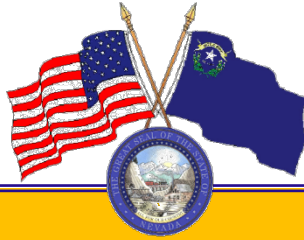


Bulletin No. 11-17



Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs

Legislative Counsel Bureau



January 2011

**LEGISLATIVE COMMITTEE ON SENIOR CITIZENS
VETERANS AND ADULTS WITH SPECIAL NEEDS**

BULLETIN NO. 11-17

JANUARY 2011

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SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMITTEE ON SENIOR CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS

Nevada Revised Statutes 218E.750

On June 15, 2010, during the fourth and final meeting of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs (*Nevada Revised Statutes* [NRS] 218E.750), the members conducted a work session and voted to forward ten bill draft requests (BDRs) to the 2011 Legislative Session. The Committee members also voted to have seven letters drafted to various entities expressing their support for specific issues or encouraging certain action. During the work session, the members also voted to include several statements of support for issues in the Committee's final report. A summary of each BDR, letter, and statement of support follows.

During the drafting process, specific details of the following proposals for legislation and letters may be further clarified by staff in consultation with the Chair or others, as appropriate. If a proposal for legislation or letter includes reference to specific chapters or statutes of the NRS, as part of the drafting process, amendments to other related chapters or sections of the NRS may be made to fully implement the proposals.

BILL DRAFT REQUESTS

1. Draft legislation amending the NRS relating to guardianships. At the Committee's June 15, 2010, meeting, the Guardianship Steering Committee presented several proposals relating to guardianships in the form of a nine-page bill mockup. The Committee voted to forward many of those proposals, as well as some provided by others, to the next legislative session. Specifically, the Committee approved revisions relating to the following topics:
 - Provide a procedure for guardians to access the accounts of a ward and require financial institutions to comply with court orders relating to accounts;
 - Provide that a court may require a guardian to attend guardianship training, if available;
 - Authorize the appointment of a guardian ad litem to advocate for the ward's best interest and define the appointment, duties, and compensation for guardians ad litem;

- Revise provisions relating to court costs and attorney compensation in guardianship cases;
 - Provide that a qualified party who is not a physician may inform a proposed adult ward that a petitioner is requesting a court appointed guardian and inform the proposed ward of the right to be represented by counsel. Also provide that a qualified party who is not a physician may solicit from the proposed ward a response to the petition for guardianship and additional information and preferences concerning the guardianship;
 - Standardize the type of information required to be included on forms used in the guardianship process; however, allow each jurisdiction to create their own forms;
 - Revise provisions relating to wards who own or purchase firearms that the court determines are a risk to themselves or others;
 - Require that private professional guardians who are not attorneys undergo a fingerprint background investigation at their own expense;
 - Require every guardian to make and file a verified guardian's acknowledgement of duties and responsibilities and require guardians to agree to operate under a nationally recognized code of ethics and certain standards of practice;
 - Clarify that placement of the ward in a facility is a duty of the guardian of the person, not the guardian of the estate;
 - Provide that a guardian shall not be removed if the sole reason for removal is the lack of funding to pay the guardian's fees; and
 - Provide in NRS 159.0535 that videoconferenced appearances for guardianship hearings may be used "if available" so that videoconferencing is an option only if the technology is available. **(BDR 13-156)**
2. Draft legislation to amend guardianship provisions in Chapters 159 and 253 of the NRS, as appropriate, to authorize a public guardian to inspect all records pertaining to a potential ward, even before a guardianship is established. Such records include, but are not limited to, that person's medical and financial records. This authority would be used for the purpose of investigating an alleged case of exploitation or to determine when a public guardianship is appropriate. Although there was testimony that guardians may already have this authority in a different chapter (Chapter 253 of NRS), concern was raised that in practice the public guardians do not have statutory authority to get all

records in a timely manner. The Committee voted to make clear in the law that public guardians are authorized to have direct and timely access to bank records, physician records, and any other records necessary to determine if a guardianship may be appropriate. **(BDR 23–157)**

3. Draft legislation to require the Office of the Attorney General to organize or sponsor one or more multidisciplinary teams (MDTs). Currently, NRS 228.270 provides that the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General “may” organize or sponsor one or more MDTs to review any allegations of abuse, neglect, exploitation, or isolation of an older person. Change “may organize or sponsor” to “shall support the organization of or sponsor.” In addition, amend subsection 2 of NRS 228.270 to include “vulnerable persons” among those who may be served by a MDT (currently this subsection only pertains to older persons). This amendment would make subsection 2 of NRS 228.270 consistent with NRS 200.5091 through NRS 200.50995, which refer to abuse, neglect, exploitation, or isolation of older persons and vulnerable persons. Also add language that requires entities such as local government and State agencies to participate in MDTs. **(BDR 18–153)**
4. Draft legislation clarifying the provisions of NRS 179A.450 to improve the usefulness of the data in the Repository for Information Concerning Crimes Against Older Persons. Make the following revisions to NRS 179A.450:
 - Make it clear that only those crimes where older persons are targeted should be reported to the Repository, not crimes that incidentally involve an older person. Currently, the Repository receives reports when arrests occur relating to crimes that *involve* elderly people, such as a burglary of a house that happens to be owned by an older person. In order to collect information about crimes *targeting* elderly people, cross reference the definitions in NRS 200.5092 relating to elder abuse, neglect, exploitation, and isolation; and
 - Change permissive language to a mandate relating to the types of reports to be submitted to the Repository. Subsection 2 of NRS 179A.450 states that the Repository “must contain a complete and systematic record of all reports of crimes against older persons committed in this State.” However, the Repository is currently only receiving arrest reports from some law enforcement agencies and reports of cases that the Aging and Disability Services Division (ADSD), Department of Health and Human Services (DHHS), forwards to law enforcement agencies for investigation. In order to receive more types of reports, change “may” to “shall” to mandate that all the types of reports currently listed in subsection 2 of NRS 179A.450 be forwarded to the Repository. If necessary, strengthen the mandate that law enforcement and reporting agencies forward the reports to the Repository, and make

clear the penalty that results if they do not report. Finally, authorize the Department of Public Safety to adopt regulations that facilitate the collection of other types of reports of crimes against older persons through collaboration with the ADSD, offices of district attorneys, law enforcement agencies, and other relevant organizations. **(BDR 14–154)**

5. Draft legislation directing the State Board of Health to adopt regulations to require mandatory elder abuse training for all personnel who work directly with residents, including owners and administrators, in facilities for the dependent (as defined in NRS 449.0045), facilities for long-term care (as defined in NRS 427A.028 but not subsection 5 of NRS 427A.028), and facilities for the care of adults during the day (as defined in NRS 449.004). The Committee voted to include the following requirements, the details of which will be determined through regulations:
 - The training content must be related to how to identify and report elder abuse, including sexual assault, and the content must be from an accredited or approved training course (the number of hours required will be determined by regulation);
 - The training must be obtained before the person’s first day of work;
 - Continuing education and training must be obtained annually, which must include updates relating to recent changes in relevant laws;
 - Online training should be an option but must not be required;
 - The facility must pay for the training; and
 - Training will be enforced by tying the training of employees to an administrator’s license (with the potential of administrators losing their license if employees are not trained). **(BDR 40–155)**
6. Draft legislation revising provisions relating to quality of care in certain facilities for older persons and persons with disabilities in the following ways:
 - Direct the Health Division, DHHS, to adopt regulations requiring facilities for long-term care to allow residents to return to the facility after a short hospitalization, unless there are no beds available;
 - Improve the transparency of ownership and administration in residential facilities by requiring that the names and contact information of the actual owners and administrators be posted at the facility and included in licensing documents.

Specifically, contact information for all the individuals in the highest level of the facility's hierarchy must be included, such as the owners, administrators of record, administrators on-site (if different from the administrator of record), and managers, as applicable depending upon each facility's structure. If a corporation owns a facility, the names and contact information for that company's officers must be provided;

- Direct the Health Division to adopt regulations establishing a uniform assessment tool that is required to be used for each type of facility for long-term care (skilled nursing, assisted living, and group homes). The tool will assess the level of care needed for each resident, including the resident's physical and mental capabilities and medical condition. Currently, each facility has its own assessment tool. The goal of the standardized assessment tool is to give regulators and ombudsmen the ability to judge the appropriateness of the care the resident is receiving in a more objective manner; and
 - Require the Health Division to adopt by regulation standards relating to best practices for nursing and staff ratios in skilled nursing facilities. National standards should be identified and used, if available; otherwise, the Health Division must define ideal staffing ratios for Nevada. The regulations must also require facilities to make information about their staffing levels available to consumers in a format so that a person looking for a facility could determine how well that facility is meeting these best practice standards in comparison to other facilities. The regulations should specify the method of making this information available to consumers, one of which could be publishing it online through the Health Division's website. **(BDR –158)**
7. Draft legislation directing the Health Division to perform the following acts with respect to facilities for long-term care:
- Increase the frequency of facility inspections to three or four times per year for each facility and close a facility after two warnings relating to an uncorrected deficiency. Add a requirement that facilities must pay a fee in order to cover the cost of the more frequent inspections;
 - Require that if requested by a patient, family member, guardian, or payer of services, a facility must provide them with an itemized "patient care accountability statement" that specifically lists the amount spent on all care for the patient, including items such as (but not limited to) food, medicine, and services;
 - Require that if a facility is found to have deficiencies of any kind by the Bureau of Health Care Quality and Compliance (BHCQC), Health Division, the patients, family members, guardians, payer of care, or other person designated by the patient must be

notified immediately that the facility has been found to be deficient in specific areas; and

- Adopt regulations to carry out the above requirements. **(BDR 40–159)**
8. Draft legislation to revise the guardianship process for veterans in the following ways:
 - Provide that if a ward is a veteran who receives funds from the Veterans Administration (VA), then all of the ward’s money should be handled under the guardianship provisions of Chapter 160 of NRS. Currently, some veterans have two guardianships and follow two sets of rules relating to the procedure for administering their money, because they receive some money from the VA, which is covered under Chapter 160 of NRS, and some money from Social Security or other sources, which is covered under Chapter 159 of NRS; and
 - Revise NRS 160.120 and any other provisions relating to guardianships for veterans to indicate that compensation payable to a guardian must not exceed 4 percent of the income of the ward during any year. Remove the option for guardians to petition the court for additional compensation. **(BDR 13–160)**
 9. Draft legislation relating to special license plates for veterans, including the following:
 - Change the disabled veteran license plate to a universally recognized handicap parking plate with a distinctive design that includes a handicapped symbol and “DV”;
 - Remove the limitation on the number of specialty plates a veteran may have;
 - Revise the form of all the armed forces special license plates to allow the addition of a disabled veteran designation, which would provide all the benefits associated with the disabled veteran plate (such as free parking in certain places); and
 - Create a license plate honoring veterans who are women. **(BDR 43–161)**
 10. Draft legislation mandating that funeral homes report the unclaimed human remains of persons who might be veterans to Nevada’s Office of Veterans’ Services (NOVS) within a year after the person’s death. This will enable the NOVS staff to research the cases of people who might be veterans and collect the remains of those found to be veterans for proper burial. **(BDR 54–162)**

LETTERS

11. Write a letter to the Attorney General and other entities involved in multidisciplinary teams to encourage the creation and participation in MDTs.

12. Write a letter urging the DHHS to organize an advocacy response team comprised of members from the ADSD, BHCQC, and the Division of Health Care Financing and Policy (DHCFP), DHHS (if the resident receives Medicaid). The purpose of the team will be to respond quickly to alleged cases of extreme abuse, neglect, isolation, or exploitation of older persons in facilities for long-term care in order to protect the resident and ensure that a proper investigation occurs.
13. Write a letter to Nevada's Congressional Delegation requesting that they amend the Medicare Adult Day Care Services Act of 2009 (H.R. 3043) to ensure appropriate funding of adult day health care services and non-emergent transportation for adult day health care services. The requester suggests the following language be inserted: "No funds shall be appropriated for the Secretary of Health and Human Services to withhold, suspend, disallow, or deny federal financial participation under Section 1903(a) of the Social Security Act for adult day health care services or medical adult day care services and non emergent transportation for adult day care health care services as defined under a State Medicaid plan approved during or before 1994, or withdraw federal approval of any such State Plan provision. This [subsection] shall apply to Fiscal Year 2011 and each fiscal year thereafter."
14. Write a letter supporting the work of the Nevada Silver Haired Legislative Forum (NRS 427A.320 through 427A.400) in its efforts to research and propose the creation of a voluntary statewide alert system for endangered adults. Such an alert system would authorize law enforcement agencies, broadcast organizations, and other voluntary organizations to share descriptive information about the endangered adult. The Committee encourages the Forum to create a feasible proposal and find a sponsor for legislation to be introduced on this topic during the 76th Legislative Session.
15. Write a letter to the ADSD and the Senior Services Strategic Plan Accountability Committee encouraging them to partner with the Alzheimer's Association and other appropriate agencies and interested parties to create a Nevada State Plan for best meeting the needs of persons with Alzheimer's disease and related dementias, their families, and caregivers. The Nevada State Plan for Alzheimer's disease should include recommendations that could be proposed to the Legislature that will comprehensively address the related issues in the State of Nevada. The letter will also encourage these entities to consider the issue of parity between services for persons with disabilities and services for older persons. Some persons with dementia or who are disabled but then become senior citizens may experience gaps in service when they move from one category of services to another. Ways to provide seamless transitions should be examined and recommended.

16. Write a letter urging the DHCFP to maximize opportunities to apply for grants provided by the new federal Patient Protection and Affordable Care Act (H.R. 3590) (Public Law 111-148). At minimum, the State should pursue the following three options at the earliest possible date:
- Health Homes (Section 2703): Under this option, one central provider is responsible for coordinating a patient's care, with the goal of improving health outcomes and reducing expenditures for Medicaid enrollees with chronic conditions. This option offers a Federal Medical Assistance Percentage (FMAP) of 90 percent for two years, and funds will be available in January 2011;
 - Community First Choice Option (Section 2401): This option offers attendant care services in the State Plan under a 1915(i) option, and may include expenditures for transition costs from an institution and for items that substitute for human assistance. It allows a 6 percent increase in FMAP for those who are Medicaid eligible and certain others who have an institutional level of care; and
 - Removal of Barriers to Providing Home- and Community-Based Services (Section 2402): This option offers regulatory changes to ensure service systems are responsive, provide support for self-direction, and improve provider coordination; expansion of services that can be provided under 1915(i) to more closely align with services that can be provided under 1915(c) Home- and Community-Based Waivers; expansion of eligibility based upon income, and an optional new Medicaid eligibility group specific to 1915(i); and a waiver of comparability, an ability to target services, no enrollment caps, and no waiver of statewideness.
17. Write a letter encouraging the standing committees with jurisdiction over health and human services topics in each house of the 76th Session of the Nevada Legislature to invite presentations relating to the needs of persons with Alzheimer's disease and related dementias, their families, and caregivers.

**REPORT TO THE 76TH SESSION OF THE NEVADA LEGISLATURE BY
THE LEGISLATIVE COMMITTEE ON SENIOR CITIZENS,
VETERANS AND ADULTS WITH SPECIAL NEEDS**

I. INTRODUCTION

During the 75th Legislative Session, the Nevada Legislature passed Assembly Bill 9 (Chapter 430, *Statutes of Nevada 2009*), which provided for the creation of a statutory committee, the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs. The measure authorized the Committee to review, study, and comment on issues relating to senior citizens, veterans, and adults with special needs, including, but not limited to: initiatives to ensure financial and physical wellness; abuse, neglect, isolation, and exploitation; public outreach and advocacy; programs for the provision of services and methods to enhance programs to ensure that services are provided in the most appropriate setting; programs that provide services and care in the home; the availability of useful information and data as needed for the State to effectively make decisions, plan budgets, and monitor costs and outcomes of services; laws relating to the appointment of a guardian, including the improvement of investigations relating to guardianships and systems for monitoring guardianships; and the improvement of facilities for long-term care in Nevada.

Members

The Legislative Commission appointed the following members to the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs:

Assemblywoman Kathy McClain, Chair
Senator Shirley A. Breeden, Vice Chair
Senator Dennis Nolan
Senator Joyce Woodhouse
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart

Staff

The following Legislative Counsel Bureau (LCB) staff members provided support for the Committee:

Amber J. Joiner, Senior Research Analyst, Research Division
Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division
Natalee M. Binkholder, Deputy Legislative Counsel, Legal Division
Ricka Benum, Senior Research Secretary, Research Division

II. STATEMENT OF COMMITTEE GOALS

During the last meeting, as the Committee was completing its work for the interim, the Committee members voted to emphasize an overarching goal in its final report. The Committee's primary goal is to end the abuse, exploitation, isolation, and neglect of senior citizens, veterans, and adults with special needs wherever such offenses may occur in Nevada. To this end, the Committee strongly recommends that adequate funds be provided for elder protective services, and that proper oversight be provided for services and programs serving seniors, veterans, and adults with special needs. Another issue of particular importance to the Committee is the safety and quality of long-term care facilities. On this topic, the members urge better enforcement of laws relating to management transparency, patient and family rights in complaint processes, and the use of chemical restraints and lethal overdosing. The Committee members are also very concerned that some seniors or people with special needs are being placed in facilities prematurely. They encourage adequate funding of home- and community-based services and believe such programs should take priority so that people may remain safely and happily in their homes and communities as long as possible.

III. COMMITTEE ACTIVITIES

The Committee met four times in Las Vegas at the Grant Sawyer State Office Building, on January 20, March 10, April 13, and June 15, 2010. All four meetings were broadcast live on the Internet and videoconferenced to the Legislative Building in Carson City, which allowed testimony from both locations.

During the course of the interim, representatives from State and local agencies; businesses; community groups; nonprofit organizations; professional organizations; and the public provided testimony on a wide range of topics relating to senior citizens, veterans, and adults with special needs. For summaries of testimony and exhibits, please refer to the meeting minutes available at: <http://www.leg.state.nv.us/Interim/75th2009/Committee/StatCom/SeniorVetSpecial/?ID=50>.

January 20, 2010, Meeting

During the first meeting on January 20, 2010, the Committee heard testimony relating to the work of the Strategic Planning Accountability Committee for Seniors; the economic and fiscal impact of Nevada's senior population; issues relating to the licensing of long-term care facilities and administrators; the work of the Nevada Long-Term Care Ombudsman; long-term care for veterans in Nevada; the work of the Nevada Health Care Association; the care provided to patients with Alzheimer's disease residing in long-term care facilities; and rape in long-term care facilities.

March 10, 2010, Meeting

At the second meeting on March 10, 2010, the Committee heard testimony relating to the work of the Guardianship Steering Committee; the use of guardianships in the justice system; law enforcement procedures for investigating the abuse, neglect, isolation, and exploitation of senior citizens and adults with special needs; the procedure for prosecuting cases of abuse, neglect, isolation, and exploitation of senior citizens and adults with special needs; an update on the cases of abuse, neglect, isolation, and exploitation reported to the Central Repository for Nevada Records of Criminal History, Records and Technology Division, Department of Public Safety (DPS); an update on the progress of the transfer of protective services from Clark County to the State of Nevada; and the work of Nevada's Elder Abuse Task Force.

April 13, 2010, Meeting

Testimony during the third meeting on April 13, 2010, related to topics such as the prevention of the abuse, neglect, isolation, and exploitation of senior citizens and adults with special needs; demographics relating to crimes against senior citizens; the results of Nevada's Office of Veterans' Services' Legislative Symposium; women veterans in Nevada; the Veterans Court Calendar in Clark County and the Veterans Court in Washoe County; services for adults with physical disabilities and adults with developmental disabilities in Nevada; and a summary of key provisions relating to senior citizens, veterans, and adults with special needs in recent federal health care reforms.

June 15, 2010, Meeting

During the fourth and final meeting on June 15, 2010, the Committee held a work session, during which the members considered 37 recommendations. The members voted to forward ten bill draft requests (BDRs) to the 76th Session of the Nevada Legislature and to write seven letters to various entities expressing their support for specific issues. The bill drafts relate to the following topics:

1. Procedures and requirements relating to guardianships for seniors citizens, veterans, and adults with special needs;
2. The authority of public guardians relating to access to the records of potential adult wards;
3. Multidisciplinary teams that review allegations of abuse, neglect, exploitation, or isolation of older persons and vulnerable persons;
4. The Repository for Information Concerning Crimes Against Older Persons, Records and Technology Division, DPS;
5. Elder abuse prevention and reporting training for personnel in certain facilities;

6. Quality of care and licensing requirements for certain residential facilities;
7. Inspections and quality of care in facilities for long-term care;
8. Requirements relating to guardianships for veterans;
9. Special license plates for certain veterans; and
10. Funeral home reporting of unclaimed remains of persons who may be veterans.

IV. DISCUSSION OF MAJOR ISSUES RESULTING IN BILL DRAFTS, LETTERS, OR STATEMENTS

The members voted to forward ten BDRs to the 76th Session of the Nevada Legislature and to write seven letters to various entities expressing their support for specific issues. The Committee also voted to include several statements of strong support or encouragement in its final report. The bill drafts, letters, and statements fall into five main topic categories: elder abuse, exploitation, isolation, or neglect; guardianships for senior citizens; facilities and home care for senior citizens; services for veterans; and services for adults with special needs.

Additional information, such as the summary meetings minutes and the “Work Session Document” may be found at: <http://www.leg.state.nv.us/Interim/75th2009/Committee/StatCom/SeniorVetSpecial/?ID=50>.

A. Elder Abuse, Exploitation, Isolation, or Neglect

At the final meeting on June 15, 2010, the Committee members agreed to emphasize one overarching goal. The Committee’s primary goal is to end the abuse, exploitation, isolation, and neglect of senior citizens, veterans, and adults with special needs wherever such offenses may occur in Nevada. The Committee investigated many aspects of these crimes during the interim. The March 10, 2010, meeting specifically addressed the abuse, exploitation, isolation, and neglect of senior citizens and adults with special needs, and testimony was heard from Nevada’s Elder Abuse Task Force, the Office of the Attorney General, district attorneys, DPS, and police departments. The testimony clearly demonstrated that offenses against seniors and adults with special needs do occur; that more needs to be done to prevent, investigate, and punish such occurrences; and more useful data about the problem is still needed. In response to this testimony, the Committee voted to submit the following bill draft request (**BDR 18–153**):

Draft legislation to require the Office of the Attorney General to organize or sponsor one or more multidisciplinary teams (MDTs). Currently, *Nevada Revised Statutes* (NRS) 228.270 provides that the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General “may”

organize or sponsor one or more MDTs to review any allegations of abuse, neglect, exploitation, or isolation of an older person. Change “may organize or sponsor” to “shall support the organization of or sponsor.” In addition, amend subsection 2 of NRS 228.270 to include “vulnerable persons” among those who may be served by a MDT (currently this subsection only pertains to older persons). This amendment would make subsection 2 of NRS 228.270 consistent with NRS 200.5091 through NRS 200.50995, which refer to abuse, neglect, exploitation, or isolation of older persons and vulnerable persons. Also add language that requires entities such as local government and State agencies to participate in MDTs.

The Committee also voted to submit the following bill draft request in order to improve the reporting process and data relating to crimes against older persons (**BDR 14–154**):

Draft legislation clarifying the provisions of NRS 179A.450 to improve the usefulness of the data in the Repository for Information Concerning Crimes Against Older Persons. Make the following revisions to NRS 179A.450:

- Make it clear that only those crimes where older persons are targeted should be reported to the Repository, not crimes that incidentally involve an older person. Currently, the Repository receives reports when arrests occur relating to crimes that *involve* elderly people, such as a burglary of a house that happens to be owned by an older person. In order to collect information about crimes *targeting* elderly people, cross reference the definitions in NRS 200.5092 relating to elder abuse, neglect, exploitation, and isolation; and
- Change permissive language to a mandate relating to the types of reports to be submitted to the Repository. Subsection 2 of NRS 179A.450 states that the Repository “must contain a complete and systematic record of all reports of crimes against older persons committed in this State.” However, the Repository is currently only receiving arrest reports from some law enforcement agencies and reports of cases that the Aging and Disability Services Division (ADSD), Department of Health and Human Services (DHHS), forwards to law enforcement agencies for investigation. In order to receive more types of reports, change “may” to “shall” to mandate that all the types of reports currently listed in subsection 2 of NRS 179A.450 be forwarded to the Repository. If necessary, strengthen the mandate that law enforcement and reporting agencies forward the reports to the Repository, and make clear the penalty that results if they do not report. Finally, authorize the DPS to adopt regulations that facilitate the collection of other types of reports of crimes against older persons through collaboration with the ADSD, offices of district attorneys, law enforcement agencies, and other relevant organizations.

The Committee decided that abuses in long-term care facilities can be prevented, identified, and stopped more quickly if staff are adequately trained. Therefore, the members voted to submit the following bill draft request (**BDR 40–155**):

Draft legislation directing the State Board of Health to adopt regulations to require mandatory elder abuse training for all personnel who work directly with residents, including owners and administrators, in facilities for the dependent (as defined in NRS 449.0045), facilities for long-term care (as defined in NRS 427A.028 but not subsection 5 of NRS 427A.028), and facilities for the care of adults during the day (as defined in NRS 449.004). The Committee voted to include the following requirements, the details of which will be determined through regulations:

- **The training content must be related to how to identify and report elder abuse, including sexual assault, and the content must be from an accredited or approved training course (the number of hours required will be determined by regulation);**
- **The training must be obtained before the person’s first day of work;**
- **Continuing education and training must be obtained annually, which must include updates relating to recent changes in relevant laws;**
- **Online training should be an option but must not be required;**
- **The facility must pay for the training; and**
- **Training will be enforced by tying the training of employees to an administrator’s license (with the potential of administrators losing their license if employees are not trained).**

Letters From the Committee

The Committee voted to write two letters relating to the abuse, neglect, isolation, or exploitation of senior citizens:

- Write a letter to the Attorney General and other entities involved in multidisciplinary teams to encourage the creation and participation in MDTs.
- Write a letter urging the DHHS to organize an advocacy response team comprised of members from the ADSD, Bureau of Health Care Quality and Compliance (BHCQC), Health Division, and the Division of Health Care Financing and Policy (DHCFP), DHHS (if the resident receives Medicaid). The purpose of the team will be to respond quickly to alleged cases of extreme abuse, neglect, isolation, or exploitation of older

persons in facilities for long-term care in order to protect the resident and ensure that a proper investigation occurs.

Statements in the Final Report

In addition to the BDRs relating to the abuse, exploitation, isolation, or neglect of senior citizens, the Committee members voted to include a statement in the final report on this topic:

- The Committee members encourage communities across the State to engage in dialogue on senior abuse through their participation in education and awareness presentations offered by community-based agencies. They also encourage State of Nevada agencies to participate in and research best practices relating to senior abuse awareness and protection so that they are in alignment with the movement forward in regards to protecting citizens everywhere from harm and crime.

B. Guardianships

At the March 10 and June 15, 2010, meetings, the Committee heard extensive testimony relating to the protection of senior citizens and adults with special needs who have been appointed a legal guardian. The Guardianship Steering Committee, public guardians, private guardians, and attorneys testified that the system is complex, varies by region in the State, and revisions to the NRS are necessary in order to better protect seniors and adults with special needs who are in the guardianship system.

In response to the needs revealed during testimony, the Committee voted to submit the following bill draft request (**BDR 13–156**):

Draft legislation amending the NRS relating to guardianships. At the Committee's June 15, 2010, meeting, the Guardianship Steering Committee presented several proposals relating to guardianships in the form of a nine-page bill mockup. The Committee voted to forward many of those proposals, as well as some provided by others, to the next legislative session. Specifically, the Committee approved revisions relating to the following topics:

- **Provide a procedure for guardians to access the accounts of a ward and require financial institutions to comply with court orders relating to accounts;**
- **Provide that a court may require a guardian to attend guardianship training, if available;**
- **Authorize the appointment of a guardian ad litem to advocate for the ward's best interest and define the appointment, duties, and compensation for guardians ad litem;**

- **Revise provisions relating to court costs and attorney compensation in guardianship cases;**
- **Provide that a qualified party who is not a physician may inform a proposed adult ward that a petitioner is requesting a court-appointed guardian and inform the proposed ward of the right to be represented by counsel. Also provide that a qualified party who is not a physician may solicit from the proposed ward a response to the petition for guardianship and additional information and preferences concerning the guardianship;**
- **Standardize the type of information required to be included on forms used in the guardianship process; however, allow each jurisdiction to create their own forms;**
- **Revise provisions relating to wards who own or purchase firearms that the court determines are a risk to themselves or others;**
- **Require that private professional guardians who are not attorneys undergo a fingerprint background investigation at their own expense;**
- **Require every guardian to make and file a verified guardian's acknowledgement of duties and responsibilities and require guardians to agree to operate under a nationally recognized code of ethics and certain standards of practice;**
- **Clarify that placement of the ward in a facility is a duty of the guardian of the person, not the guardian of the estate;**
- **Provide that a guardian shall not be removed if the sole reason for removal is the lack of funding to pay the guardian's fees; and**
- **Provide in NRS 159.0535 that videoconferenced appearances for guardianship hearings may be used "if available" so that videoconferencing is an option only if the technology is available.**

The Committee also voted to submit the following BDR relating to guardianships in order to clarify the rights public guardians have regarding certain records (**BDR 23-157**):

Draft legislation to amend guardianship provisions in Chapters 159 and 253 of the NRS, as appropriate, to authorize a public guardian to inspect all records pertaining to a potential ward, even before a guardianship is established. Such records include, but are not limited to, that person's medical and financial records. This authority would be used for the purpose of investigating an alleged case of exploitation or to determine when a public guardianship is appropriate.

Although there was testimony that guardians may already have this authority in a different chapter (Chapter 253 of NRS), concern was raised that in practice the public guardians do not have statutory authority to get all records in a timely manner. The Committee voted to make clear in the law that public guardians are authorized to have direct and timely access to bank records, physician records, and any other records necessary to determine if a guardianship may be appropriate.

C. Facilities and Home Care for Senior Citizens

During the January 20, 2010, meeting, the Committee members heard testimony relating to the safety and quality of care in long-term care facilities in Nevada. For example, they learned of a concern that a type of “patient dumping” was happening in Nevada. According to testimony, some residents of long-term care facilities were being sent to the hospital, and although they may only be there a few days, they were told they could not return to the long-term care facility from which they came. A concern is that this is a purposeful strategy used to remove a patient who a facility finds difficult or no longer wishes to care for. Testimony revealed that this can cause an out-of-state placement, requiring residents to move far from their families, and causing trauma that may lead to additional hospitalization or even death.

Testimony also revealed concern about the lack of transparency in facility management and ownership, so that when family members have concerns that they want to report, it is not clear which person to contact or which company actually owns the facility.

Staffing levels and training in facilities was another area of concern raised during testimony. The Committee members heard testimony that low nursing or skilled worker levels may be a reason why safety and quality is poor in some facilities, and they heard the suggestion that nursing staff ratios should be implemented. Assembly Bill 121 from the 2009 Legislative Session (Chapter 380, *Statutes of Nevada*) required certain health care facilities in Nevada to have staffing committees or staffing plans, and ratios had been debated, but not implemented. During the work session at the June, 15, 2010, meeting, the question was again raised whether the State should set specific staffing ratios or not.

In response to these concerns related to safety and quality in facilities, the Committee voted to submit the following bill draft request (**BDR –158**):

Draft legislation revising provisions relating to quality of care in certain facilities for older persons and persons with disabilities in the following ways:

- **Direct the Health Division, DHHS, to adopt regulations requiring facilities for long-term care to allow residents to return to the facility after a short hospitalization, unless there are no beds available;**
- **Improve the transparency of ownership and administration in residential facilities by requiring that the names and contact information of the actual**

owners and administrators be posted at the facility and included in licensing documents. Specifically, contact information for all the individuals in the highest level of the facility's hierarchy must be included, such as the owners, administrators of record, administrators on-site (if different from the administrator of record), and managers, as applicable depending upon each facility's structure. If a corporation owns a facility, the names and contact information for that company's officers must be provided;

- **Direct the Health Division to adopt regulations establishing a uniform assessment tool that is required to be used for each type of facility for long-term care (skilled nursing, assisted living, and group homes). The tool will assess the level of care needed for each resident, including the resident's physical and mental capabilities and medical condition. Currently, each facility has its own assessment tool. The goal of the standardized assessment tool is to give regulators and ombudsmen the ability to judge the appropriateness of the care the resident is receiving in a more objective manner; and**
- **Require the Health Division to adopt by regulation standards relating to best practices for nursing and staff ratios in skilled nursing facilities. National standards should be identified and used, if available; otherwise, the Health Division must define ideal staffing ratios for Nevada. The regulations must also require facilities to make information about their staffing levels available to consumers in a format so that a person looking for a facility could determine how well that facility is meeting these best practice standards in comparison to other facilities. The regulations should specify the method of making this information available to consumers, one of which could be publishing it online through the Health Division's website.**

During both the January 20 and April 13, 2010, meetings, the Committee heard detailed explanations about how the BHCQC, Health Division, DHHS, inspects facilities, and what the sanctions are for facilities found to be deficient. Believing that these inspection procedures could be even more frequent, have stronger penalties, and provide more information to patients and their families, the Committee voted to submit the following bill draft request (BDR 40-159):

Draft legislation directing the Health Division, DHHS, to perform the following acts with respect to facilities for long-term care:

- **Increase the frequency of facility inspections to three or four times per year for each facility and close a facility after two warnings relating to an uncorrected deficiency. Add a requirement that facilities must pay a fee in order to cover the cost of the more frequent inspections;**

- **Require that if requested by a patient, family member, guardian, or payer of services, a facility must provide them with an itemized “patient care accountability statement” that specifically lists the amount spent on all care for the patient, including items such as (but not limited to) food, medicine, and services;**
- **Require that if a facility is found to have deficiencies of any kind by the BHCQC, Health Division, DHHS, the patients, family members, guardians, payer of care, or other person designated by the patient must be notified immediately that the facility has been found to be deficient in specific areas; and**
- **Adopt regulations to carry out the above requirements.**

Letters From the Committee

The Committee voted to write one letter relating to facilities and home care for senior citizens:

- Write a letter to Nevada’s Congressional Delegation requesting that they amend the Medicare Adult Day Care Services Act of 2009 (H.R. 3043) to ensure appropriate funding of adult day health care services and nonemergent transportation for adult day health care services. The requester suggests the following language be inserted: “No funds shall be appropriated for the Secretary of Health and Human Services to withhold, suspend, disallow, or deny federal financial participation under Section 1903(a) of the Social Security Act for adult day health care services or medical adult day care services and nonemergent transportation for adult day care health care services as defined under a State Medicaid plan approved during or before 1994, or withdraw federal approval of any such State Plan provision. This [subsection] shall apply to Fiscal Year 2011 and each fiscal year thereafter.”

Statements in the Final Report

In addition to the BDRs and letters relating to facilities and home care for senior citizens, the Committee members voted to include five statements relating to this topic in the Committee’s final report:

- The Committee strongly believes that home- and community-based services should be prioritized; stable and adequate funding should be provided for services for seniors, veterans, and disabled people; and it is important to have adequate oversight and funding for elder protective services.
- The Committee urges DHHS to prefer home- and community-based care services when placing senior or disabled people in long-term care services. Placement in long-term care facilities or institutional settings should be the last type of service chosen.

- The Committee was informed that according to a recent letter from the Division of Insurance, Nevada's Department of Business and Industry, the Program of All-Inclusive Care for the Elderly (PACE) falls under the jurisdiction of the federal government and does not need to be licensed by the State. The Committee wishes to make clear its belief that PACE should not be interpreted as falling under the jurisdiction of the State Gaming Control Board.
- The Committee emphasizes that the following are areas of concern in facilities for long-term care and encourages the Health Division and the ADSD, DHHS, to strengthen their oversight of the following issues:
 - Although criminal background checks are currently required for employees of these facilities, they take time to conduct, and there is concern that people who are ultimately found to have criminal records have been working in a facility prior to the results being received. The results of background checks should be received prior to patient contact and should include character references and family histories to better safeguard against resident abuse.
 - Although there are criminal penalties for owners and administrators who condone or allow lethal overdosing and the use of unnecessary chemical restraints, cases are apparently still occurring, so improved enforcement and better oversight is needed.
 - Cases of patients reporting feeling threatened or fearful if they speak up about their needs are still being reported. Patient and family rights and complaint processes need to be supported so that facility employees are not able to intimidate or discourage patients from reporting deficiencies in care.
- The Committee acknowledges the importance of reliable transportation for Medicaid patients who need to attend adult day care centers as part of their daily medical care and urges the DHCFP, DHHS, to support those services. The DHCFP should not amend Nevada's State Plan for Medicaid in a way that would cut transportation reimbursement rates to providers of medical services who also provide nonemergency transportation services (such as certain adult day care facilities). The Committee was informed that proposed changes to the State Plan appear to change the reimbursement formula from per patient to per mile, and there is concern that this formula will not provide a reimbursement rate that will cover the cost of running such a transportation operation. Any revisions to the State Plan relating to transportation should maintain a reimbursement rate that covers the cost of operating reliable transportation for patients to medical appointments and adult day care services.

D. Services Relating to Veterans

During the April 13, 2010, meeting, the Committee members heard testimony specifically relating to veterans in Nevada. Nevada's Office of Veterans' Services (NOVS) estimates that

there are approximately 339,000 veterans in Nevada. This group represents 12 percent of the population, which is higher than the national average of 8 percent. During testimony representatives of the NOVS presented issues of concern that came out of the NOVS Legislative Symposium. In an effort to address some of these concerns, the Committee voted to submit the following bill draft request **(BDR 13–160)**:

Draft legislation to revise the guardianship process for veterans in the following ways:

- **Provide that if a ward is a veteran who receives funds from the Veterans Administration (VA), then all of the ward’s money should be handled under the guardianship provisions of Chapter 160 of NRS. Currently, some veterans have two guardianships and follow two sets of rules relating to the procedure for administering their money, because they receive some money from the VA, which is covered under Chapter 160 of NRS, and some money from Social Security or other sources, which is covered under Chapter 159 of NRS; and**
- **Revise NRS 160.120 and any other provisions relating to guardianships for veterans to indicate that compensation payable to a guardian must not exceed 4 percent of the income of the ward during any year. Remove the option for guardians to petition the court for additional compensation.**

In order to honor veterans, the Committee also voted to submit the following bill draft request **(BDR 43–161)**:

Draft legislation relating to special license plates for veterans, including the following:

- **Change the disabled veteran license plate to a universally recognized handicap parking plate with a distinctive design that includes a handicapped symbol and “DV”;**
- **Remove the limitation on the number of specialty plates a veteran may have;**
- **Revise the form of all the armed forces special license plates to allow the addition of a disabled veteran designation, which would provide all the benefits associated with the disabled veteran plate (such as free parking in certain places); and**
- **Create a license plate honoring veterans who are women.**

The Committee also voted to submit the following bill draft request in order to pay respect to deceased veterans **(BDR 54–162)**:

Draft legislation mandating that funeral homes report the unclaimed human remains of persons who might be veterans to Nevada's Office of Veterans' Services (NOVS) within a year after the person's death. This will enable the NOVS staff to research the cases of people who might be veterans and collect the remains of those found to be veterans for proper burial.

Statements in the Final Report

In addition to the BDRs relating to services for veterans, the Committee members voted to include three statements relating to this topic in the Committee's final report:

- The Committee strongly supports the establishment of a Northern Nevada Veterans Home. A Capital Improvement Plan (CIP) has already been submitted to the State of Nevada to request funding for 35 percent of the home in order to meet the federal matching requirements. This statement would recognize the importance of the home and encourage the approval of the CIP.
- The Committee encourages the Regional Transportation Commission of Washoe County to establish routes to the Reno Veterans Benefits Administration, and encourages the Regional Transportation Commission of Southern Nevada to establish routes to the Southern Nevada Veterans Affairs Medical Center.
- The Committee encourages the standing committees with jurisdiction over issues relating to veterans services in each house of the Nevada Legislature during the 76th Legislative Session to review the work of the disabled veterans' outreach programs and local veterans' employment representatives in the Department of Employment, Training and Rehabilitation. The review should examine whether these positions are currently serving veterans in the most effective manner and consider the possibility of moving them to the NOVS.

E. Services Relating to Adults With Special Needs

During the April 13, 2010, meeting, the Committee heard testimony specifically relating to adults with developmental disabilities or physical disabilities. As a result, the Committee voted at the June 15, 2010, meeting to write four letters relating to adults with special needs:

- Write a letter supporting the work of the Nevada Silver Haired Legislative Forum (NRS 427A.320 through 427A.400) in its efforts to research and propose the creation of a voluntary statewide alert system for endangered adults. Such an alert system would authorize law enforcement agencies, broadcast organizations, and other voluntary organizations to share descriptive information about the endangered adult. The Committee encourages the Forum to create a feasible proposal and find a sponsor for legislation to be introduced on this topic during the 76th Legislative Session.

- Write a letter to the ADSD, DHHS, and the Senior Services Strategic Plan Accountability Committee encouraging them to partner with the Alzheimer's Association and other appropriate agencies and interested parties to create a Nevada State Plan for best meeting the needs of persons with Alzheimer's disease and related dementias, their families, and caregivers. The Nevada State Plan for Alzheimer's disease should include recommendations that could be proposed to the Legislature that will comprehensively address the related issues in the State of Nevada. The letter will also encourage these entities to consider the issue of parity between services for persons with disabilities and services for older persons. Some persons with dementia or who are disabled but then become senior citizens may experience gaps in service when they move from one category of services to another. Ways to provide seamless transitions should be examined and recommended.
- Write a letter urging the DHCFF, DHHS, to maximize opportunities to apply for grants provided by the new federal Patient Protection and Affordable Care Act (H.R. 3590) (Public Law 111-148). At minimum, the State should pursue the following three options at the earliest possible date:
 - Health Homes (Section 2703): Under this option, one central provider is responsible for coordinating a patient's care, with the goal of improving health outcomes and reducing expenditures for Medicaid enrollees with chronic conditions. This option offers a Federal Medical Assistance Percentage (FMAP) of 90 percent for two years, and funds will be available in January 2011;
 - Community First Choice Option (Section 2401): This option offers attendant care services in the State Plan under a 1915(i) option, and may include expenditures for transition costs from an institution and for items that substitute for human assistance. It allows a 6 percent increase in FMAP for those who are Medicaid eligible and certain others who have an institutional level of care; and
 - Removal of Barriers to Providing Home- and Community-Based Services (Section 2402): This option offers regulatory changes to ensure service systems are responsive, provide support for self-direction, and improve provider coordination; expansion of services that can be provided under 1915(i) to more closely align with services that can be provided under 1915(c) Home- and Community-Based Waivers; expansion of eligibility based upon income, and an optional new Medicaid eligibility group specific to 1915(i); and a waiver of comparability, an ability to target services, no enrollment caps, and no waiver of statewideness.
- Write a letter encouraging the standing committees with jurisdiction over health and human services topics in each house of the 76th Session of the Nevada Legislature to invite presentations relating to the needs of persons with Alzheimer's disease and related dementias, their families, and caregivers.

V. CONCLUDING REMARKS

The Legislative Committee on Senior Citizens, Veterans, and Adults With Special Needs fulfilled its statutory obligations by reviewing, studying, and commenting upon issues relating to senior citizens, veterans, and adults with special needs during four meetings. The Committee would like to thank all of the federal, State, and local agencies; branches of the military; businesses; community groups; nonprofit organizations; professional organizations; and the public for their contributions to the Committee's work this interim. The members sincerely appreciate the time, expertise, and recommendations these people volunteered to help make the final recommendations as complete as possible. This study would not have been possible without their assistance and cooperation.

VI. APPENDICES

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APPENDIX A

Nevada Revised Statutes 218E.750

Nevada Revised Statutes

NRS 218E.750 Creation; membership; budget; officers; terms; vacancies.

1. The Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs, consisting of six members, is hereby created. The membership of the Committee consists of:

(a) Three members of the Senate appointed by the Majority Leader of the Senate, at least one of whom must be a member of the minority political party; and

(b) Three members of the Assembly appointed by the Speaker of the Assembly, at least one of whom must be a member of the minority political party.

2. The Legislative Commission shall review and approve the budget and work program for the Committee and any changes to the budget or work program.

3. The Legislative Commission shall select the Chair and Vice Chair of the Committee from among the members of the Committee. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. The position of Chair of the Committee must alternate each biennium between the Houses of the Legislature. If a vacancy occurs in the position of Chair or Vice Chair, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

4. A member of the Committee who is not a candidate for reelection or who is defeated for reelection continues to serve after the general election until the next regular or special session of the Legislature convenes.

5. A vacancy on the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.

(Added to NRS by [2009, 2412](#))

APPENDIX B

Suggested Legislation

The following Bill Draft Requests will be available during the 2011 Legislative Session, or can be accessed after “Introduction” at the following website: <http://www.leg.state.nv.us/Session/76th2011/BDRList/>.

BDR 18–153	Makes various changes concerning Multidisciplinary Teams.
BDR 14–154	Revises provisions concerning the reporting of crimes against older persons.
BDR 40–155	Requires training of persons who work in certain facilities.
BDR 13–156	Revises provisions relating to guardianships.
BDR 23–157	Revises provisions relating to public guardians.
BDR –158	Revises provisions relating to facilities.
BDR 40–159	Requires routine inspections of certain facilities.
BDR 13–160	Revises provisions concerning guardianships for veterans.
BDR 43–161	Revises provisions relating to veterans’ license plates.
BDR 54–162	Requires funeral homes to report the unclaimed remains of persons who may be veterans.

