

Subcommittee on Personal Assistance for Persons with Severe Functional Disabilities of the Nevada Commission on Services for Persons with Disabilities

Nevada Revised Statutes (NRS) 426.731:

Subcommittee members: The Nevada Commission on Services for Persons with Disabilities (NCSPD) shall appoint such members to the Subcommittee as it deems appropriate to represent a broad range of persons with disabilities from diverse backgrounds, including representatives of:

- Seniors with disabilities;
- The Statewide Independent Living Council, established pursuant to 29 U.S.C. § 796d;
- The State Council on Developmental Disabilities, established pursuant to Section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000;
- Centers for independent living;
- Providers of personal services to persons with disabilities; and
- Persons with disabilities who receive personal assistance services.

The majority of members of the Subcommittee must be persons with disabilities.

Operations of the Subcommittee: The Subcommittee shall:

- Elect its Chair from among its members.
- Meet at least quarterly or as necessary to carry out the provisions of NRS 426.728.

Provisions of NRS 426.728: Each State personal assistance program must make available community-based services to provide minimum essential personal assistance to residents with severe functional disabilities who would, with the provision of that assistance, be able to live safely and independently outside of an institutional setting.

The assistance program must make available the services within a reasonable period after receiving the request and in accordance with conditions of federal funding and within the amount of State funding.

Background:

Legislation: Senate Bill 174 (Chapter 596, *Statutes of Nevada 2001*) was sponsored by Senators Raymond D. Rawson and Dina Titus. Among joint sponsors was then Assemblyman David R. Parks. The legislation established the Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities.

According to the minutes of the hearing in the Senate Committee on Finance on March 21, 2001, the “purpose of the advisory committee is to provide greater accuracy and familiarity in the determination of personal assistance needs than an existing state agency” Subsequent testimony in the Assembly Committee on Ways and Means indicated the purpose of the advisory committee was to ascertain the extent of the need and potential clients for the services.

The measure as filed included an appropriation of \$250,000, which was reduced by amendment to \$5,000 per year to cover travel expenses of the Advisory Committee.

The Advisory Committee was amended in 2009 with the enactment of S.B. 79 (Chapter 181, *Statutes of Nevada*), sponsored by the Senate Committee on Health and Education at the request of the Department of Health and Human Services (DHHS). According to testimony during the May 6, 2009, meeting of the Assembly Committee on Health and Human Services, the intent of the bill was to “streamline” the systems and “combine some boards to be more efficient.”

The bill created the NCSPD to incorporate existing boards into subcommittees under the NCSPD. The subcommittees included:

- Communication Services for Persons Who Are Deaf or Hard of Hearing and Persons with Speech Disabilities;
- Personal Assistance for Persons with Severe Functional Disabilities; and
- Traumatic Brain Injuries.

Legislative history: A legislative history of S.B. 174 has been compiled and is available here: <http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/2001/SB174,2001.pdf>.

No legislative history of S.B. 79 has been compiled.

Members: Information provided on the review form, submitted by the Aging and Disability Services Division, indicates there are no members of the Subcommittee. Further, it has not met since 2012.

Reports to the Legislature: No report to the Legislature is required from the Subcommittee, pursuant to Chapter 426 of NRS (“Persons With Disabilities”). *Nevada Revised Statutes* 426.729 provides the Director of the DHHS shall submit to each regular legislative session and make available to the public any recommendations for legislation to carry out NRS 426.728 and to implement or improve programs established in NRS 426.729.

Records:

- Research Library holdings:
 - *Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities*, 2004 Report to the Legislature, pursuant to NRS 426.729. (This report was repealed by S.B. 220 (Chapter 63, *Statutes of Nevada* 2007.)
- State Library holdings:
 - Same as the report in Research Library holdings.
- State Archives holdings: none

Current contact: Aging and Disability Services Division, DHHS

Website: none

W161081

PERSONAL ASSISTANCE FOR PERSONS WITH SEVERE FUNCTIONAL DISABILITIES**REVISER'S NOTE.**

Ch. 596, Stats. 2001, the source of NRS 426.721 to 426.731, inclusive, contains a preamble not included in NRS, which reads as follows:

"Whereas, People of all ages with severe functional disabilities are often forced to live in unsafe conditions or an institutional setting because of their inability to obtain essential personal assistance in their communities; and

Whereas, Many of those people require only minimal personal assistance to live safely and independently in their communities; and

Whereas, The potential cost for the state to provide institutional care for all those people far exceeds the cost to provide them with essential personal care in their communities; and

Whereas, Those people should have available at least such minimum essential personal assistance as is appropriate for them to avoid placement in an institutional setting without regard to their age, marital or family status, race, national origin, cultural background, religion, gender, sexual preference or geographic location; and

Whereas, Existing state programs provide a sufficient framework within which to make essential personal assistance available to those people; and

Whereas, It is the goal of this state to ensure that at least minimal essential personal assistance services are available to all residents of this state with severe functional disabilities who, if provided access to such services, will remain safely in their homes and communities and avoid being placed in an institutional setting, and to provide those people with meaningful choices and the maximum feasible amount of control over the essential personal assistance they receive;"

NRS 426.721 Definitions. As used in NRS 426.721 to 426.731, inclusive, unless the context otherwise requires, the words and terms defined in NRS 426.723 to 426.727, inclusive, have the meanings ascribed to them in those sections.

(Added to NRS by 2001, 3106; A 2009, 659)

NRS 426.723 "Minimum essential personal assistance" defined. "Minimum essential personal assistance" means the assistance of a person with a severe functional disability for 6 hours or less per day in:

1. Eating;
2. Bathing;
3. Toileting;
4. Dressing;
5. Moving about; and
6. Taking care of himself or herself.

(Added to NRS by 2001, 3106)

NRS 426.7235 "Nevada Commission on Services for Persons with Disabilities" defined. "Nevada Commission on Services for Persons with Disabilities" means the Nevada Commission on Services for Persons with Disabilities created by NRS 427A.1211.

(Added to NRS by 2009, 655)

NRS 426.724 "Reasonably adequate state funding" defined. "Reasonably adequate state funding" means the amount of state funding that can reasonably be accommodated within state budgetary limitations, as determined by the Governor and the Legislature for each biennial session of the Legislature.

(Added to NRS by 2001, 3106)

NRS 426.725 "Recipient" defined. "Recipient" means a recipient of minimum essential personal assistance through a state personal assistance program.

(Added to NRS by 2001, 3106)

NRS 426.726 “Severe functional disability” defined. “Severe functional disability” means:

1. Any physical or mental condition pursuant to which a person is unable, without substantial assistance from another person, to eat, bathe and toilet.
2. A traumatic brain injury.

(Added to NRS by 2001, 3106; A 2007, 155)

NRS 426.727 “State personal assistance program” defined. “State personal assistance program” means a program established pursuant to NRS 422.396, 427A.250 or 427A.793.

(Added to NRS by 2001, 3106; A 2003, 2631; 2009, 2377)

NRS 426.728 State personal assistance programs required to make services available.

1. Each state personal assistance program must make available, within a reasonable period after receiving a request therefor and in accordance with any conditions upon the receipt of federal funding and considering the amount of reasonably adequate state funding, community-based services to provide minimum essential personal assistance to residents of this State with severe functional disabilities who would, with the provision of that assistance, be able to live safely and independently in their communities outside of an institutional setting.

2. The provisions of NRS 426.721 to 426.731, inclusive, must not be construed to:

(a) Prevent a person with a severe functional disability from receiving more than 6 hours of minimum essential personal assistance per day from a state personal assistance program if such assistance is available pursuant to the program; or

(b) Prevent a person with a disability other than a severe functional disability from receiving services from a state personal assistance program if such assistance is available pursuant to the program.

(Added to NRS by 2001, 3106)

NRS 426.729 Duties of Director of Department of Health and Human Services. The Director of the Department of Health and Human Services, in consultation with the Nevada Commission on Services for Persons with Disabilities shall:

1. Determine the amount of state funding necessary each biennium to carry out NRS 426.728.

2. Ensure that the amount of funding determined to be necessary pursuant to subsection 1 is included in the budgetary request of the appropriate department or agency for the biennium, and that the budgetary request includes funding for any increase in the number of cases handled by the state personal assistance programs.

3. Establish a program to govern the services provided to carry out NRS 426.728, within the limitations of any conditions upon the receipt of state or federal funding, including:

(a) Minimum standards for the provision of minimum essential personal assistance, including, to the extent authorized by state and federal law, the provision of services in accordance with NRS 629.091;

(b) Minimum qualifications and training requirements for providers of minimum essential personal assistance;

(c) Standards for the financial operation of providers of minimum essential personal assistance;

(d) The development of an individual service plan for the provision of minimum essential personal assistance to each recipient;

(e) Procedures to appeal the denial or modification of an individual service plan for the provision of minimum essential personal assistance and to resolve any disputes regarding the contents of such a plan;

(f) Continuous monitoring of the adequacy and effectiveness of the provision of minimum essential personal assistance to each recipient;

(g) Mandatory requirements and procedures for reporting the abuse, neglect or exploitation of a recipient;

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(h) The receipt of meaningful input from recipients, including surveys of recipients, regarding the extent to which recipients are receiving the services described in their individual service plans and their satisfaction with those services; and

(i) Continuing procedures for soliciting public input regarding the development, implementation and review of the program.

4. Review and modify the program established pursuant to subsection 3 as appropriate to provide recipients with as much independence and control over the provision of minimum essential personal assistance as is feasible.

5. Submit to each regular session of the Legislature and make available to members of the public any recommendations for legislation to carry out NRS 426.728 and to carry out or improve the program established pursuant to subsection 3.

(Added to NRS by 2001, 3107; A 2003, 2631; 2007, 155; 2009, 659)

NRS 426.731 Subcommittee: Creation; membership; terms of members; quorum; duties.

1. The Subcommittee on Personal Assistance for Persons with Severe Functional Disabilities of the Nevada Commission on Services for Persons with Disabilities is hereby created.

2. The Nevada Commission on Services for Persons with Disabilities shall:

(a) Solicit recommendations for the appointment of members to the Subcommittee from organizations that are representative of a broad range of persons with disabilities and organizations interested in the provision of personal services to persons with functional disabilities.

(b) Appoint to the Subcommittee such members as the Nevada Commission on Services for Persons with Disabilities deems appropriate to represent a broad range of persons with disabilities from diverse backgrounds, including, without limitation, one or more persons who are representative of:

(1) Seniors with disabilities.

(2) The Statewide Independent Living Council established in this State pursuant to 29 U.S.C. § 796d.

(3) The State Council on Developmental Disabilities established in this State pursuant to section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

(4) Centers for independent living established in this State.

(5) Providers of personal services to persons with disabilities, including providers who receive state funding for that purpose.

(6) Persons with disabilities who receive personal assistance services.

3. The majority of the members of the Subcommittee must be persons with disabilities.

4. After the initial term, the term of each member is 2 years.

5. Members of the Subcommittee serve without compensation.

6. A majority of the members of the Subcommittee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Subcommittee.

7. The Subcommittee shall:

(a) At its first meeting and annually thereafter, elect a Chair from among its members.

(b) Meet at the call of the Director of the Department of Health and Human Services, the Chair of the Nevada Commission on Services for Persons with Disabilities, the Chair of the Subcommittee or a majority of its members quarterly or as is necessary to carry out the provisions of NRS 426.728.

(Added to NRS by 2001, 3108; A 2003, 2632; 2009, 660)

NRS CROSS REFERENCES.

Meetings, NRS ch. 241

Terms of members, vacancies, residency requirements, NRS 232A.020

REVISER'S NOTE.

Ch. 181, Stats. 2009, which amended this section, contains the following provision not included in NRS:

“Sec. 27. 1. ***

2. Notwithstanding the provisions of NRS 426.731, as amended by section 12 of this act, a member of the Advisory Committee on Personal Assistance for Persons with Severe Functional Disabilities who is serving on July 1, 2009, may continue to serve as a member of the

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Subcommittee on Personal Assistance for Persons with Severe Functional Disabilities created pursuant to that section until the expiration of his current term. If a position on the Subcommittee becomes vacant on or after July 1, 2009, the vacancy must be filled in the manner provided in NRS 426.731."



**Information Concerning Board or Commission
Subject to Review by the
Sunset Subcommittee of the Legislative Commission**

as required by *Nevada Revised Statutes* 232B.230



Board or commission name:

Subcommittee on Personal Assistance Services (PAS) for Persons with Severe Functional Disabilities of the

**Members' names with
expiration date of term, and
indicate the number of
vacancies:**

No current members. Subcommittee has not had a meeting since 2012

Physical address:

3416 Goni Rd. #132, Carson City, NV 89706

Mailing address:

3416 Goni Rd. #132, Carson City, NV 89706

Web site address (if any):

n/a

**Web site developer (if not EITS,
please indicate if EITS approved
the web site):**

n/a

**Executive director's name and
contact information:**

n/a

**Staff members' names including
titles and status as full-time or
part-time (attach additional pages
as necessary):**

The PAS committee does not employ staff. Aging and Disability Services Division (ADSD) provides administrative support for the committee.

Days and hours of operation:

n/a

Created by what authority:

NRS 426.731

**Authority to adopt regulations
(NRS) and citation to
regulations (NAC), if applicable:**

NRS 426.731

**Information Concerning Board or Commission
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List by LCB File No. and date of adoption the five regulations most recently adopted by the board or commission, with any applicable deadline for the adoption of any such regulation:

n/a

List any required regulations that have not been adopted, with any applicable deadline for the adoption of any such regulation. Please identify each such regulation by LCB File No., if available, or by reference to the provision of NRS or Statutes of Nevada requiring adoption of the regulation:

n/a

Governing structure of the board or commission pursuant to statute:

NRS 426.731 Subcommittee: Creation; membership; terms of members; quorum; duties.
1. The Subcommittee on Personal Assistance for Persons with Severe Functional Disabilities of the Nevada Commission on Services for Persons with Disabilities is hereby created.

Duties of the board or commission:

The PAS subcommittee meets at the call of the Director of the Department of Health and Human Services, the Chair of the Nevada Commission on Services for Persons with Disabilities, the Chair of the Subcommittee or a majority of its members quarterly or as is necessary to carry out the provisions of NRS 426.728.

Statement of the objectives and programs of the board or commission:

Members of the Subcommittee make recommendations regarding personal care services offered throughout the State of Nevada. The Subcommittee considers benefits, care, quality, service delivery and other items regarding personal care services for all consumers and not for a specific program or payer source.

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Itemized list of services offered
by the board or commission:

No services are offered by the PAS subcommittee.

Dates of the immediately
preceding six meetings:

Subcommittee has not had a meeting since 2012.

Statutory tax exemptions,
abatements, or money set aside
for the board or commission:

n/a

Description of the manner in
which the board or commission
is funded, including all funding
sources:

n/a

Please identify any forms
required by the board or
commission to be used by
members of the public which
are not available for
downloading from the web site
of the board or commission:

n/a

**Information Concerning Board or Commission
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Sunset Subcommittee of the Legislative Commission**

Does the board or commission have any recommendations for consolidation with another board or commission? If so, which one(s) could be revised to include the charge to the board or commission that is the subject of this review?

ADSD staff solicited membership for the PAS subcommittee in May of 2015 with minimal response from potential members. Interested potential members received a letter with a meeting date of June 18, 2015 to call in with a toll free call in number to discuss potential membership with Jill Berntson, Deputy Administrator, ADSD. No potential members phoned in during the meeting time.

Does the board or commission believe that its objectives and programs have been effective in accomplishing the purposes for which the board or commission was created? Please explain the response with any information the board or commission believes is relevant:

Review and input on program operation, policies and NAC recommendations of services for people with physical disability can be achieved through public workshops as needed going forward and does not have to be completed within the subcommittee.

Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs:

The recommendation is to remove the PAS subcommittee as outlined in NRS 426.731. Historically, the committee had been used to discuss specific PAS cases which is not the intent of the subcommittee and violated HIPPA and confidentiality. Public workshop can be used to receive input and recommendations. There has been minimal interest into membership of the subcommittee.

If additional space is necessary, please attach additional pages and refer to the attachments on the form.

Please include with this form:

1. The operating budget of the board or commission.
2. A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits this form, including the balances of any fund or account maintained by or on behalf of the board or commission.
3. The most recent legislative audit or other audit of the board or commission, and any efficiency studies or constituent or staff surveys conducted in the past 3 years.
4. Any reports required to be filed with the Legislative or Executive Branch over the past 3 years. Please indicate if any reports were filed late or have not been filed.
5. Copies of the minutes of the immediately preceding six meetings of the board or commission.
6. A copy of the organizational chart showing the governing structure of the board or commission and its staff.
7. A copy of the most recent strategic plan of the board or commission.

Please submit this form electronically to: cstonefield@lcb.state.nv.us. Submit additional documents electronically in a .pdf format.

If the file is too large for emailing, please submit hard copies to:

Carol Stonefield
Research Division
Legislative Counsel Bureau
401 South Carson Street
Carson City, NV 89701