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## MEETING NOTICE AND AGENDA

Name of Organization: Legislative Committee on Health Care  
(*Nevada Revised Statutes [NRS] 439B.200*)

Date and Time of Meeting: Wednesday, August 24, 2016  
9 a.m.

Place of Meeting: Grant Sawyer State Office Building, Room 4401  
555 East Washington Avenue  
Las Vegas, Nevada

Note: Some members of the Committee may be attending the meeting and other persons may observe the meeting and provide testimony through a simultaneous videoconference conducted at the following location:

Legislative Building, Room 2135  
401 South Carson Street  
Carson City, Nevada

*If you cannot attend the meeting, you can listen or view it live over the Internet. The address for the Nevada Legislature website is <http://www.leg.state.nv.us>. Click on the link "[Calendar of Meetings/View](#)."*

**Note:** Minutes of this meeting will be produced in summary format. Please provide the secretary with electronic or written copies of testimony and visual presentations if you wish to have complete versions included as exhibits with the minutes.

**Note:** Items on this agenda may be taken in a different order than listed. Two or more agenda items may be combined for consideration. An item may be removed from this agenda or discussion relating to an item on this agenda may be delayed at any time.

- I. Opening Remarks  
Assemblyman James Oscarson, Chair

II. Public Comment  
(Because of time considerations, each speaker offering comments during the period for public comment will be limited to not more than 3 minutes. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by e-mail, facsimile, or mail before, during, or after the meeting.)

*For  
Possible  
Action*

III. Approval of Minutes of the Meeting Held on June 29, 2016, in Las Vegas, Nevada

*For  
Possible  
Action*

IV. Consideration of Regulations Proposed or Adopted by Certain Licensing Boards Pursuant to NRS 439B.225

A. Legislative Counsel Bureau (LCB) File No. R131-15  
*(Proposed Regulation of the Board of Psychological Examiners)*

B. LCB File No. R038-16  
*(Proposed Regulation of the Board of Psychological Examiners)*

C. LCB File No. R086-16  
*(Proposed Regulation of the Board of Dental Examiners of Nevada)*

D. LCB File No. R120-16  
*(Proposed Regulation of the State Board of Health)*

E. LCB File No. R144-16  
*(Proposed Regulation of the Administrator of the Aging and Disability Services Division of the Department of Health and Human Services)*

Eric Robbins, Deputy Legislative Counsel, Legal Division, LCB

*For  
Possible  
Action*

V. Update on the Nevada Prescription Drug Abuse Prevention Summit, August 31 through September 1, 2016, in Las Vegas  
Elyse C. Monroy, Health and Human Services Policy Analyst, Office of the Governor

*For  
Possible  
Action*

VI. Presentation Concerning Nevada Physician Order for Life-Sustaining Treatment (POLST)  
Sally P. Hardwick, M.S., President, Nevada POLST

*For  
Possible  
Action*

VII. Work Session—Discussion and Possible Action on Recommendations Relating to:

- A. Health Care Workforce
- B. Public Health
- C. Medicaid Managed Care
- D. Physician Orders for Life-Sustaining Treatment
- E. Rare Diseases
- F. Children’s Health
- G. Autism Treatment and Services in Nevada
- H. Medicaid Reimbursement Rates
- I. Health Profession Licensing and Licensing Boards
- J. Behavioral Health
- K. Ambulatory Surgical Centers

The “Work Session Document” is attached below and contains proposed recommendations. The document is also available on the Committee’s webpage, [Legislative Committee on Health Care](#), or a written copy may be obtained by contacting Megan Comlossy, Senior Research Analyst, Research Division, Legislative Counsel Bureau, at (775) 684-6825.

*For  
Possible  
Action*

VIII. Overview and Update on the Federal Cooperative Agreement for the Expansion and Sustainability of the Comprehensive Community Mental Health Services for Children With Serious Emotional Disturbances (System of Care Grant)

Ryan Gustafson, Deputy Administrator, Division of Child and Family Services, Department of Health and Human Services (DHHS)

*For  
Possible  
Action*

IX. Overview of the Forensic Behavioral Health Sequential Intercept Model, a Conceptual Framework for Communities Developing Strategies to Address Behavioral Health Disorders Among People Involved in the Criminal Justice System

Elizabeth W. Neighbors, Ph.D., Statewide Forensic Program Director, Division of Public and Behavioral Health (DPBH), DHHS

*For  
Possible  
Action*

X. Presentation Concerning the Stepping Up Initiative, a National Effort to Divert People With Mental Illness From Jails and Into Treatment

Brooke Page, Assistant Manager, Social Service Department, Clark County

*For  
Possible  
Action*

XI. Regional Community-Based Efforts to Prevent Arrest of Individuals with Mental Illness in Nevada

Jessica Flood, Regional Behavioral Health Coordinator, Carson Tahoe Behavioral Health Services, Carson Tahoe Health

Ellen Richardson-Adams, M.Ed., Outpatient Administrator, Southern Nevada Adult Mental Health Services (SNAMHS), DPBH, DHHS

Brooke Page, Assistant Manager, Social Service Department, Clark County

James Seebock, Captain, Bureau Commander, Las Vegas Metropolitan Police Department

Rangal Yorks, L.C.S.W., Coordinator, Mobile Outreach Safety Team, Northern Nevada Adult Mental Health Services (NNAMHS), DPBH, DHHS

Andrew Hines, Mental Health Counselor, NNAMHS, DPBH, DHHS

*For  
Possible  
Action*

XII. Presentation Concerning Mental Health Court in Nevada

The Honorable Deborah E. Schumacher, Senior District Court Judge, Carson City

The Honorable David Barker, Chief Judge, Eighth Judicial District Court, Department 18, Civil/Criminal Division, Clark County

*For  
Possible  
Action*

XIII. Presentations Concerning Efforts to Reintegrate Criminal Justice Involved Individuals With Behavioral Health Issues Into the Community

A. Assisted Outpatient Treatment in Clark County

The Honorable William O. Voy, District Judge, Eighth Judicial District Court, Department A, Family Division, Clark County

Ellen Richardson-Adams, M.Ed., Outpatient Administrator, SNAMHS, DPBH, DHHS

B. Crossroads

Ken Retterath, Division Director, Adult Services, Department of Social Services, Washoe County

Amber Howell, Director, Department of Social Services, Washoe County

*For  
Possible  
Action*

XIV. Presentation Concerning a National Training Program on the Storage and Use of Auto-Injectable Epinephrine

Jay Parmer, Managing Director, American Strategies Inc.

Bruce Lott, Vice President, State Government Relations, Mylan, Inc.

*For  
Possible  
Action*

XV. Presentation Concerning the Cost of Prescription Drugs

Saiza-Jem Elayda, J.D., Director, State Advocacy-Policy, Pharmaceutical Research and Manufacturers of America (PhRMA)

## XVI. Public Comment

**(Because of time considerations, each speaker offering comments during the period for public comment will be limited to not more than 3 minutes. A person may also have comments added to the minutes of the meeting by submitting them in writing either in addition to testifying or in lieu of testifying. Written comments may be submitted in person or by e-mail, facsimile, or mail before, during, or after the meeting.)**

## XVII. Adjournment

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Note: We are pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Research Division of the Legislative Counsel Bureau, in writing, at the Legislative Building, 401 South Carson Street, Carson City, Nevada 89701-4747, or call the Research Division at (775) 684-6825 as soon as possible.

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Notice of this meeting was posted in the following Carson City and Las Vegas, Nevada, locations: Blasdel Building, 209 East Musser Street; City Hall, 201 North Carson Street; Legislative Building, 401 South Carson Street; and Legislative Counsel Bureau, Las Vegas Office, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was faxed, e-mailed, or hand delivered for posting to the following Carson City and Las Vegas, Nevada, locations: Capitol Press Corps, Basement, Capitol Building, 101 North Carson Street; Clark County Government Center, Administrative Services, 500 South Grand Central Parkway; and Capitol Police, Grant Sawyer State Office Building, 555 East Washington Avenue. Notice of this meeting was posted on the Internet through the Nevada Legislature's website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

Supporting public material provided to Committee members for this meeting may be requested from Gayle Nadeau, Committee Secretary, Research Division of the Legislative Counsel Bureau at (775) 684-6825 and is/will be available at the following locations: Meeting locations and the Nevada Legislature's website at [www.leg.state.nv.us](http://www.leg.state.nv.us).

**Legislative Committee on Health Care**  
(*Nevada Revised Statutes 439B.200*)

**WORK SESSION  
DOCUMENT**



**August 24, 2016**

Prepared by the Research Division  
Legislative Counsel Bureau



## **WORK SESSION DOCUMENT**

**LEGISLATIVE COMMITTEE ON HEALTH CARE**  
*(Nevada Revised Statutes 439B.200)*

**August 24, 2016**

The following “Work Session Document” was prepared by the staff of the Legislative Committee on Health Care. Pursuant to *Nevada Revised Statutes* (NRS) 218D.160, the Committee is limited to ten legislative measures and must submit its bill draft requests (BDRs) to the Legal Division of the Legislative Counsel Bureau for drafting by September 1, 2016, unless the Legislative Commission authorizes submission of a request after that date.

This document contains a summary of BDRs and other actions that were presented during public hearings, suggested to individual Committee members, or submitted directly to the Committee. It is designed to assist the Committee members in making decisions during the work session. The Committee may accept, reject, modify, or take no action on any of the proposals. Concepts contained in this document are arranged by topic under broad categories to allow members to review related issues. The Committee may choose to: (1) propose legislation to amend NRS or propose resolutions; (2) include statements in the Committee’s final report; and (3) send letters of recommendation or support to specific persons or entities.

Committee members should be advised that Legislative Counsel Bureau staff may, at the direction of the Chair, coordinate with interested parties to obtain additional information for drafting purposes or to be included in the final report. The recommendations may be modified by combining similar or related proposals or by adding necessary legal or fiscal information. Some recommendations may contain an unknown fiscal impact.

Additional recommendations may be considered based on discussions held and presentations made at the August 24, 2016, hearing. Please see the agenda for details concerning scheduled presentations on topics such as prescription drugs, behavioral health, and forensic behavioral health. The approved recommendations for legislation resulting from these deliberations will be prepared as BDRs and submitted for introduction as bills to the 2017 Legislature.

Committee members will use a “Consent Calendar” to quickly approve those recommendations, as determined by the Chair, that do not need further consideration or clarification beyond what is set forth in the recommendation summary and supporting documents. Any Committee member may request that items on the Consent Calendar be removed for further discussion and consideration. A summary of the Consent Calendar is included on page 20.

## RECOMMENDATIONS

### PROPOSALS RELATING TO THE HEALTH CARE WORKFORCE

1. **Health Professional Licensure Compacts**—Propose legislation to enact the:

- a. Nurse Licensure Compact;

*(Proposed by Debra Scott, Former Executive Director, Nevada State Board of Nursing, and Cathy Dinauer, Executive Director, Nevada State Board of Nursing)*

- b. Recognition of Emergency Medical Services Personnel Licensure Interstate Compact; and

*(Proposed by Chair Oscarson)*

- c. Psychology Interjurisdictional Compact—redraft Senate Bill 299 of the 2015 Legislative Session.

*(Proposed by Morgan Alldredge, Executive Director, Board of Psychological Examiners)*

2. **National Health Service Corps and Nurse Corps**—Send letters to medical facilities in Nevada that are eligible to serve as National Health Service Corps sites or Nurse Corps sites, strongly encouraging them to apply to and participate in these programs.

*(Concepts discussed by Laura Hale, Director, State Primary Care Office)*

3. **Advanced Practice Registered Nurses**—Propose legislation to:

- a. Amend the following sections of NRS to allow advanced practice registered nurses (APRNs) to perform the following tasks, which currently may only be performed by a physician:



- i. [NRS 440.380](#): Amend to allow an advanced practice registered nurse to sign a death certificate.
- ii. [NRS 449.535](#) through [NRS 449.690](#): Amend to allow an APRN to make all diagnoses applicable to a declaration to withhold or withdraw life-sustaining treatment and accept such a declaration;
- iii. [NRS 449.6942](#) through [NRS 449.695](#): Amend to allow an advanced practice registered nurse who has primary responsibility for the treatment and care of the patient to make all applicable diagnoses, complete a Physician Order for Life-Sustaining Treatment (POLST), and assume all other privileges and duties of a physician that are applicable to a POLST;
- iv. [NRS 482.3831](#) through [NRS 482.384](#): Amend to allow an advanced practice registered nurse to make all applicable diagnoses and certifications authorizing a person with a disability to obtain a special license plate or a temporary parking placard or sticker; and
- v. [NRS 706.8842](#): Amend to include an APRN in the definition of “medical examiner,” thereby allowing an APRN to issue a medical examiner’s certificate for a taxicab commercial driver’s license.
- vi. Add to Chapters 689A, 689B, 287, 689C, 695A, 695B, 695C, 695D, 695F, and 695G of NRS language similar to Section 2706 of the federal Patient Protection and Affordable Care Act, “Nondiscrimination in Health Care,” which provides:

A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable State law. This section shall not require that a group health plan or health insurance issuer contract with any health care provider willing to abide by the terms and conditions for participation established by the plan or issuer. Nothing in this section shall be construed as preventing a group health plan, a health insurance issuer, or the Secretary from establishing varying reimbursement rates based on quality or performance measures.

*(Proposed by Jeanine Swygman, President, Nevada Advanced Practice Nurses Association)*

- 4. **Graduate Medical Education Funding**—Send a letter to the Governor of the State of Nevada expressing the Committee’s support for and urging continuation of a \$5.25 million

annual budget appropriation for graduate medical education (GME) in each year of the 2017–2019 Biennium.

*(Issue raised by Bill Welch, Executive Director, Nevada Hospital Association)*

5. **Graduate Medical Education**—Send a letter to Nevada’s Congressional Delegation advocating for:
  - a. No additional GME funding cuts; and
  - b. Redistributing full-time equivalent GME slots to Nevada hospitals.

*(Proposed by Bill Welch, Executive Director, Nevada Hospital Association)*

6. **State Employee Contracting**—Propose legislation to amend NRS 333.705(9) to add “former state employees who are not receiving monetary retirement benefits through the Public Employee Retirement System of Nevada during the time period they are under contract” to the list of entities that are exempt from the prohibition on contracting with a former State employee for two years after the termination of the person’s State employment.

*(Proposed by Julia Peek, Deputy Administrator, Division of Public and Behavioral Health [DPBH], Department of Health and Human Services [DHHS])*

## **PROPOSALS RELATING TO PUBLIC HEALTH**

7. **Body Mass Index Measurement in Schools**—Redraft Section 9 of Senate Bill 178 (2015) to reestablish the requirements below concerning measurement of the height and weight of a representative sample of pupils. These requirements sunset in 2015. Specifically, amend NRS 392.420 to:
  - a. Reestablish the requirement that the board of trustees of each school district in a county whose population is 100,000 or more (currently Clark and Washoe Counties) to direct school nurses, qualified health personnel, teachers who teach physical education or health, or other licensed educational personnel who have completed training in measuring the height and weight of a pupil provided by the school district to measure the height and weight of a representative sample of pupils who are enrolled in grades 4, 7, and 10 in the schools within the school district.
  - b. Require the DPBH, DHHS, to determine the number of pupils necessary to include in the representative sample.

- c. Do not require school authorities to provide notice to a student’s parent or guardian before measuring the child’s height or weight if it is not practicable to do so.
- d. Require each school nurse or his or her designee to report the results to the Chief Medical Officer.

*(Proposed by local health authorities, the Nevada Public Health Association, Nevada Primary Care Association, and Children’s Health Alliance)*

**8. Vapor Products and Tobacco Products—Propose legislation to:**

- a. Amend NRS 202.2483, the “Nevada Clean Indoor Air Act,” to prohibit the use of vapor products, as defined in NRS 202.2483, in all areas where tobacco smoking is prohibited.

*(Proposed by local health authorities, the Nevada Public Health Association, Nevada Primary Care Association, and the Nevada Tobacco Prevention Coalition)*

- b. Amend NRS 202.2493 to raise the legal age for sale of cigarettes, other tobacco products, vapor products, and alternative nicotine products from 18 years of age to 21 years of age.
- c. Amend NRS 202.24935 to:
  - i. Raise the legal age of sale and distribution of cigarettes and other tobacco products through the Internet from 18 years of age to 21 years of age; and
  - ii. Add vapor products to NRS 202.24935, prohibiting sale of vapor products to minors (or to persons less than 21 years of age) through the Internet.
- d. Add new provisions that:
  - i. Require nicotine containers used in vapor products to be sold in child resistant packaging, in accordance with the federal Poison Prevention Packaging Act of 1970, 15 U.S.C. §§1471-1476, and 16 C.F.R. Part 1700.
  - ii. Prohibit packaging for vapor products and alternative nicotine products from depicting a person less than 21 years of age consuming such products and from including objects or characters designed to appeal to a person under 21.
  - iii. Require labels on vapor products and alternative nicotine products to include ingredients, nicotine level, and age restrictions.

## PROPOSALS RELATING TO MEDICAID MANAGED CARE

9. **Medicaid Managed Care Expansion**—Send letters to the Governor of the State of Nevada and DHHS urging consideration of the concerns and recommendations expressed by the National Alliance on Mental Illness (NAMI), Nevada, in its June 16, 2016, letter to the Legislative Committee on Health Care, as the DHHS determines whether and how to expand Medicaid managed care to additional populations and geographic areas.

*(Concepts discussed at multiple Committee meetings; NAMI letter received in response to the Committee's formal solicitation for recommendations)*

10. **Medicaid Managed Care Agreements/Request for Proposals**—Send a letter to the Division of Health Care Financing and Policy (DHCFP), DHHS, encouraging consideration of its relationship with Medicaid managed care organizations (MCOs) and requesting that DHCFP clarify the following in future managed care requests for proposals and contracts:

- a. The State has the authority to oversee the performance of MCOs and must ensure that specific performance criteria are included in the MCO contract and measured at least monthly. The results of performance criteria must be transparent and shared publicly, including on the DHCFP's website.
- b. The MCOs must administer their provider contracts in accordance with Medicaid policies unless mutually agreed upon otherwise and documented by the State and providers.
- c. Contracts between the State and MCOs must require each MCO to independently meet network adequacy standards, comparable to those established annually by Nevada's Division of Insurance, through direct contracting with providers and hospitals.
- d. The State is responsible for final policy/claims appeal if an MCO and a provider cannot reach an agreement.
- e. Geographic expansion of Medicaid managed care into the rural areas of Nevada will not occur until rural communities are ready.

*(Proposed by Bill Welch, President and CEO, Nevada Hospital Association)*

**PROPOSAL RELATING TO PHYSICIAN ORDERS FOR  
LIFE-SUSTAINING TREATMENT**

11. **Physician Orders for Life-Sustaining Treatment (POLST)**—Propose legislation to amend NRS 449.691 through NRS 449.697 as summarized below and outlined in the mock-up provided by Sally P. Hardwick:

- a. Amend subsection 2 of NRS 449.6946 to require providers of health care to honor a patient’s most recent health care declaration, directive, or order to guide treatment instead of allowing a do-not-resuscitate identification that is on the person of a patient to take precedence over a subsequently executed POLST.
- b. Replace the terms “incompetent” and “incompetence” with “lacking decisional capacity.” Define “lacking decisional capacity” to mean a person who, as determined by his or her physician, APRN, or physician assistant (PA), is unable to understand or communicate his or her health preferences; it does not indicate incompetence and may be a transitory state.
- c. Authorize APRNs and PAs to sign and validate a POLST.
- d. Change the name of the program to “Provider” Order for Life-Sustaining Treatment.
- e. Establish who may serve as a health care surrogate for purposes related to a POLST, and authorize a health care surrogate to complete and sign a POLST for a patient who lacks decisional capacity if the patient does not have a Durable Power of Attorney for Health Care or a legal guardian. Amend NRS to provide that:
  - i. A health care surrogate has authority to consent to or withhold consent for treatment for a patient lacking decisional capacity.
  - ii. The following individuals may act as a health care surrogate for a patient, in order of priority: (1) spouse; (2) adult child; (3) parent; (4) sibling; (5) nearest other adult relative; or (6) an adult who has exhibited special care and concern for the patient, who is familiar with the patient’s values and willing and able to make health care decisions for the patient.
  - iii. Health care surrogates may not revoke a POLST completed by a patient or their durable power of attorney or guardian, and a surrogate’s consent is not valid if it conflicts with the patient’s valid POLST or advance directive.
  - iv. A patient’s lack of decisional capacity to complete a POLST shall be determined by his or her physician, APRN or PA, documented in the patient’s medical record, and attested to by a third party witness.

- v. If a physician, APRN, or PA determines that a patient lacks decisional capacity to complete a POLST, the physician, APRN, PA, or their designee must make reasonable efforts to locate a health care surrogate and advise the patient of the surrogate's identity. The health care surrogate's name and relationship must be entered in the patient's medical record.
- vi. The physician, APRN or PA has the right to determine fitness of a health care surrogate pursuant to the federal Privacy Act of 1974, 45 CFR 164.502(g).
- vii. If a health care provider, a patient's legal representative, or a patient's health care surrogate believes the patient has regained decisional capacity, the patient may be reexamined and a decision shall be entered into the medical record and the health care surrogate must be notified.
- f. Artificial nutrition and hydration must not be withheld from a patient who does not have an effective declaration, unless a different desire is expressed in writing by the patient's health authorized representative or family member.
- g. Life-sustaining treatment must not be withheld or withdrawn from a patient known to be pregnant, so long as it is probable that a fetus will develop to the point of live birth with continued application of life-sustaining treatment.

*(Proposed by Sally P. Hardwick, M.S., President, Nevada POLST)*

## **PROPOSAL RELATING TO RARE DISEASES**

- 12. Medical Education for Residents**—Send letters to GME residency programs in Nevada expressing the Committee's awareness of, and concern for, the population of Nevadans who are at risk for, and affected by, rare diseases such as Postural Orthostatic Tachycardia Syndrome (POTS), Ehlers-Danlos syndrome, and numerous others. In the letter:
- a. Request that residency programs report to the LCHC and to the Senate and Assembly Health and Human Services Committees on existing curriculum, requirements, and efforts to educate residents about rare disease, as well as future plans to include education and training on rare disease in residency curriculum.
  - b. Provide data on the incidence of rare disease, including the fact that 10 percent of Americans—approximately 30 million people—have one of the 7,000 known rare diseases.
  - c. Discuss the challenges experienced by those who have received a rare disease diagnosis due to the limited experience many providers have identifying and

diagnosing such conditions. In addition, discuss promising therapies that are under development.

*(Issue raised by numerous parents of children with rare diseases at multiple meetings)*

## **PROPOSALS RELATING TO CHILDREN'S HEALTH**

**13. Posting of Child Abuse Hotline Number in Schools**—Propose legislation to amend NRS to require all public schools, including charter schools, to post the State and local (if applicable) child abuse hotline telephone number in a clearly visible location in a public area of the school. Specifically, amend NRS to:

- a. Require each public school and charter school to post in a clearly visible location, in a public area of the school that is readily accessible to students, a sign that contains the toll-free hotline telephone number established by the Division of Child and Family Services (DCFS) of the DHHS for reports of abuse or neglect pursuant to NRS 432B.200 and the local child abuse hotline, if one is available.
- b. Authorize the director of the DHHS to adopt rules and regulations relating to the size and location of the sign provided that, at a minimum, it shall:
  - i. Be in English and Spanish;
  - ii. Be eleven inches by seventeen inches or larger;
  - iii. Include text in a font large enough to be clear, simple, and understandable to students;
  - iv. Be posted in a high traffic location at the eye level of students;
  - v. Contain the current telephone number for the DCFS child abuse and neglect hotline and the local child abuse hotline, if applicable, in bold print;
  - vi. Contain instructions for calling 911 in an emergency; and
  - vii. Contain instructions for accessing DCFS's website for more information on reporting abuse and neglect.
- c. Authorize the DCFS to design a poster that complies with these requirements and distribute the poster to schools in hard copy form or in electronic form for printing.

*(Proposed by Janice Bundas through correspondence with Chair Oscarson)*

14. **Children’s Health Insurance Program**—Send a letter to the DHHS encouraging DHCFP to revise Nevada’s Children’s Health Insurance Program (CHIP) eligibility policies to provide health insurance coverage to lawfully residing immigrant children who have not been in the country for five years. In the letter, provide information regarding other states’ eligibility policies, including the fact that CHIP programs in 29 states and the District of Columbia cover lawfully residing immigrant children without a five-year wait.

*(Proposed by Denise Tanata, JD, Executive Director, Children’s Advocacy Alliance, June 17, 2016)*

### **PROPOSALS RELATING TO AUTISM TREATMENT AND SERVICES IN NEVADA**

15. **Autism Treatment Assistance Program and Medicaid**—Send a letter to the Director of DHHS conveying the variety of concerns related to accessing services expressed by numerous parents of children with autism, as well as providers of autism services, and encouraging the DHHS to consider the following recommendations:

- a. Increase the reimbursement rate for services provided to adults with autism under the Medicaid Home and Community-Based Services (HCBS) Waiver, especially in rural areas. Specifically, consider:
  - i. Increasing the residential support services rate to \$25 per hour so that the most severely impacted adults with autism in rural Nevada can receive services from highly trained staff;
  - ii. Authorizing day habilitation services to be provided in the home at the rate of \$25.87 per hour; and
  - iii. Raising the Medicaid reimbursement rate for Board Certified Behavior Analysts (BCBAs) who provide services to adults on the Medicaid HCBS Waiver to match the reimbursement rate for services provided to children.

*(Proposed by Korri Ward, President and Founder, Northern Nevada Autism Network)*

- b. Regarding Autism Treatment Assistance Program (ATAP) policies and programs:
  - i. Retain parents’ current ability to hire their own interventionists with the assistance of a fiscal agent;



- ii. Allow payment to interventionists working under the supervision of a BCBA, without requiring a registered behavior technician (RBT) credential, until such time as there is a sufficient RBT workforce;
  - iii. Delay the transfer of Medicaid-eligible children to Medicaid providers for individual children until a Medicaid provider is available to seamlessly accept and treat the child; and
  - iv. Continue to ramp up efforts to serve children through Medicaid providers, using their current providers as much as is practicable.
- c. Regarding Medicaid policy and programs:
- i. Increase the RBT rate to the \$43.88 per hour adopted by TRICARE;
  - ii. Explore with the Centers for Medicare and Medicaid Services the possibility of adopting the approach taken by ATAP to allow payment for services provided by an interventionist under the supervision of a BCBA for up to six months while the interventionist obtains an RBT credential; and
  - iii. Support efforts to grow the State’s BCBA and Board Certified Assistant Behavior Analyst (BCaBA) workforce through the higher education system and encourage the Department of Employment, Training and Rehabilitation to include the BCaBA and RBT in their programs.
- d. Regarding Policy Changes
- i. Review all autism service related policy changes after six months and report to the Senate and Assembly Health and Human Services Committees during the 2017 Legislative Session.

*(Proposed by Jon Sasser, Statewide Advocacy Coordinator, Washoe Legal Services, and endorsed by many)*

**16. Redefine Autism**—Propose legislation to:

- a. Amend subsection 1 of NRS 427A.875 to authorize ATAP to provide and coordinate services to persons “diagnosed or determined, including, without limitation, through use of a standardized assessment” to have autism spectrum disorders, through 19 years of age.
- b. Amend NRS 287.0276, 427A.875, 689A.0435, 689B.0335, 689C.1655, 695C.1717, and 695G.1645 to redefine “autism spectrum disorder” as “a condition that meets the diagnostic criteria published in the current edition of the Diagnostic

and Statistical Manual of Mental Disorders or the edition that was in effect at the time of diagnosis.”

*(Proposed by Jan Crandy, Former Chair, Nevada Commission on Autism Spectrum Disorders, Aging and Disability Services, DHHS)*

**17. Collaboration Between School and Out-of-School ABA Services**—Send a letter to the Superintendent of Public Instruction urging Nevada’s Department of Education to develop a clear and consistent State policy, with guidance to school districts, for students with an Individualized Education Program (IEP) who require Applied Behavior Analysis (ABA) therapy. In developing the policy, the Department should consider:

- a. Whether an IEP should be required to specify the number of weekly ABA hours needed by the student, with a distinction between the hours to be provided in school and out of school;
- b. Specifying the credentials required of an ABA professional who assists in determining the total weekly ABA hours needed by the student;
- c. Requiring that ABA services provided in school and out of school be coordinated to maximize their effectiveness and to ensure continuity of service across environments;
- d. Requiring, if out of school ABA services are deemed necessary for a student, that the IEP specify the number of required hours as an educational goal so that the student is not considered truant while receiving those services;
- e. Requiring the school to encourage a parent, through written communication from the school, to invite the student’s outside ABA professional(s) to participate in relevant IEP meetings;
- f. Allowing a student’s out-of-school BCBA (who is funded by private insurance, Medicaid, or ATAP and who passes appropriate background checks) to observe the student in the school environment quarterly and/or allowing such a provider to support the student during the school day if the student’s behavior impedes learning or if the student’s history includes elopement, suspension, or aggression.

#### **PROPOSAL RELATING TO MEDICAID REIMBURSEMENT RATES**

**18. Medicaid Reimbursement Rates**—Send a letter to the Director of DHHS, expressing the Committee’s support for continuing to conduct regular evaluations of Medicaid provider reimbursement rates. Specifically, recommend that DHHS review reimbursement rates for personal care services; home health services; and providers of community-based, long-term

services and supports. Include with the letter the written testimony received related to increasing rates for these specialties.

### **PROPOSALS RELATING TO HEALTH PROFESSION LICENSING AND LICENSING BOARDS**

19. **Oversight of Health Profession Licensing Boards**—Send a letter to the Interim Finance Committee; the Sunset Subcommittee of the Legislative Commission; the Senate Committee on Commerce, Labor, and Energy; the Assembly Committee on Commerce and Labor; and the Governor of the State of Nevada, expressing the Committee’s concern regarding the lack of oversight of health profession licensing and licensing boards and its support for statutory changes necessary to provide such oversight. Specifically, express the Committee’s concern regarding the:
- a. Numerous complaints the Committee received related to various health care profession licensing boards;
  - b. General lack of oversight of health profession licensing boards and the need for accountability;
  - c. Investigation and appeals processes used by certain boards and the need for oversight over certain board decisions;
  - d. Lack of transparency with regard to licensure data, the inability of some boards to provide requested data, and the need to increase data reporting requirements;
  - e. Need for increased transparency and oversight of the finances of health profession licensing boards and for comprehensive, detailed reporting requirements to improve fiscal accountability;
  - f. Application and licensure inefficiencies and extended application timelines due to the systems used by certain boards;
  - g. Performance audit of the Board of Dental Examiners of Nevada by the Legislative Auditor, and the refusal of the Board to accept 3 of the 14 recommendations made by the audit; and

- h. Direct impact boards have on the health care workforce, and their ability to exacerbate the workforce shortage or to improve it, as exemplified by the challenges the Governor of the State of Nevada’s Social Workers in Schools program faced recruiting social workers and other qualified behavioral health providers in 2016.

*(Issues raised at numerous Committee meetings)*

**20. Behavioral Health Licensing Boards—Propose legislation to:**

- a. Consolidate, under the State Board of Health, within the DHHS, the behavioral health boards established in:
  - i. Chapter 641 (“Psychologists, Behavior Analysts, Assistant Behavior Analysts and Autism Behavior Interventionists”) of NRS;
  - ii. Chapter 641A (“Marriage and Family Therapists and Clinical Professional Counselors”) of NRS;
  - iii. Chapter 641B (“Social Workers“) of NRS; and
  - iv. Chapter 641C (“Alcohol, Drug and Gambling Counselors”) of NRS.
- b. Amend NRS 439.030, which establishes the State Board of Health, to add four additional members to the Board appointed by the Governor of the State of Nevada, including:
  - i. One member who is a psychologist or a board certified behavior analyst;
  - ii. One member who is a marriage and family therapist or a clinical professional counselor;
  - iii. One member who is a social worker; and
  - iv. One member who is an alcohol, drug, and gambling counselor and who has engaged in the practice of his or her specific profession in this State for not less than five years immediately prior to the appointment.
- c. Require the Bureau of Health Care Quality and Compliance (HCQC), DPBH, DHHS, to assume responsibility for administration of licensure, investigations, and complaint resolution for all mental health professionals currently licensed in Chapters 641, 641A, 641B, and 641C of NRS.

- d. Establish, under the State Board of Health, four profession-specific “subcommittees” through which each professional area licensed under Chapters 641 through 641C of NRS will make recommendations to the Board regarding licensure requirements, standards-of-practice, and regulations.
  - i. One subcommittee will be established for each of the existing NRS behavioral health profession chapters (641, 641A, 641B, and 641C).
  - ii. Each subcommittee consists of three members who have been residents of this State for at least one year before appointment. Subcommittees are comprised of:
    - 1. One member who is a member of the State Board of Health;
    - 2. At least one member, but not more than two, who is licensed in the professional area he or she regulates and has five years of experience in the applicable profession;
    - 3. At least one member, but not more than two, must have served within the previous ten years as core or full-time faculty at a regionally accredited college or university in a program related to the applicable profession and have experience in the design and development of the curriculum of a related program; and
    - 4. If qualified, a subcommittee member may serve on more than one subcommittee.
  - iii. Subcommittee members are initially appointed by the State Board of Health. After initial appointment, the Governor of the State of Nevada shall appoint subcommittee members. A member initially appointed by the Board shall continue to serve until appointed or replaced by the Governor of the State of Nevada. Initially, members will serve staggered terms.
  - iv. After the initial term, subcommittee members serve at the pleasure of the Governor of the State of Nevada for terms of three years. A member shall not serve more than two full consecutive terms.
  - v. Each member of a subcommittee is entitled to receive:
    - 1. A salary of not more than \$80 per day, as fixed by the State Board of Health, while engaged in and necessarily spent in performance of their subcommittee duties; and

2. A per diem allowance and travel expenses at a rate fixed by the State Board of Health, while engaged in the business of the subcommittee. The rate must not exceed the rate provided for State officers and employees generally.
  - i. Each subcommittee shall annually elect a chairman and secretary from its membership.
  - ii. Subcommittee members are personally immune from suit with respect to all acts done and actions taken in good faith and in furtherance of the purposes of this bill.
  - iii. Subcommittee members shall receive at least five hours of training as prescribed by the State Board of Health within one year after the member is initially appointed. Training must include instruction on ethics and open meeting requirements.
- e. Require the State Board of Health to review each subcommittee's regulations before being submitted to the Legislative Commission for final approval to ensure that the regulations are in the best interest of the public and do not unnecessarily restrict individuals from entering or practicing the profession.
- f. The HCQC shall be responsible for disciplining licensees.
  - i. HCQC may establish in regulation peer review panels to evaluate complaints against similarly licensed behavioral health professionals.
  - ii. The State Board of Health may authorize continuing education credits to qualified behavioral health professionals who choose to serve on such peer review panels.
  - iii. HCQC will conduct an investigation of a complaint against a behavioral health professional with the assistance of a peer review panel, if HCQC decides to establish such panels.
  - iv. The results of an investigation of a complaint will be submitted to the appropriate subcommittee.
  - v. Based on the results of an investigation, each subcommittee shall recommend appropriate disciplinary action to HCQC, if the recommendation is not license revocation. Recommendations of license revocation shall be submitted to the State Board of Health.

- vi. HCQC or the State Board of Health, as applicable, will review recommendations for disciplinary action and discipline licensees.
- g. Board fees and funds generated through licensure and other funding streams from boards established pursuant to Chapters 641, 641A, 641B, and 641C of NRS will be redirected to DPBH to support the activities of licensure administration, investigation, and regulatory oversight for behavioral health professionals.
- h. Require the State Board of Health to make necessary regulatory changes to existing regulation in Chapters 641, 641A, 641B, and 641C of *Nevada Administrative Code*, and develop new regulations to comply with these legislative changes.
- i. Any regulations adopted by boards established pursuant to Chapters 641, 641A, 641B, and 641C of NRS that do not conflict with the provisions outlined above remain in effect and may be enforced by the appropriate board until the State Board of Health adopts regulations to repeal or replace those regulations. Any regulations adopted by the above boards that conflict with these provisions are void.
- j. The DHHS must develop a plan for transitioning from the existing licensing board structure to the new behavioral health profession licensing structure within the State Board of Health so that licensees and the public can follow and participate in the transition process. The plan must be presented at a meeting in compliance with the open meeting law and adopted at a second meeting in compliance with the open meeting law. Provisions of Chapter 233B (“Nevada Administrative Act”) of NRS do not apply to this transition plan.
- k. Contracts and agreements, disciplinary and administrative actions, and licenses issued by such boards remain in effect as if taken by the officer or entity to which the responsibility for the enforcement of such action has been transferred.

## **PROPOSALS RELATING TO BEHAVIORAL HEALTH**

- 21. Behavioral Health Education for Law Enforcement**—Send a letter to the Directors of the Department of Public Safety and the DHHS, and to the heads of local law enforcement expressing the Committee’s support for the development of a statewide behavioral health education/training requirement for law enforcement officers.

*(Proposed by Jessica Flood, Regional Behavioral Health Coordinator, Carson Tahoe Behavioral Health Services, Carson Tahoe Health)*

22. **Mental Health Courts**—Send a letter to the Senate Committee on Finance, the Assembly Committee on Ways and Means, and the DHHS expressing the Committee’s support for mental health and other specialty courts. The letter will:

- a. Encourage and support the development of additional residential substance abuse treatment beds and the establishment of treatment beds for people diagnosed with co-occurring disorders, as there are currently no such beds in the State;
- b. Express the Committee’s continued support for providing funding for housing, transportation, and drug testing for specialty court participants.

*(Proposed by The Honorable Deborah E. Schumacher, Senior District Court Judge, Carson City)*

23. **Crisis Intervention**—Send a letter to the Senate Committee on Finance, the Assembly Committee on Ways and Means, and the Director of DHHS expressing the Committee’s support for expansion and development of crisis intervention services and crisis stabilization centers. The letter will express support for:

- a. Expansion of crisis intervention and jail diversion programs such as the Forensic Assessment Services Triage Team (FASTT), Mobile Outreach Safety Team (MOST), and crisis intervention training; and
- b. Development of crisis stabilization centers in the State, where people experiencing a crisis related to a mental health condition can access services 24 hours per day, 7 days per week. This type of center can provide timely de-escalation, early intervention and patient stabilization to prevent the need for higher levels—and more costly—care.

*(Proposed by various presenters at the June 29, 2016 Committee meeting)*

### **PROPOSALS RELATING TO AMBULATORY SURGICAL CENTERS**

24. **Ambulatory Surgical Centers**—Propose legislation to:

- a. Amend Chapter 449 (“Medical Facilities and Other Related Entities”) of NRS to prohibit an ambulatory surgical center from performing surgical services that routinely result in admission to another licensed medical facility within 24 hours after discharge from the surgical center.
- b. Amend NRS 439A.250 to require the DHHS to impose a penalty on surgical centers for ambulatory patients, pursuant to NRS 439A.310, after sending two notices



indicating that the center failed to submit the required information, or the information was incomplete or inaccurate.

- c. Amend subsection 2 of NRS 439A.280 to exempt NRS 439A.240 and 439A.250 from the programs and duties for which the DHHS can temporarily suspend if it determines sufficient funds are not available.

## CONSENT CALENDAR FOR WORK SESSION

### Legislative Committee on Health Care

*Nevada Revised Statutes 439B.200*

August 24, 2016

*NOTE TO COMMITTEE MEMBERS: The recommendations listed below have been placed on a Consent Calendar by the Chair to assist the Committee in quickly taking action on selected items. Committee members may request to remove items from this list for further discussion and consideration. If so desired, other recommendations from the “Work Session Document” may be added to the Consent Calendar with the approval of the Committee.*

ITEM NUMBER	TOPIC OF RECOMMENDATION (Please see “Work Session Document” for full description)
2.	National Health Service Corps and Nurse Corps
4.	Graduate Medical Education Funding Letter to Governor
5.	Graduate Medical Education Funding Letter to Congressional Delegation
9.	Medicaid Managed Care Expansion
10.	Medicaid Managed Care Agreements/Request for Proposals
12.	Medical Education for Residents
14.	Children’s Health Insurance Program
15.	Autism Treatment Assistance Program and Medicaid
17.	Collaboration Between School and Out-of-School ABA Services
18.	Medicaid Reimbursement Rates
19.	Oversight of Health Profession Licensing Boards
21.	Behavioral Health Education for Law Enforcement
22.	Mental Health Courts
23.	Crisis Intervention