

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 and letter follows, while the statements of support will appear in the Committee's bulletin (interim study report) later this year.

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 —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 —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 NRS 228.270(2) 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 —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 —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 —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 their 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 —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 veteran 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 —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 —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 —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.