

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

**Eightieth Session  
March 1, 2019**

The Committee on Health and Human Services was called to order by Chair Michael C. Sprinkle at 1:36 p.m. on Friday, March 1, 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](http://www.leg.state.nv.us/App/NELIS/REL/80th2019).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Michael C. Sprinkle, Chair  
Assemblyman Richard Carrillo, Vice Chair  
Assemblyman Alex Assefa  
Assemblywoman Bea Duran  
Assemblywoman Michelle Gorelow  
Assemblyman Gregory T. Hafen II  
Assemblywoman Lisa Krasner  
Assemblywoman Connie Munk  
Assemblywoman Rochelle T. Nguyen  
Assemblyman Tyrone Thompson  
Assemblywoman Robin L. Titus

**COMMITTEE MEMBERS ABSENT:**

Assemblyman John Hambrick (excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Leslie E. Cohen, Assembly District No. 29

**STAFF MEMBERS PRESENT:**

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

Minutes ID: 440



**OTHERS PRESENT:**

Zach Conine, State Treasurer  
Jack Rovetti, Private Citizen, Reno, Nevada  
Erik Jimenez, Senior Policy Director, Office of the State Treasurer  
Tracy Brown-May, Director of Advocacy, Board, and Government Relations,  
Opportunity Village, Las Vegas, Nevada  
Julie Kotchevar, Administrator, Division of Public and Behavioral Health,  
Department of Health and Human Services  
Helen Foley, representing the Center for Assisted Living in Nevada  
Jeanne Bishop-Parise, Executive Director, Park Place Assisted Living, Reno, Nevada  
Connie McMullen, representing the Personal Care Association of Nevada  
Kathy Bakst, Private Citizen, Carson City, Nevada  
Sarah Adler, President, National Alliance on Mental Illness, Western Nevada  
Affiliate; and representing the National Alliance on Mental Illness

**Chair Sprinkle:**

[Roll was taken. Committee rules and protocol were explained.] I will open up the hearing on Assembly Bill 130.

**Assembly Bill 130: Places the Nevada ABLE Savings Program entirely under the authority of the State Treasurer. (BDR 38-177)**

**Assemblywoman Leslie E. Cohen, Assembly District No. 29:**

During the 2017-2018 Interim, I was honored to be the Chair of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. I am here to present Assembly Bill 130 which would move the Nevada ABLE Savings Program entirely under the authority of the State Treasurer. The Nevada ABLE Savings Program is based upon the federal Achieving a Better Life Experience (ABLE) Act of 2014. This program provides for a better tax-advantaged savings account for persons with disabilities and their family members. The first \$100,000 in the ABLE account does not count against Medicaid or Supplemental Security Income (SSI) resource limits. The ABLE account allows eligible Nevadans with disabilities to create a special savings account for personal expenses aimed at making their lives easier. Family members and friends may contribute to the account.

During the interim, Committee members received testimony on the need to create a more streamlined administrative process for the ABLE program. The revisions would provide for one entity to represent the state and all decisions regarding the National ABLE Alliance, and ensure there is ultimate accountability for the growth and health of the program. Current *Nevada Revised Statutes* 427A.896 requires the Office of the State Treasurer to establish the program, and the Division of Aging and Disability Services within the Department of Health and Human Services (DHHS) to implement an outreach and education program designed to create awareness and increase participation in the ABLE program.

The Division of Aging and Disability Services is authorized to employ personnel and enter into contracts to carry out the provisions of the ABLE program. However, it was the understanding of the interim committee that no money has been included in the Division of Aging and Disability Services' budget to support these efforts, so the bill would transfer all duties and authority of the Division of Aging and Disability Services to the State Treasurer, including the duty to implement an outreach and educational program.

Just this week I had a meeting that demonstrated to me why the move to the Treasurer's Office is so important. I was meeting with Amy Garland, Administrative Services Officer, Department of Veterans Services. Ms. Garland is also the mother of a young woman with disabilities and special needs. Ms. Garland's day job is to advocate for Nevada veterans, but she also spends a great deal of her nonwork hours advocating for her daughter and others with special needs. Ms. Garland even sits on the board of Amplify Life, a nonprofit for children and adults with special needs. I asked Ms. Garland if she knew about ABLE accounts and she did not, so I told her about the accounts and she was very excited to learn about them. The next day she told me that she had spoken with someone else who is active in the special needs community and that woman told her that she had just learned about the ABLE accounts by word of mouth. With those women's levels of involvement, if they did not know about the ABLE accounts, it is apparent that the state of Nevada is not getting the word out to our citizens.

**Zach Conine, State Treasurer:**

The Nevada ABLE Savings Program is an exceptional option for people with disabilities. It allows them to earn higher wages and, hopefully, find competitive employment within the community. Since the funds deposited into an ABLE account do not count against the income thresholds for Medicaid and social security, people with disabilities and their families are able to work hard and start saving without being afraid of losing access to essential benefit programs. Currently, the Nevada ABLE account has 448 accounts with \$2.18 million in assets under management. The average account balance in the state's plan is \$4,875. The Treasurer's Office is committed to finding innovative solutions to increase the utilization of these accounts among Nevadans, which is why we are here presenting A.B. 130 to you today.

Under current law, administration of the program is housed within the Treasurer's Office while the marketing and outreach components lie with the Division of Aging and Disability Services within DHHS. During the interim, our office worked with the Division of Aging and Disability Services to figure out how the program could be run and be marketed in the best way possible. Assembly Bill 130 is seeking to place marketing of the ABLE program within the Treasurer's Office. We believe the provisions contained within this bill will allow us to come closer in line with states like Ohio or Illinois which have seen tremendous success in marketing and administering their ABLE programs. Additionally, this bill will further allow marketing efforts as part of a national ABLE consortium so we can find new ways to talk to families about the benefits of opening ABLE accounts.

With me is Jack Rovetti, one of our most valued team members at the Treasurer's Office. Jack started as an intern a few weeks ago. He is currently a student at the University of Nevada, Reno, who owns a business in northern Nevada. Jack was a huge proponent for passage of the ABLE Act in 2014, and it is an honor to present this bill with him today.

**Jack Rovetti, Private Citizen, Reno, Nevada:**

I am a student at the University of Nevada, Reno, and I work at MOD Pizza. I like the ABLE Act because I own my own business, Jack's Popcorn Company. I like making money and I like saving money to travel. I really love travel because I love walking a lot. I would like to walk all around the country. I have another business, let us see, I have my popcorn and I work at MOD Pizza. You can stop by and say hi, if you want to. I think that is too much, but it sounds pretty good. I am so happy about coming here and I like to be on the TV a lot; it is making me so happy, and that is it.

**Erik Jimenez, Senior Policy Director, Office of the State Treasurer:**

I am here to answer questions. Our office believes that the ABLE Act is probably one of the biggest landmark pieces of legislation since the Americans With Disabilities Act, and we are enthusiastic to have this program in our office.

**Chair Sprinkle:**

Are there any questions from the Committee?

**Assemblyman Carrillo:**

Can you tell the Committee how many individuals in Nevada would qualify for ABLE accounts?

**Erik Jimenez:**

In order to be eligible to open an ABLE account, individuals must be entitled to Social Security Disability Insurance due to their disability, and that disability must have been present before age 26. Using the most recent data we have from the Social Security Administration, 42,098 Nevadans would be eligible to open ABLE accounts.

**Assemblyman Assefa:**

This is an awesome idea. In section 1, subsection 8 the language reads that the State Treasurer may enter into a contract with possible administrators of the ABLE program. The bill does not outline it, and I am sure you probably have not developed internal parameters. Do you have a way of qualifying administrators when you enter into contracts with them, or how do you compare one administrator to another?

**Erik Jimenez:**

For the purposes of this bill, our office is focused on meeting people where they are. This gives us the authority to contract, but we would likely handle the marketing of this program in-house. In talking with members of the community and with those who have disabilities, they are a lot more receptive talking about the need for this account. They are so scared about losing their benefits that it is helpful to have a friendly face that knows about the

program and can guide them through the process. Our office is trying to implement a navigator model in all our programs—meeting communities where they are and helping them navigate through these programs. That is what we are envisioning our efforts will look like.

**Assemblywoman Munk:**

You said you had \$2.1 million in assets in the ABLE account. Are there going to be any investments by you in that program?

**Erik Jimenez:**

Those are the assets we have for all accounts. It is important to mention that we participate in the National ABLE Alliance which is a consortium of 16 states. There are 95 accounts in Nevada, and we think we could be doing better. In terms of the investment options people have, there are six different investment options that vary from aggressive to conservative, and they are pretty standard, as with any investment. The majority of participants in the ABLE program choose the conservative investment option which also gives them an option for a debit card. It is important to mention that this is all about the consumer's choice. If the consumer wants to get to a different place financially or save more money, he or she has the ability to invest in a more aggressive option.

**Assemblywoman Duran:**

Earlier this week, Reno passed a resolution banning city contracts that pay subminimum wage. How does the ABLE Act benefit individuals with disabilities who are making minimum wage or above?

**Erik Jimenez:**

Yes, the City of Reno did pass a resolution that prohibits payment of subminimum wages for people with disabilities in all city contracts. Right now, there is an exemption under *Nevada Revised Statutes* 608.250 and 608.255 that does not require that people with disabilities make the minimum wage. What ABLE accounts do is allow people to earn above the higher income threshold where they would have lost their Medicaid or social security benefits. It allows them to put their money in an ABLE account and not lose those benefits. If Jack [Rovetti] was in an environment where he was being paid below the minimum wage, he could transition out into community employment and invest up to \$27,060 a year without losing his benefits. So this is an important component as we talk about wages.

**Chair Sprinkle:**

Are there any other questions from the Committee? [There was no reply.] All right, I will call forward anyone wishing to speak in support of A.B. 130 either here or in southern Nevada.

**Tracy Brown-May, Director of Advocacy, Board, and Government Relations, Opportunity Village, Las Vegas, Nevada:**

I am the lead organizer with the A Team NV. The A Team NV currently has 600 members who are people who have significant and profound disabilities. We are here to offer support for this bill. We believe that any vehicle that allows people who have disabilities the

opportunity to put away money to support themselves as individuals is a great vehicle. The previous administration in the State Treasurer's Office did a great amount of work to bring this marketing in line with the oversight of the ABLE Act. We believe this is an important step—that we marry both provisions so we can really begin to inform people that ABLE accounts exist and could be a great benefit.

**Chair Sprinkle:**

Is there anyone else either in southern Nevada or here in the north who is in support of this bill? [There was no reply.] Is there anyone wishing to come forward in opposition to the bill? [There was no reply.] Is there anyone neutral on this bill who wishes to come forward? [There was no reply.] Do you have any closing comments, Assemblywoman Cohen?

**Assemblywoman Cohen:**

Thank you for the hearing and the good questions. I urge your support for this legislation which would provide for the State Treasurer to represent the state in all decisions regarding the Nevada ABLE Savings Program and ensure there is ultimate accountability for the growth and health of the ABLE program.

**Chair Sprinkle:**

We will close the hearing on A.B. 130 and open up the hearing on Assembly Bill 131.

**Assembly Bill 131: Revises provisions governing facilities and services for adults with special needs. (BDR 40-170)**

**Assemblywoman Leslie E. Cohen, Assembly District No. 29:**

During the 2017-2018 Interim, I was Chair of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. Assembly Bill 131 would improve the quality of services provided to adults with special needs.

During the 2017-2018 Interim, the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs received testimony concerning services for adults with special needs. In many cases the testimony was alarming. For example, we received a presentation from the staff of the Audit Division of the Legislative Counsel Bureau about the findings of an audit of community-based living arrangements, often known as CBLA homes. You may remember seeing pictures in the newspapers. The purpose of the audit was to determine whether controls for monitoring such living arrangements are adequate to ensure the safety and welfare of adult mental health clients. The findings and recommendations of the audit were issued in January 2018 and were troubling, to say the least.

In addition to its general duties, the interim committee carried out a study of the standards of training for persons who are not providers of health care but who provide care to clients. This study was required by the passage of Assembly Bill 299 of the 79th Session. The study was composed of two components. The first was to determine the standards of training for persons who are not providers of health care but who provide care to clients—essentially looking at training for unlicensed workers. I want to be clear that we are not talking about

certified nursing assistants. They have training and are licensed. However, there may be other people working in these facilities who will lift clients into a bathtub or off a bus or who help clients get dressed. These people are not licensed, but they are not necessarily getting any training on how to do those tasks. The second component was to consider the creation of a competency evaluation that each person must take and successfully complete following training. Based upon the findings of the A.B. 299 of the 79th Session study and the testimony received regarding the CBLAs, the interim committee agreed to sponsor A.B. 131 to improve services for adults with special needs.

Assembly Bill 131 addresses four major issues relating to services for adults with special needs. Concerning the CBLAs, A.B. 131, in sections 3 and 16, would relocate the provisions from *Nevada Revised Statutes* (NRS) 433.605 regarding CBLA services under NRS Chapter 449 which applies to medical facilities and other related entities. This move would provide more accountability for CBLA services to consumers. For example, sections 7 and 8 would provide that the CBLAs would be licensed, regulated, and monitored by the Bureau of Health Care Quality and Compliance in the Division of Public and Behavioral Health.

Section 10 provides a recipient of CBLA services with the same rights as recipients of services from a "facility for the dependent." Moving the CBLAs to NRS Chapter 449 would also provide that the entities must meet all the requirements that other facilities such as hospitals, agencies, programs, and homes must meet under Chapter 449.0045 such as background checks. For example in sections 5 and 6, we prohibit a person from operating and serving as an employee or contractor for such entities if the person has been convicted of a crime. In addition, the measure includes that providing false information in connection with the required background check is a misdemeanor. These are the sections that require a two-thirds majority vote for the measure to pass. Finally, sections 1, 2, 9, 12, 13, and 15 make conforming changes relating to moving the CBLAs under NRS Chapter 449.

Regarding the provision of nonmedical personal care service by contracted persons when the employer resides outside the state, during the interim we were concerned because we learned that certain nonlicensed out-of-state Internet employment agencies are actively placing personal care aides in residential homes in Nevada and not complying with all our state requirements. Section 4 of the bill clarifies the provisions of NRS 449.03005 and states that "a person must obtain a license from the Board to operate an employment agency that contracts with persons in this State to provide nonmedical services . . . ." That applies any time contract services are provided in the state regardless of where the employer resides.

Concerning information available on the Nevada 2-1-1 program, pursuant to NRS 232.359, the Department of Health and Human Services (DHHS) is required to establish and maintain the Nevada 2-1-1 program. This program is a statewide information and referral system that provides nonemergency information and referrals to the public concerning health, welfare, and human and social services available in the state. During the interim, the Committee heard that it was difficult for the public to find licensing information about the facilities. Also there was a concern that, for instance, if you were touring a facility to see if it would be a good fit for a family member, you might see something like a city business license.

You might think that the facility was licensed and was being checked and inspected, but that is not necessarily the case. So section 11 of A.B. 131 requires the Nevada 2-1-1 program to specify the licensing status for all entities licensed under Chapter 449 of the NRS. This section also requires the Department of Health and Human Services (DHHS) to review and update the information at least quarterly.

Concerning the minimum competencies for nonlicensed persons who are not providers of health care but who provide care to clients, section 14 of the bill requires the 2019-2020 Interim Committee to continue the study that was started under A.B. 299 of the 79th Session. This would continue the study of standard training for persons who are not providers of health care but who provide care to clients. The 2017-2018 Interim Committee made substantial progress. The Committee received testimony from multiple sources to better understand who receives training in different settings and what type of training is received. A training model is available at Nevada accountability models to monitor the implementation of standards of training and effective training models in the provision of training standards.

For the upcoming 2019-2020 Interim, if the study is approved to continue, the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs would complete the study by meeting three goals. The first would determine whether a minimum set of competencies should be mandated in Nevada to be taught, measured, and monitored across all programs. The programs would include facilities for intermediate care, skilled nursing, and care of adults during the day; residential facilities for group homes for individual residential care; agencies that provide nursing and/or personal care in the home; and providers of CBLA and supportive living arrangement services. Second, the study would determine what the minimum set of competencies should include; and third, it would determine which employees, if any, should be exempt from training.

**Julie Kotchevar, Administrator, Division of Public and Behavioral Health, Department of Health and Human Services:**

This bill is another piece of our reform efforts for the community-based living arrangements. We have been working very hard during the last year to improve conditions but also to improve the services and the way the homes are operated. Functionally, within the Division of Public and Behavioral Health (DPBH), one of the first things I did when I took the Division over was to move the certification process into the Bureau of Health Care Quality and Compliance (HCQC). They are operating under NRS Chapter 433 now to certify the homes, so they are already performing these functions, but what A.B. 131 does is move all the authority into NRS Chapter 449, which is where Health Care Quality and Compliance has its core set of authority and responsibility.

In NRS Chapter 449, HCQC can run background checks and assess fines. There is a lot of authority baked into that chapter that applies to all facilities in areas that they regulate and license. In NRS Chapter 433, not all of that authority exists, so, for example, to do background checks, the provider has to obtain the background check and provide it to us. It is a lot more cumbersome and does not allow for us to have the same type of regulatory authority over CBLAs. This helps us clean that up and group those homes within all other



things HCQC regulates. This is very important for us to be able to continue to regulate those homes properly and make sure that what happened in the past never happens again.

We have also been working on transparency of licensing information. The HCQC website is not fabulous, to say the least, and we are working on it. But it is also not a natural place where consumers would go to look unless you operate a facility and want to check your own licensing status or check a competitor's licensing status. Most consumers do not naturally seek it out through that website, so this collaboration with Nevada 2-1-1 is to help people make good choices and keep them from accidentally using an unlicensed home. As Assemblywoman Cohen said, we discovered that people were getting a business license, calling the facility an independent living home and putting that license on their wall. People would think that they were licensed, but that was not actually a facility license.

**Chair Sprinkle:**

Thank you for bringing this bill forward. We have heard a lot about this over the last year since that audit. Are there any questions?

**Assemblywoman Titus:**

We also discussed this issue during the 2015-2016 Interim when it first became evident that folks were less than supervised in some of these community-based living arrangements, so thank you for pushing forward and maybe bringing some good, constructive changes. My question revolves around a need for clarification. You are going to do a study on what would perhaps be the minimal training required. Who would have to be trained? The janitor, the gardener? Who actually will be required to get this training and what training will that be? That may be a difficult task. Should everyone know cardiopulmonary resuscitation? Should everyone know how to transfer a client from a wheelchair? There are a whole litany of questions you must delve into. Will this in any way affect someone who might have a home for a relative or a family member and be a private caregiver? Will that person then be subject to minimal skills training? I want to make sure we tease that out. Who are you really looking at? Are they strictly these groups?

**Julie Kotchevar:**

Are you talking about unpaid caregiving? People who are caring for a family member?

**Assemblywoman Titus:**

But they can be reimbursed now to care for a family member, so would they be included in this?

**Julie Kotchevar:**

It would come down to whether personal care attendants were included as one category in that study, subject to minimum number of competencies. Then, yes, they probably would be. One of the best portions of the bill is that it is looking at establishing a minimum set of competencies instead of focusing on topical training. In the past when something bubbled up we added training on that topic, but we never went back and took away the topics that might not be relevant anymore. Focusing on competencies is being able to manage behavior; you

need to be able to help someone make a transition. Those are competencies. As health care evolves and our methods evolve, you are not going back and doing a topical training, you are still changing the training offered under the same competency. The goal would be that the training would be more meaningful and less onerous.

**Assemblywoman Titus:**

Will you look at the cost of the potential training and how it will be accessed? Will it be online? Are you going to make it available once you mandate that they have it? I am concerned about that next step.

**Assemblywoman Cohen:**

As we looked into this, we started off really broadly—does everyone need to be trained? Does the cook need to be trained? No, probably the cook does not need to be trained, but the bus driver who is helping people in and out of the bus might need to be trained. We also heard testimony about online programs and concerns about cost. As we continue, that is something we will consider. We understand profit margins and expenses. We are not looking to make it onerous for any of the CBLAs, but to make sure people are getting that modicum of training to keep the residents safe.

**Assemblywoman Titus:**

I want to clarify, because we do not want to throw the baby out with the bath water, right? We cannot make the training too expensive or hard to come by for these folks who are probably not getting paid that much to begin with. We heard testimony in another committee today that they cannot get folks to help with problems in people's homes because there is no reimbursement for it. We want to be very careful not to mandate certain things so that, in the end, no one wants to do that job.

**Julie Kotchevar:**

In the past we put together different types of personal care and caregiver trainings that were offered online at no cost. Those do exist. What the study is looking at is what competencies need to be developed and what the training standards should look at. The second part of that would be, what is an accessible way for people to use it? If you are just a single caregiver, you may not have the resources. Caregivers are certainly not overpaid, at least not in this state. That would be the second piece we study after we establish competencies.

**Assemblywoman Munk:**

I have heard from a lot of mental health care providers that some psychosocial rehabilitators (PSRs) are 18 or 19 years old and they are not trained. Does this bill include some of those PSRs?

**Julie Kotchevar:**

This bill is focused specifically on people who provide residential care. Psychosocial rehabilitation is a service and they are not regulated under this chapter, so no, they would not be included. I do not think they are listed in the training the study will look into, either. It is broad, so possibly they could, but that is more about a reimbursable health care service and what the provider standards would be for a person who could qualify to do that.

**Assemblyman Carrillo:**

How is this bill going to prevent the deplorable conditions documented in the 2017 audit from happening in the future?

**Julie Kotchevar:**

We had authority to regulate the homes, so at one level, it was a personal failure—people did not implement the authority they had to regulate the homes. That was one issue we immediately corrected and we did not need this bill to bring those homes into compliance and improve the conditions. The homes that could not meet that standard were closed and homes that could meet that standard were opened so people were in safe conditions.

Part of what we found was that there was a conflict: The people who were placing people were the people who were also certifying the homes. That is why we separated those two functions and moved that authority into the Division of Health Care Quality and Compliance (HCQC). The Division of Health Care Quality and Compliance certifies the homes but it does not place the people in them. If HCQC closes a home, they notify the placement agency so the agency can find an appropriate discharge. Having that separation is really important and is one of the first steps we took. This bill will formalize that by moving that authority into NRS Chapter 449.

**Assemblyman Carrillo:**

Is there a way to regulate nonlicensed facilities that are not contracting with state agencies?

**Julie Kotchevar:**

If they are performing duties that fall within a regulated facility, and it is discovered that they do not have a license, HCQC can tell them that they are operating without a license and we can close them down. Another bill in the session addresses referral agencies and also gives DPBH the authority to go and look at other ways to identify unlicensed homes so we can proactively close them down. For example, we can scan business licenses to see what descriptions people are putting on their businesses if it says "independent living home" or something like that. So we are looking at ways to ferret out unlicensed homes we may be unaware of, but if you are providing a service that requires a license and you are doing it without one, we can shut you down whether you contract with the state or not.

**Assemblyman Carrillo:**

Do most individuals have case managers? How did those homes get into the conditions they were in when multiple case managers must have been in them?

**Julie Kotchevar:**

That was a difficult analysis—trying to find a root cause. A lot of what I heard was, Well there was no other place for them to go. That was not an acceptable response; it is not "this or the street." That is not what we are choosing; this is not acceptable—only a clean and safe home is acceptable, and there really is no other option. Part of it was a culture change, an expectation change. A lot of what I heard was, it is either "this or the street," but that is not an option.

**Chair Sprinkle:**

I have a question about section 4 where it mentions out-of-state businesses. What was the issue there? Was there a loophole? What is the need for that language?

**Assemblywoman Cohen:**

Yes, exactly. The concern was that out-of-state employers could do online hiring and have people working in facilities that are not observed by state agencies or licensed properly.

**Julie Kotchevar:**

Out-of-state agencies were taking advantage of the fact that they were out of state, so they were not abiding by our state rules because our rules were limited to agencies operated within the state. If the agency was located across the line in Arizona and you were hiring people here, you were not following Nevada's laws because you were saying, Well, I am an Arizona company, not a Nevada company. Section 4 fixes that problem.

**Chair Sprinkle:**

Your Division was still responsible for checking these places. If the investigations or the site visits showed discrepancies or problems, when you went back to the parent company, would they tell you they did not care because they were out of state? Is that what was happening?

**Julie Kotchevar:**

I do not know that they would say they did not care, but what they would say is that they did not necessarily have to abide by those rules because our NRS applies to companies operating within the state. It is not that we could not take other action, but it can become a point to be argued over. Now the language in NRS will say that it does not matter whether you are operating here or there, if you have people employed working on-site in the state, you have to abide by this.

**Chair Sprinkle:**

Language in section 11, subsection 1, paragraph (e), would require at least quarterly reviews, but other language in paragraph (d) reads, "periodically." Why not just go with the language that already exists? Why are you very specific about this being done quarterly?

**Julie Kotchevar:**

Mostly because we do quarterly inspections of the homes and so their licensing status can change more frequently. They can lose their license, surrender their license, and you may not know that. This is focused on increasing transparency. Because this is really about a licensed facility and whether their license is current, we wanted to make sure that it was updated more frequently.

**Chair Sprinkle:**

That makes sense. You already answered my question as far as the continuation of the study, but when you were talking about the new parameters you are hoping to develop during this next interim, did the state requirements you are going to be looking at come from your interim committee after you looked at the research you had done during the previous study? Are these new requirements that you feel you need more time to dig into?

**Assemblywoman Cohen:**

It is a continuation of the study because we heard so much testimony. But we did not want to bring forth anything that was not ready, and we felt we needed more time to continue the work and the study. Now we have narrowed it down a bit because we have taken in so much information. Considering where we started during the last session, we have greatly reduced where we are going with it.

**Chair Sprinkle:**

Committee, are there any other questions on this bill? [There was no reply.] We will bring up anyone who is in support of A.B. 131.

**Helen Foley, representing the Center for Assisted Living in Nevada:**

We strongly support this legislation. We applaud the interim study committee, specifically their chair, as well as Julie Kotchevar. Once these audits started coming out, they were deplorable. Everyone who saw them, including the audit subcommittee, was in shock. We had been talking about this and certainly Assemblywoman Titus knew about this from the interim study the session before. That audit study looked at deficiencies in 37 different homes; 70 percent of them represented the total number of providers in the state, and every one of them had deficiencies. There were unsanitary conditions in 36 of them; personal health and safety standard issues in 34 of them; fire safety standard issues in 33 of them; inadequate medication management in 28 facilities; and bleak living conditions in all of them. It was a really bad situation. In fact, there was a child living in one of the homes, and the child's parent, who was supposed to be the guardian in residence at the home, was not even present. The mentally ill clients were the babysitters. Another study was performed a few months ago by the Legislative Auditor of the Legislative Counsel Bureau's Audit Division that looked at residential service payments and discovered that in fiscal year 2017, the state was overbilled \$1.5 million by these CBLAs.

I would like to mention one issue with the bill, however, on page 6, section 7, where the language mentions the State Fire Marshal and applies to all entities licensed under NRS Chapter 449. Nevada has the strictest regulations and requirements in the United States and it costs us quite a bit of money to comply.

**Chair Sprinkle:**

You are speaking in support, is that correct?

**Helen Foley:**

You bet I am. We are proud of the regulations we have to comply with and we want everyone who is vulnerable in Nevada, whether aged, mentally ill, or intellectually challenged, to be able to have the ombudsman take care of them. There should be good inspections done by the state. We 100 percent support this bill, but I just found one thing in section 7 that should be included. On line 29 the language reads, "Enter and inspect a residential facility for groups" and I think this might have been an oversight. We believe that language should also include "and community-based living arrangements." In other sections the language adds the CBLAs but not in the section 7 language referring to the State Fire Marshal. Several fire hazards were determined by the legislative audit. There were many smokers in those facilities but not adequate fire safety, so we want the State Fire Marshal to have greater authority in that area. Other than that, we support the bill exactly as it is.

**Chair Sprinkle:**

In the future if you have questions about the bill, I would certainly recommend that you go to the sponsor first and get those worked out, but I appreciate your coming up here.

**Helen Foley:**

I noticed the issue as I was sitting in the audience, and I do apologize.

**Jeanne Bishop-Parise, Executive Director, Park Place Assisted Living, Reno, Nevada:**

I am totally in support of this bill and bringing the standards for care to a license level within NRS Chapter 449 to the community-based living arrangements. Within residential facilities for groups, we are required to have a mental illness endorsement on our license to take care of people with mental health issues. The CBLAs do not have a licensed administrator nor do they have site inspections at the level we do. They do not have sprinklers in their facilities, so I believe the licensure requirements will involve improvements in these areas.

As Julie Kotchevar stated, there is really not transparency in the ability of the consumer to look at the report on a facility and its licensure. Ombudsman visits are not allowed in CBLAs, unlicensed facilities, or independent operations. There was a poll of the workforce within the licensed residential facilities for groups taken in August. A lot of the licensed residential facilities for groups would go with the CBLAs because they were not licensed or held to the same standard and they were paid more. I am really in support of this bill and seeing it play out with full licensure and the other safeguards that are in place.

**Connie McMullen, representing the Personal Care Association of Nevada:**

There is one section I support; however, there is one section I have concerns about.

**Chair Sprinkle:**

Then I am going to ask you to step away from the table, because this is just testimony in support of the bill. I would ask you to go to the sponsor of the bill and talk with her.

**Connie McMullen:**

So you do not want me to talk about the section of the bill I support?

**Chair Sprinkle:**

If you just want to talk about that section; that would be fine.

**Connie McMullen:**

I support section 4 regarding employment agencies. I also support the work that went into this bill, and especially by the Bureau of Health Care Quality and Compliance in the Division of Public and Behavioral Health to make sure that the regulations were passed exactly how we intended. There are out-of-state agencies such as Care.com that, while they do put people in assisted living homes, they also put people into individuals' private homes without thorough background checks or follow-up regarding how the care was delivered, et cetera. So, thank you. We think this will go a long way toward helping people in the state.

**Tracy Brown-May, Director of Advocacy, Board, and Government Relations, Opportunity Village, Las Vegas, Nevada:**

We are here to offer our support for A.B. 131 as it addresses the need to ensure that quality services are provided to vulnerable populations across our great state. A great deal of work was done with this committee throughout the interim to identify the differences between a supportive living arrangement and a community-based living arrangement and being licensed under different entities and having different expectations. We are thrilled to see that there are training options being considered in this bill, and we look forward to including the concept of a direct-care service provider as well as personal care attendants and potentially marrying that alongside reimbursement rates to support those populations. Thank you for your efforts to address this issue and to ensure quality services are available for all Nevadans.

**Chair Sprinkle:**

Is there anyone else in southern Nevada wishing to come up in support? [There was no reply.] In northern Nevada, is there anyone else who wishes to speak in support of A.B. 131?

**Kathy Bakst, Private Citizen, Carson City, Nevada:**

I am the mother and guardian of a 36-year-old son who suffers from serious mental illness, schizoaffective disorder, and co-occurring addictions. My son lived in seven of those group homes in Reno between about 2013 and 2016. I was there five to seven days a week; I saw everything. Things were horrific in those homes. Five thousand dollars a month was spent to keep my son in this home—Northern Nevada Adult Mental Health Services supported it. They gave him a case manager, but they did not see what was going on. They did not see

that sometimes meals were not prepared. In one of the homes he lived in, meals were never prepared; the clients had to fix sandwiches for themselves. Some people had epileptic fits, but there were no caregivers in the house so my son had to deal with his roommate having an epileptic fit. The caregivers would be gone somewhere, taking someone to an appointment or shopping, and the clients would take care of themselves. The clients took care of themselves much of the time—for at least six hours a day. Having the kind of licensure you will be creating seems very good, but following the laws or finding someone to go in and see what is happening is really important.

I believe there were laws before about how things should be going, but it did not happen. Whoever was watching was not really paying attention—even the case managers who were there should have known what was happening in those homes. I support A.B. 131 and believe that it is a very good first step, but much more needs to be done. We do not have any group homes in Carson City, and as far as I know during the last ten years we never have had any. We need more homes in Reno, and we need caregivers who are well-trained to work with people with mental illness. I was a preschool teacher for ten years before I became an elementary school teacher, and we trained our preschool teachers better than any of the caregivers taking care of my son are trained. Most of the caregivers I saw in the homes taking care of my son did not have high school diplomas, were working for minimum wage, and did not understand what my son was doing, his behavior, or how to reinforce better behavior.

Thank you for your work, and I appreciate that you are looking at this. The most important thing here is that whatever laws are developed need to be looked at and followed. The people will be checking every three months, but that does not seem to be enough to me. People need to be going in once a week and seeing what is happening. You would not want your enemy to live in one of these homes, much less someone with severe mental illness.

**Sarah Adler, President, National Alliance on Mental Illness, Western Nevada Affiliate;  
and representing the National Alliance on Mental Illness:**

[Sarah Adler spoke from prepared text ([Exhibit C](#)).] On behalf of the National Alliance on Mental Illness (NAMI) Nevada and NAMI Western Nevada, we thank this Committee for bringing forward A.B. 131. We also thank the interim committee for all their work, as well as the Division of Public and Behavioral Health for the activist role they are taking. We are in firm support of A.B. 131. You have already referred to the miserable conditions revealed by the audit and by journalists, and you have already asked great questions about why those were in place. The licensing, background checks, and health and safety measures proposed in this bill are essential. As Kathy Bakst indicated, they are an important treatment of a deep wound. Housing for the mentally ill is not a problem—it is a crisis.

Most individuals with mental illness and their families feel caught in a Catch-22 related to housing. A key piece of this is that homes are going to close because they will not meet the standard, but the people living in them are then destabilized. We go through an unfortunate system of instability, substance abuse, victimization, law enforcement being called, jail, hospitalization, and more. Part of what we encourage is the active role of the state in



developing our capacity in the area of community-based living homes, and they are working hard to not have this destabilization occur. As an aside, a member of our board's daughter is in this situation. Our board member's daughter had just been stabilized after several moves over a four-month period, and then they moved her again. She was moved on Monday of this week; she walked away on Tuesday and has not yet been located. We do not know if she is okay.

We appreciate A.B. 131 and the multiple bills related to CBLAs this session. We are thankful for the regional behavioral health boards and their comprehensive look at multiple mental health issues, and we encourage you to keep up this work.

**Chair Sprinkle:**

Is there anyone else in support of A.B. 131? [There was no reply.] Is there anyone wishing to speak in opposition to A.B. 131?

**Connie McMullen:**

I am representing the Personal Care Association of Nevada.

**Chair Sprinkle:**

Ms. McMullen, I am going to give you some leeway this one time, but it is incredibly inappropriate to speak in support and in opposition to the same bill. I will let you say what you want to say, and then I recommend that you go to the bill's sponsor with your concerns. Please, do not do this again in my Committee.

**Connie McMullen:**

I heard you. I cannot say that I am opposed to this bill; I just have concerns. The bill's sponsor did call me; I had the flu and did not return the call. I should have done that, and I apologize.

My concern involves section 14. For the personal care industry there are plenty of training requirements and financial and legal requirements and criteria. Of the 24 companies I represent, only 3 take Medicaid and that is because of the requirements and the level of reimbursement by our state. I want you to take that into consideration. One of the three has almost 600 caregivers. If you balance that financially by reimbursement, it is quite difficult in today's financial climate. I do plan to work with the sponsor of the bill.

**Chair Sprinkle:**

Does anyone else wish to come up in opposition to A.B. 131? [There was no reply.] Is there anyone in southern Nevada in opposition? [There was no reply.] Is there anyone who wants to speak as neutral on A.B. 131 in either the north or the south? [There was no reply.] Assemblywoman Cohen, do you have any closing remarks?

**Assemblywoman Cohen:**

Thank you for your attention today. It is a very dense bill which shows that the topic is very complex. I will work with the stakeholders who have concerns and hope we can come to a resolution and have a final bill that will make things better for Nevadans.

**Chair Sprinkle:**

I will close the hearing on A.B. 131. At this point, I will open up for public comment. Does anyone wish to come forward under public comment either here or in southern Nevada? [There was no reply.] I will close public comment. This meeting is adjourned [at 2:42 p.m.].

RESPECTFULLY SUBMITTED:

---

Terry Horgan  
Committee Secretary

APPROVED BY:

---

Assemblyman Michael C. Sprinkle, Chair

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

## **EXHIBITS**

[Exhibit A](#) is the Agenda.

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

[Exhibit C](#) is a copy of a letter dated March 1, 2019, to Chair Sprinkle and Members of the Assembly Health and Human Services Committee, authored and presented by Sarah Adler, President, NAMI Western Nevada Affiliate; and representing the National Alliance on Mental Illness, in support of Assembly Bill 131.