B. 424.

Marieta Narciso, MIJN Corporation, Las Vegas, Nevada:
I support S.B. 424.

Chairwoman Cohen:
Is there anyone else for support in southern Nevada or in Carson City? [There was no response.] We will go to opposition. Is there anyone in opposition to S.B. 424? [There was no one.] Is there anyone in neutral who wishes to testify?

Helen Foley, representing Nevada Center for Assisted Living:
I have been able to obtain more information today. I did attend the first hearing, but I still did not really understand the need for the bill. If the providers do not have an appeal process—they certainly should. I still do not understand the categorization of a consumer by the scope of services. Some concerns that I have about the bill are related to Assembly Bill 131 and Assembly Bill 252 that came out of the legislative interim. We must maintain a patient-centered form of care. Community-based living arrangements are really transitional housing arrangements trying to maximize the independence of individuals who have mental illness. They will, hopefully, move them out and into independent living. There has to be an individualized care plan developed by a caseworker utilizing occupational therapists for that end. So when we talk about categorizing consumers by the scope of service, I am worried about how individualized those plans are.

The bill seems to be very provider-driven rather than patient-centered. However, even among people who might appear to have the same category of mental illness, medication management may be very different. Some patients may not be able to take any medication without actually having someone give it to them, while others can live much more independently. I certainly hope that the State of Nevada can work in a better fashion so that people can afford to operate these homes. It sounds like they are having difficulties doing that, especially some of the smaller group homes. But we cannot ever ignore the audits that came out, the deplorable conditions that have taken place, and the fraud that has taken place. The audit stated that in 2017 there were $1.5 million in overbillings. This is an issue. I certainly hope that the Division has learned a lot about how to work more closely with the community-based living arrangements. An excellent product of this Legislature is bringing them all into NRS Chapter 449 rather than leaving them in NRS Chapter 433. As a result, there will not only be individual providers going into the homes, such as therapists, but also the Bureau of Health Care Quality and Compliance within the Division of Public and Behavioral Health. And there is the ombudsman checking on them. I really do not fully understand the need for the bill. I hope it provides the safeguards we need so that individuals can be treated properly.

Chairwoman Cohen:
I think your statement is more in opposition than it is neutral.

Helen Foley:
If they do not have an appeal process, I really think that they should. I never realized there was that loophole. I just have a real lack of understanding about categorizing people because I do not know what that means.

Chairwoman Cohen:
Even if you like a bill but want one comma moved, that is technically opposition under our rules.

Helen Foley:
I understand that, but I adore Senator Ohrenschall and I do not want to oppose his bill.

Chairwoman Cohen:
Seeing no one else in opposition or neutral, we will invite the Senator up to make any closing statements.

Senator Ohrenschall:
The important part of S.B. 424 is that this appeal process is open to the provider because in so many cases the provider is the closest person who is seeing the patient every day. The patient in many cases may not be able to go through the appeal process to get more care. The provider is thus given the chance to advocate for the patient. I think there is a real chance of getting people the care and treatment they need. As to the classification, that is based on the model out of Medicaid. If there is a better way to do it, I am certainly open to that. I am open to talks and discussions with Assemblywoman Titus, the Division, and Ms. Foley.

Chairwoman Cohen:
I will close the hearing on S.B. 424. We are now going back into our work session and Senate Bill 387 (1st Reprint).

Senate Bill 387 (1st Reprint): Revises provisions relating to anatomical gifts. (BDR 40-882)

Marsheilah Lyons, Committee Policy Analyst:
The members of the Committee have in front of them the work session document prepared by staff, which is also available on the Nevada Electronic Legislative Information System to members of the public. [Marsheilah Lyons read a description of the bill (Exhibit M).]

Senate Bill 387 (1st Reprint) requires each nontransplant anatomical donation organization in Nevada to be certified by the Division of Public and Behavioral Health in the Department of Health and Human Services. Such organizations must follow certain standards and guidelines established by the Division and report certain information to the Division relating to the human bodies and parts they procure. In addition, the Division must:

- Establish certain standards and guidelines based on federal and state laws;
- Provide certain information regarding human bodies and parts collected by nontransplant anatomical donation organizations to the governor and Legislature upon request; and
- Monitor such organizations for compliance with federal and state laws.

There are two amendments proposed for this measure:

1. Amend section 1, subsection 2, to remove references to "the standards and guidelines of the America Association of Tissue Banks and the Eye Bank Association of America or their successor organization" and replace it by requiring the regulations to consider "best industry standards and practices."

The amendment is proposed by The Hardy Consulting Group on behalf of Life Science Anatomical.

2. Allow the State Board of Health to establish the regulations that will provide the standards and guidelines for the nontransplant anatomical donation organizations that the Department of Public and Behavioral Health will enforce.

Draft Language:

In section 1, amend Chapter 451 of *Nevada Revised Statutes* (NRS) by adding thereto a new section to read as follows:

1. Each nontransplant anatomical donation organization that procures a human body or part in this State shall:
    (a) Be certified by the Division;
    (b) Follow the standards and guidelines established by the State Board of Health pursuant to subsection 2; and
    (c) Report to the Division, in a manner and frequency prescribed by the State Board of Health, the number and disposition of parts procured by the nontransplant anatomical donation organization.

2. The State Board of Health shall, by regulation, establish standards and guidelines for nontransplant anatomical donation organizations. The standards and guidelines adopted by the State Board of Health must be substantially based upon federal laws and regulations relating to the procurement of parts, this section and NRS 451.500 to 451.598, inclusive, and to consider best industry standards and practices.

3. Before adopting or amending any regulation pursuant to subsection 2, the Division shall seek input from each procurement organization, and nontransplant anatomical donation organization in this State.

Chairwoman Cohen:
Committee, do we have any questions on this measure? [There was no reply.]

I will take a motion to amend and do pass.

> ASSEMBLYWOMAN TITUS MADE A MOTION TO AMEND AND DO PASS SENATE BILL 387 (1ST REPRINT).
>
> ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

Are there further comments? [There was no response.]

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

Assemblywoman Titus will take the floor statement.

I will close the work session and ask for any public comment. [There was no comment.] We are adjourned [at 2:43 p.m.].

RESPECTFULLY SUBMITTED:

Christian Thauer
Committee Secretary

APPROVED BY:

Assemblywoman Lesley E. Cohen, Chairwoman

DATE:

EXHIBITS

Exhibit A is the Agenda.

Exhibit B is the Attendance Roster.

Exhibit C is a compilation of written testimonies, dated May 2019, submitted by home care providers in Nevada via email to the Assembly Committee on Health and Human Services in support of Senate Bill 362 (1st Reprint).

Exhibit D is a compilation of written testimonies, dated May 2019, submitted by residents of home care facilities in Nevada via email to the Assembly Committee on Health and Human Services in support of Senate Bill 362 (1st Reprint).

Exhibit E is a compilation of written testimonies, dated May 2019, submitted by private citizens via email to the Assembly Committee on Health and Human Services in support of Senate Bill 362 (1st Reprint).

Exhibit F is the Work Session Document for Assembly Bill 498, dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit G is the Work Session Document for Senate Bill 178 (1st Reprint), dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit H is the Work Session Document for Senate Bill 234 (1st Reprint), dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit I is the Work Session Document for Senate Bill 291, dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit J is the Work Session Document for Senate Bill 457 (1st Reprint), dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit K is the Work Session Document for Senate Bill 370 (2nd Reprint), dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.

Exhibit L is a proposed amendment to Senate Bill 33 (1st Reprint), presented by Nova Murray, Deputy Administrator, Division of Welfare and Supportive Services, Department of Health and Human Services.

Exhibit M is the Work Session Document for Senate Bill 387 (1st Reprint), dated May 10, 2019, presented by Marsheilah Lyons, Committee Policy Analyst, Research Division, Legislative Counsel Bureau.