



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

*(Nevada Revised Statutes 218E.750)*

**SUMMARY MINUTES AND ACTION REPORT**

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The fourth meeting of the Nevada Legislature's Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs was held on June 15, 2010, at 9 a.m. in Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 2135 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" ([Exhibit A](#)) and other substantive exhibits, are available on the Nevada Legislature's website at: <http://www.leg.state.nv.us/interim/75th2009/committee/>. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (e-mail: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775/684-6835).

**COMMITTEE MEMBERS PRESENT IN LAS VEGAS:**

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

**COMMITTEE MEMBER ABSENT:**

Senator Dennis Nolan (Excused)

**LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:**

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

## **OPENING REMARKS**

Chair McClain brought the fourth and final meeting of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs to order and roll was called.

## **APPROVAL OF THE “SUMMARY MINUTES AND ACTION REPORT” OF THE MEETING HELD ON APRIL 23, 2010, IN LAS VEGAS, NEVADA**

- Chair McClain noted a correction to be made to the draft minutes of April 23, 2010, and requested changing Sally Wiley’s hometown from Carson City, to Gardnerville, Nevada. Mrs. Wiley is a Gold Star Mother and also a member of the Nevada Veterans’ Services Commission (NRS 417.150).
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR BREEDEN MOVED TO APPROVE THE MINUTES OF THE APRIL 23, 2010, MEETING HELD IN LAS VEGAS, NEVADA WITH THE AMENDED LANGUAGE AS STATED ABOVE. THE MOTION WAS SECONDED BY ASSEMBLYMAN STEWART AND PASSED UNANIMOUSLY.

## **PRESENTATIONS RELATING TO THE USE OF GUARDIANSHIPS IN THE JUSTICE SYSTEM**

### ***Update on the Work of the Guardianship Steering Committee***

- Sally Crawford Ramm, Elder Rights Attorney, Aging and Disability Services Division (ADSD), Department of Health and Human Services (DHHS), briefed the Committee on the history of the Guardianship Steering Committee formed to discuss and provide revisions to enhance the guardianship statutes. Ms. Ramm outlined the goals and the membership of the steering committee and offered her prepared comments ([Exhibit B](#)). She listed the primary areas of focus as: (1) court proceedings; (2) due process for the wards; and (3) regulatory issues affecting private professional guardians.
- Lora E. Myles, Attorney, Carson and Rural Elder Law Program, provided testimony from a document outlining the section by section proposals to revise Chapter 159 of NRS, “Guardianships; Conservatorships; Trusts” ([Exhibit C](#)). Ms. Myles explained that the proposals specifically address Recommendation No. 16 of the “Work Session Document” ([Exhibit D](#)). She briefly reviewed the amended language outlined in Section 2 through Section 14 of [Exhibit C](#).

Ms. Myles expounded on Section 9 which addresses Recommendation No. 12 and explained that it is the first step in creating a licensing scheme for private professional guardians. Currently, all public guardians are subject to background investigations since they are county employees. She explained that the Nevada court system does not

have the appropriate funding or the staff to handle background investigations; she noted that 75 percent of the State's guardianships are family guardians. Ms. Myles pointed out that Section 14 of [Exhibit C](#) refers to Recommendation No. 17.C of the "Work Session Document" which states that a guardian cannot be released due to a ward's lack of funds for the guardianship fees.

- Senator Breeden asked Ms. Myles for clarification regarding Section 2 of [Exhibit C](#), and inquired why the sealing of court records may become necessary.
- In response, Ms. Myles cited an example of a recent case where a non-family member and distant relatives of a ward both exploited the senior citizen in excess of \$500,000. In this case, if the records containing information on the ward's assets and inventories were sealed this senior would not have been in this situation. Until the law is changed and the court has the ability to seal records, documents are public and may be accessed by anyone. She added that this type of activity occurs relatively often.

During discussion between Chair McClain and Ms. Myles, Ms. Myles clarified that this proposal would not prevent siblings from obtaining documents or information regarding their parents, but it would prevent neighbors, former spouses, or abusive parties from attaining court records. Ms. Myles added that this would not eliminate the mandatory notifications and that final decision would remain at the discretion of the judge.

Responding to an inquiry from Assemblyman Stewart regarding Section 14, Ms. Myles explained there have been instances where private professional guardians spend down a ward's funds with guardianship fees, then attempt to transfer the ward to a family member or public guardian. She added that if a private professional guardian takes on a case, they should not have the ability to simply dismiss the ward for the lack of assets to pay the guardianship fees. Ms. Myles indicated this practice is more common than realized.

## **PRESENTATION RELATING TO SENIOR CITIZENS WHO ARE VICTIMS OF MORTGAGE AND FORECLOSURE FRAUD**

- Brett Kandt, Executive Director, Nevada Prosecution Advisory Council, and Special Deputy Attorney General, Office of the Attorney General (AG), provided information regarding mortgage fraud schemes perpetrated against senior citizens. Mr. Kandt explained the type of swindles that have evolved from mortgage cons to foreclosure scams under the guise of loan modifications or foreclosure rescues. He stated these cases most often involve phantom help and that it is a violation of NRS to collect fees up front. Mr. Kandt indicated that many of the cases result in the fraudulent companies ending up with the majority of the equity in the senior's home, and he noted that there are several variations of these homeowner-type scams used to obtain ownership. He estimated that his office has received complaints against 185 companies, 14 of which are criminal cases, and in 51 of the cases civil resolution is sought. He noted that each of the 185 companies typically represents 50 separate complaints. In addition, Mr. Kandt listed the criminal indictment statistics that have been filed against victims,

and he added that senior citizens are a primary target. He submitted information as [Exhibit E](#).

- Assemblyman Stewart inquired whether his office could provide information if contacted by senior citizens regarding any company that has had complaints lodged against them. Mr. Kandt responded in the affirmative.

## **PUBLIC COMMENT**

- Christopher A. Vito, President and Chief Executive Officer, Nevada Adult Day Healthcare Centers, Las Vegas, addressed Recommendation No. 25 and indicated that the proposal originated from the National Adult Day Care Services Association (NADSA), with which he is associated. Mr. Vito stated that he realized Recommendation No. 25 addresses a federal issue, but wanted to bring awareness at the State level. He also noted his intent to bring attention to the cost effectiveness of adult day centers as an effective alternative to nursing homes and to help protect federal funding.
- Jack Mayes, Chair, Nevada Governor's Council on Developmental Disabilities, DHHS, Carson City, requested that the Committee: (1) expand its role to look at issues which affect children with disabilities; and (2) address the issue of parity between services for persons with disabilities and services for senior citizens. Mr. Mayes explained the potential for a client to lose services by transitioning from disability services to a senior category. He requested the Committee send a letter to the ADSD, DHHS, to review the issue and possibly request an interim study. He suggested dialog to ensure that services are equitable so that clients are not dropped from one service as they enter another service category. Mr. Mayes stated that protective services are available for seniors, but not necessarily for adults with disabilities.
- Chair McClain commented on the importance of addressing mental health issues, and explained that as a person ages any mental health illness is considered dementia and no longer listed as a mental health problem; those seniors may indeed lose services. She directed discussion during the work session portion of the meeting regarding sending a letter to the ADSD, DHHS, to address parity issues between adults with disabilities and senior citizens.
- Fran Smith, Director, ITN*LasVegasValley*, a nonprofit organization that provides transportation for seniors 60 years and older and visually impaired adults, outlined problems that stem from the passage of Assembly Bill 296 (Chapter 299, *Statutes of Nevada 2009*). Ms. Smith stated that the bill modified the blanket nonprofit exemption for transportation service companies from certification requirements and eliminated the nonprofit exemption for agencies that charge for their services. She explained that ITN*LasVegasValley* is a unique organization, does not fit within the guidelines of various types of certificates issued by the Nevada Transportation Authority, and are

interested in modifying the recent law which was designed to address nonemergency medical transport providers.

- Chair McClain requested Assemblywoman Spiegel to work with Ms. Smith and the Assembly Standing Committee on Transportation to resolve her concerns during the 2011 Legislative Session.
- Connie McMullen, Chair, Strategic Planning Accountability Committee for Seniors (SPAC), addressed Recommendation No. 1 and outlined recent Washoe County cases, relating to the financial exploitation of senior citizens. Ms. McMullen stated that elder abuse, fraud, and financial exploitation of seniors are major crimes and have become a growing trade in the State. In addition, she commented that the most fragile persons in our communities are the victims who are often too frail to report the crimes committed against them. She reported that SPAC: (1) supports additional resources be provided to further the multidisciplinary team (MDT) approach for investigating and prosecuting crimes committed against older persons; and (2) recommends requiring the AG'S Office to organize or sponsor one or more MDTs to continue the focus of maintaining safety for vulnerable elders.

Commenting on Recommendation No. 18, Ms. McMullen stated that for the past three legislative sessions, SPAC has advocated for the increase of waiver funding for low-income, at-risk elders. She reported that due to decreased revenues, the ADSD, DHHS, has experienced a decline in services and a decline in the number of beds allotted in the waivers. She said that SPAC recommends that the State: (1) continue its efforts to shift services to home- and community-based care; and (2) work to remove the requirement that a project must be financed through tax credits relating to low-income housing (or other public funds) to be certified as an assisted living facility for the purpose of providing services pursuant to the provision of the home- and community-based waiver found in NRS 422.2708.

Ms. McMullen provided a lengthy explanation of the provisions pertaining to the assisted living endorsements and amendments of the home- and community-based care waiver. She also discussed the adopted criteria for determining eligibility for assisted living supportive services that resulted in a narrowly defined and restrictive housing statute which benefits approximately 54 persons. Concluding, Ms. McMullen said SPAC recommends the assisted-living waiver be reviewed so that more projects can be developed statewide and the waiver be defined and stated more clearly to limit the confusion and lack of transparencies.

During discussion between Chair McClain and Ms. McMullen regarding drafting legislation as stated in Recommendation No 18, Ms. McMullen indicated that legislation may not be the proper venue to provide clarification of the issue.

- Barry Gold, Director, Government Relations, AARP Nevada, Las Vegas, also addressed Recommendation No. 18, and clarified that the assisted-living waivers are separate from other waivers and designed to provide stability for a new model of affordable assisted living. Mr. Gold said that the assisted-living waivers do not compete or detract from the Waiver for the Elderly in Adult Residential Care (WEARC) waivers. He commented that the model of the Silver Sky Assisted Living facility, Las Vegas, was an innovative plan to allow nonprofit organizations to enter the market and provide affordable assisted-living homes to seniors with the lowest incomes. He said that the statute was written to allow any nonprofit group to apply for the assisted-living waiver component without having to go through the Legislature. Mr. Gold stated that the WEARC waiver is for residential care homes for groups and has more availability.

Mr. Gold added that AARP Nevada does not support Recommendation No. 18, since it will alter the original intent of the statute.

- Luis Carrillo, Alzheimer's Association, Las Vegas, spoke on Recommendation No. 36, and requested the Committee's support to appoint a task force dedicated to identifying issues relating to persons with Alzheimer's disease and related dementias. Mr. Carrillo explained that the task force could partner with the Alzheimer's Association, other appropriate agencies, and interested parties to create a Nevada State Plan to meet the needs of those affected by Alzheimer's disease.
- Lu Torres, Executive Director, The Rape Crisis Center, Las Vegas, directed her comments to Recommendation No. 5 and stated support for the requirement of reporting the number of senior abuse cases and investigations to a centralized State agency and the enhancement of the current repository. Ms. Torres addressed the issue of developing an on-line training course pertaining to sexual assaults on senior citizens, and she explained the course would be mandatory for all staff working in long-term care facilities. She said the proposal would be established on a national platform and suggested the program be managed by Rose M. Yuhos, Executive Director, Area Health Education Center, Las Vegas. Ms. Torres addressed Recommendation Nos. 6 and 7 and specifically spoke on updates and best practices associated with elder sexual assaults. She reported that United States Representative Dina Titus (D), representing Nevada's Congressional District 3, relayed the potential for future training grants in conjunction with the recent federal health care reform measures.
- Glenn C. Schepps, Attorney at Law, Las Vegas, spoke on his ten-year participation with cases that involve skilled nursing facilities and residential group homes. Mr. Schepps testified that he has witnessed senior citizens in horrendous circumstances which have occurred in local facilities. He outlined the inspection survey conducted by the Bureau of Health Care Quality and Compliance (BHCQC), Health Division, DHHS, completed in November 2009 at Chancellor Gardens of the Lake, Las Vegas. He stated that the survey totaled 58 pages which included violations of at least

15 statutes, or regulations, and deficiencies that resulted in the deaths of 7 to 10 elderly residents at the facility. He expressed frustration that the BHCQC representatives left the facility, did not revoke the license, and allowed it to continue operating which put the most vulnerable population at risk. In addition, he was appalled that the facility remains open and expressed disgust that the Clark County District Attorney's Office has failed to prosecute the administrators and operators. Mr. Schepps stated that the NRS pertaining to death through negligence is considered to be manslaughter or negligent homicide. Mr. Schepps testified that he personally has documented and reported such violations to the BHCQC since 2000, and has seen no resolution to the deficiencies. He pointed out that Nevada has an adequate amount of complete and strong statutes, but problems occur with the lack of enforcement. He suggested the following items:

1. Strengthen the language in the NRS to contain more instances of "shall" and "must" rather than "may" to resolve deficiencies;
2. Include penalty language in the NRS to address situations where mandatory training is not completed;
3. Implement additional and drastic measures to protect seniors and vulnerable persons in skilled nursing facilities and residential group homes;
4. Approve and develop statutory requirements so that individual owners must be listed on business licenses and insurance policies (not corporations) to develop transparency of administration and ownership of skilled nursing facilities and residential group homes;
5. Require the BHCQC to act aggressively to address issues where lives of the elderly are at risk, and develop penalties for revocation of licensure modeled after the compliance procedures of the State Contractors' Board (NRS 624.040); and
6. Require that a medical doctor (not a licensed or registered nurse) provide the initial assessment when residents enter a skilled nursing facility or a residential group home.

Concluding, Mr. Schepps requested a requirement be implemented to state the minimum number of times a resident must be seen by a medical doctor in a facility. In relation to patient to staff ratios, he reiterated that Nevada's statutes are more complete than other states, but restated the necessity for regular medical doctor examinations.

- John Healy, Citizens for Patient Dignity, Las Vegas, suggested implementing an Arkansas requirement that an autopsy be performed on any person expiring in a nursing

home. Mr. Healy shared photographs with the Committee and shared an article suggesting that prisoners are treated better than nursing home patients.

- Sylvia Healy, Citizens for Patient Dignity, Las Vegas, expressed gratitude to those who have brought attention to the problems seniors experience in skilled nursing facilities. Mrs. Healy expressed frustration that senior citizens are living in fear of nursing homes. She relayed that senior citizens have a great sense of pride and many are embarrassed to speak out on instances of abuse. Mrs. Healy also requested clarification on the reasoning behind Recommendation No. 13 that would eliminate the requirement for videoconferencing of guardianship cases.
- Brett Kandt, previously identified, spoke on Recommendation No. 1 that would require the AG's Office to organize and sponsor MDTs. He explained that existing resources were used to initially create the unit for investigating and prosecuting crimes against seniors. He said that he interprets Recommendation No. 1 to require the AG's Office to establish a MDT in each county. He indicated that the AG's Office is willing to work with any jurisdiction to assist in establishing MDTs, but stated the Office does not have the resources to take the lead. Mr. Kandt noted that an AG-sponsored MDT ensures system improvement and better protection for seniors, but may not make sense in all jurisdictions. He emphasized that the idea behind the MDTs is that they remain voluntary and to mandate the AG's Office to create the teams would require significant resources.

During discussion following a response to an inquiry from Assemblywoman Spiegel regarding the fiscal impact of Recommendation No. 1, Mr. Kandt said he contacted Connie McMullen, previously identified, to clarify the intent of SPAC's proposal. He explained that concern was expressed that changes in the administration of the AG's Office would alter the commitment to protect senior citizens. He added that a "one-size fits all" approach would not result in better protection. In addition, he stated that the investigation and prosecution component lies at the local level, rather than the top-down approach required in Recommendation No. 1.

- Mr. Kandt clarified that he requested Recommendation No. 2 to include "vulnerable persons" among those who may be served by a MDT.

At the request of the Chair, staff offered a response to the earlier inquiry regarding Recommendation No. 13 by Sylvia Healy, previously identified.

- Amber J. Joiner, Senior Research Analyst, Research Division, LCB, responded to an inquiry regarding the proposal to remove the authorization for videoconference appearances during guardianship hearings as currently stated in statute. Ms. Joiner referred to the March 10, 2010, testimony of James M. O'Reilly ([Exhibit F](#)) in which he explained that there is no available method to comply with the current language, there are wide variations of technology, and prohibitive cost requirements to make

direct courtroom telemetry available from every nursing home, care home, assisted living facility, transitional hospital, rehabilitation hospital, and adult day care. Ms. Joiner said it is her understanding that the current statute is being interpreted as requiring every court to provide videoconferencing, regardless of whether or not it has the technology.

- Chair McClain began the Work Session with items pertaining to guardianship issues, Recommendation Nos. 11 through 17. She confirmed with the Committee's Legal Counsel, Risa B. Lang, Chief Deputy Legislative Counsel, Legal Division, LCB, that all the guardianship issues could be submitted into one or two BDRs. Ms. Lang confirmed that was correct.

### **“WORK SESSION DOCUMENT”**

The following list of recommendations was compiled by the Chair and staff of the Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs (*Nevada Revised Statutes* [NRS] 218E.750). This document contains recommendations that were either submitted in writing to the Committee staff, provided through correspondence with Committee members, or presented during one of the Committee's three hearings on January 20, 2010; March 10, 2010; or April 13, 2010.

This document is designed to assist the Committee members in determining what action they may take on certain issues, which may include making statements in the Committee's final report, writing letters of recommendation or support, or forwarding recommendations for legislation to the 2011 Session of the Nevada Legislature. The Committee may vote to make as many statements or send as many letters as they choose; however, pursuant to NRS 218D.160, the Committee is limited to ten bill draft requests (BDRs), including requests for resolutions. The BDRs must be submitted to the Legal Division of the LCB on or before September 1, 2010.

The proposals listed in this document are conceptual recommendations arranged by topic, are in no particular order of importance, and do not necessarily have the support or opposition of the Committee Chair or members. The members may accept, reject, modify, or take no action on any of the proposals. The source of each recommendation is noted in parentheses, when available. Please note that specific sources may not be provided if the proposals were raised and discussed by numerous individuals during the course of the study, or only one main source may be listed when there were also others who contributed.

The recommendations may have been modified by being combined with similar proposals, or by the addition of necessary legal or fiscal information. It should also be noted that some of the recommendations may contain an unknown fiscal impact. During the drafting process, specific details of approved requests for legislation or other Committee action may be further clarified by staff in consultation with the Chair or others, as appropriate. Also, if a recommendation 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 recommendation.

### **WORK SESSION**

#### **DISCUSSION AND POSSIBLE ACTION ON RECOMMENDATIONS RELATING TO:**

- **Senior Citizens**
  1. **Elder Abuse, Exploitation, Neglect, or Isolation**
  2. **Guardianships**
  3. **Facilities and Home Care**
- **Veterans**
- **Adults With Special Needs**

#### **RECOMMENDATIONS RELATING TO GUARDIANSHIPS**

***Recommendation No. 11:*** *Draft legislation establishing an interim legislative study on the issue of guardianships for adults in order to identify and recommend improvements and reforms in the system (submitted by Herbert E. Randall, Vice President, Nevada Silver Haired Legislative Forum).*

***Recommendation No. 12:*** *Draft legislation requiring that in order to become a guardian of any kind (public or private), a person must submit to a fingerprint background check through the Federal Bureau of Investigation (submitted by Shelly Register, Guardianship Service of Nevada).*

***Recommendation No. 13:*** *Draft legislation that removes the authorization for videoconference appearances for guardianship hearings in NRS 159.0535 (submitted by James M. O'Reilly, Certified Elder Law Attorney).*

***Recommendation No. 14:*** *Draft legislation requiring the ADSD, DHHS, to adopt regulations to create two standard forms relating to the guardianship process. One form advises prospective wards of their rights regarding the proposed guardianship (such as the right to an attorney), and the other is a certificate from a physician to certify the incapacity of a person (submitted by James M. O'Reilly, Certified Elder Law Attorney).*

***Recommendation No. 15:*** *Draft legislation amending the NRS to add violating the ethical standards adopted by the National Guardianship Association (NGA) to the list of conditions under which the guardian may be removed. Provide that a guardian may also be removed if the guardian has filed for bankruptcy within the last five years, has negligently failed to perform any duty provided by law or ordered by the court, or if the best interest of the ward would be served by the appointment of another person as guardian. Also, add provisions*

*prohibiting a court from appointing a guardian unless there is evidence that the guardian has complied with these ethical guidelines. Currently, the following publications have been adopted by the NGA: Standards of Practice, 2002 and A Model Code of Ethics for Guardians, 1988 (submitted by Ginny Casazza, NCG, Casazza Professional Services, Inc.).*

***Recommendation No. 16: Draft legislation amending the NRS relating to guardianships in the following ways: provide for the sealing of guardianship records; provide a procedure for guardians to access the accounts of the ward and require financial institutions to comply with court orders relating to accounts; authorize a court to require guardianship training; revise provisions relating to the appointment of a guardian ad litem; revise provisions relating to court costs and attorney compensation; provide for the right of wards in certain cases to own a firearm; require certified guardians to agree to operate under certain standards of practice and codes of ethics; require private professional guardians to undergo a background investigation at their own cost and expense; provide for a “Guardian’s Acknowledgment of Duties and Responsibilities” form; and require a guardian to file a petition with the court requesting authorization to move or place a ward into a secured residential long-term care facility (submitted by Sally Crawford Ramm, Elder Rights Attorney, ADSD, DHHS, on behalf of the Guardianship Steering Committee).***

***Recommendation No. 17: Draft legislation to amend guardianship provisions in the following ways (submitted by Susan DeBoer, Washoe County Public Guardian, and Kathleen Buchanan, Clark County Public Guardian):***

- A. According to testimony, when a person is referred to a public guardian’s office, it can be difficult for the public guardian to identify whether exploitation of the person has occurred and whether a guardianship is necessary. For the purpose of investigating an alleged case of exploitation or to determine when a public guardianship is appropriate, authorize a public guardian to inspect all records pertaining to the older person, including that person’s medical and financial records, even before a guardianship is established.***
  - B. Provide for medical surrogate decision making. This would authorize a physician to designate a family member or other person to serve as a surrogate for the purpose of making medical decisions in cases where a guardianship or durable power of attorney are not in place. These laws have passed in Arizona, Illinois, and Texas.***
  - C. According to testimony, in some cases, the courts ask public guardians to take over as guardians for a ward whose assets are depleted and the private guardian no longer wants to represent the ward. Therefore, it is proposed that a court shall not remove a private guardian if the sole reason for removal is the lack of funding to pay the guardian’s fees.***
- Chair McClain stated she did not see the need for Recommendation No. 11 to move forward, and that the Committee would be the appropriate venue to review future

guardianship issues. In addition, she explained that Recommendation No. 12 would be included in the BDR outlined by Ms. Myles, as stated under Section 9 of [Exhibit C](#). Pertaining to Recommendation No. 13, Chair McClain indicated her preference to clarify the vague videoconferencing language by adding the words “if available.” She explained that would make it clear that videoconferencing is not mandatory.

A general discussion ensued regarding the issue of standardizing guardianship forms with input from Senators Breeden and Woodhouse. Chair McClain suggested expounding on the language to state what the duties, functions, and responsibilities of the guardian are that serve to be in the best interest of the ward.

- Ms. Myles indicated agreement and at the direction of Chair McClain confirmed she would work with Ms. Lang to develop appropriate language for Recommendation No. 13.
- Chair McClain pointed out that concerns were expressed with portions of the language proposed by the Steering Committee in Recommendation No. 15.

During discussion between Ms. Myles and Chair McClain it was noted that language included in Section 9 of [Exhibit C](#) met with strong resistance from representatives of private professional guardians, who oppose any type of licensing scheme. The Chair clarified that the language would state that guardians must operate under the National Guardianship Association Standards of Practice.

- Senator Breeden stated she would not support the bankruptcy language outlined under Recommendation No. 15. She indicated that with the unprecedented financial climate it is unfair that family caregivers through no fault of their own may need to file bankruptcy.
- Ms. Myles clarified that this circumstance would only apply to private professional guardians, not family guardians, and those guardians with more than three wards. In addition, Ms. Myles clarified the degree necessary and the duties of a guardian ad litem. She told the members that a guardian ad litem is essentially a voluntary court investigator, acting on behalf of the court to represent the best interest of the ward.
- Chair McClain directed that the language referring to a degree be left in the proposed BDR, since the issue warrants further discussion next session.
- Assemblyman Stewart and Senator Breeden expressed reservations regarding the court sealing the records of a ward. Senator Breeden indicated that without statistics to indicate abuse, she preferred that documents remain public.

The Committee agreed that the language pertaining to sealing court records (Section 2 of [Exhibit C](#)) would be omitted from the BDR.

Following a lengthy discussion, Chair McClain clarified the Committee's intent to request two BDRs that will include the guardianship issues and requested staff to clarify the components as discussed.

- Amber Joiner, previously identified, outlined the discussion and restated the items to be included in the motion for approval:
  1. Recommendation No. 16 to include the addition of the mockup language ([Exhibit C](#)) and with the inclusion of a fingerprint background check as proposed in Recommendation No. 12;
  2. Recommendation No. 13 to leave in the authorization for videoconferencing, as currently stated in statute with the addition of the words "if available";
  3. The provisions in Recommendation No. 14 to include the development of a standardized form to be established by staff through consultation with Sally Ramm, previously identified, and to encompass the Committee's intent to create standardized court forms;
  4. The bankruptcy provision under Recommendation No. 15 will not be included in the BDRs; all remaining portions of Recommendation No. 15 addressing the National Guardianship Association's *A Model Code of Ethics for Guardians* and the *Standards of Practice* are provided in the mockup ([Exhibit C](#));
  5. Recommendation No. 16 will be included as stated in [Exhibit C](#) with the deletion of language regarding the sealing of court records;
  6. Recommendations No. 17.C is included within Recommendation No. 16 and will be included in the BDR; and
  7. Recommendation No. 17.A will be separate and represent the second BDR.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN SPIEGEL MOVED FOR APPROVAL OF RECOMMENDATION NOS. 12 THROUGH 17 AS STATED ABOVE. THE MOTION WAS SECONDED BY SENATOR BREEDEN AND PASSED UNANIMOUSLY.

There was no further discussion of Recommendation No. 11.

- Chair McClain opened discussion on the proposals addressing elder abuse, exploitation, neglect, and isolation, which are outlined in Recommendation Nos. 1 through 10.

## **RECOMMENDATIONS RELATING TO ELDER ABUSE EXPLOITATION, NEGLECT, OR ISOLATION**

***Recommendation No. 1: Draft legislation to require the Office of the Attorney General to organize or sponsor at least one multidisciplinary team (MDT). 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 multidisciplinary teams 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” (submitted by Connie McMullen, Chair, Senior Services Strategic Plan Accountability Committee [SPAC]).***

***Recommendation No. 2: Draft legislation to amend NRS 228.270(2) 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 (submitted by Brett Kandt, Special Deputy Attorney General, Office of the Attorney General).***

- Senator Woodhouse proposed combining Recommendation Nos. 1 and 2. She indicated agreement with Chair McClain that changing the statute to “shall” will send a message of total commitment that elder abuse issues will be prosecuted.
- Assemblyman Stewart suggested the addition of language stating “as funds become available.” He indicated that would relieve some of the fiscal burden from the Office of the AG.
- Chair McClain expressed support for requiring the establishment of MDTs; she also favored sending a strong message for the urgent need to implement these teams, possibly with language in a preamble. In addition, she stressed that the AG should take the lead to organize and sponsor the MDTs, but should not be required to shoulder the entire fiscal burden. She emphasized that the language should be stated in a strong manner that the cooperation of agencies at the local level is necessary.
- Risa Lang, previously identified, stated it would be possible to include language of a forceful nature to encourage other entities to assist the AG’s office. She suggested possibly writing a letter to the local governments, or adding a statement in the final report to provide full participation in developing MDTs and assisting the AG’s office.

There was general agreement by the Committee not to include the suggested language “as funds become available” in the motion. There was also agreement that the final report would include a strongly-worded statement to encourage other agencies to become involved

in the multidisciplinary teams. In addition, a letter will be written to the Attorney General and other entities to encourage the creation and participation in MDTs.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED FOR APPROVAL COMBINING RECOMMENDATION NOS. 1 AND 2 TO MOVE FORWARD AS A BDR. THE MOTION WAS SECONDED BY SENATOR BREEDEN AND PASSED UNANIMOUSLY.

***Recommendation No. 3: 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:***

- A. Currently the Repository receives reports when arrests occur relating to crimes that involve elderly people, which may not fully reflect the purpose of NRS 179A.450. If the intent of the Legislature is to require the Repository to collect information about crimes targeting elderly people, then cross reference the definitions in NRS 200.5092 relating to elder abuse, neglect, exploitation, and isolation. This will clarify that only those crimes where older persons are targeted should be reported, not crimes that incidentally involve an older person.***
- B. Section 179A.450 of the NRS states that the Repository “must contain a complete and systematic record of all reports of crimes against older persons committed in this State.” Currently, the Repository is only receiving arrest reports from some law enforcement agencies and reports of cases that the Aging and Disability Services Division (ADSD), Nevada’s Department of Health and Human Services (DHHS), forwards to law enforcement agencies for investigation. If the definition of “reports” should also include incident reports and investigative reports in cases that do not involve arrests, which may give a better picture of rates of elder abuse, clarify this definition. Also, include a mandate in the NRS that law enforcement and reporting agencies forward the reports to the Repository and provide a penalty if they do not. Finally, authorize the Department of Public Safety (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.***
- C. Provide that only reports of crimes that are reasonably believed to have been committed are to be forwarded to the Repository by the ADSD, DHHS, or law enforcement entities.***
- D. Specify which entities must report information to the Repository by replacing “any entity” in NRS 179A.450(2) with a list of the agencies listed in NRS 200.5093(1)(a). These include the local office of the ADSD, DHHS; a police department or sheriff’s***

*office; and the county's office for protective services, if one exists in the county where the suspected action occurred (submitted by Patrick J. Conmay, Chief, Records and Technology Division, DPS).*

- Chair McClain referred to Recommendation No. 3.A and clarified that the goal was to capture and collect data which “targeted” the elderly and not just crimes that randomly occurred to elderly victims.
- Julie A. Butler, Manager, Criminal Justice Records, Records and Technology Division, Department of Public Safety (DPS), explained that clarification was requested to provide the DPS direction as to the Legislature’s intent, compared to how the law has developed in practice. Ms. Butler said that reports from law enforcement include crimes of opportunity and not actually crimes which target senior citizens. She thought it would be more beneficial to track the cases that focus on abuse, neglect, exploitation, and isolation of senior citizens to obtain a clearer picture than the data that DPS is currently collecting.

Ms. Butler referred to Recommendation No. 3.B and reported that currently the DPS receives very limited statistical reports from law enforcement. She indicated that when the reports of abuse cases go to the ADSD, DHHS, they are also forwarded to law enforcement agencies for investigation. Ms. Butler testified that at that point the case more or less goes to “a black hole” and that once a case is reported to law enforcement there is no further follow-up. She suggested the need for additional reporting from local law enforcement agencies at the “back end of a case” and the requirement to follow-up and report to the Repository whether or not the local district attorneys’ offices receives the case for review. In addition, she proposed the possibility of a penalty for law enforcement agencies that do not report and then do not provide follow-up.

- Chair McClain stated she wanted the original intent of the law to stand. She suggested revising the language to “shall report” and make it clear to the law enforcement agencies that they must report crimes against the elderly to the Repository. In addition, Chair McClain stated that the requirement has not been sufficiently publicized to all law enforcement agencies who investigate crimes.

Following a lengthy discussion among Chair McClain, Senator Breeden, and Ms. Butler it was determined that it will be necessary to narrow the focus to determine what happens on specific elder-targeted crimes in order to obtain true and more complete data, and if the cases are not being prosecuted, an explanation will be required. The Chair stated that the BDR language will include Recommendation Nos. 3.A and 3.B; change “may” to “shall”; and narrow the focus of the types of crimes as stated in NRS 200.5092.

The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR BREEDEN MOVED FOR APPROVAL OF RECOMMENDATION NOS. 3.A, 3.B, 3.C, AND 3.D, AND AS STATED ABOVE. THE MOTION WAS SECONDED BY SENATOR WOODHOUSE AND PASSED UNANIMOUSLY.

The Committee took no action on Recommendation Nos. 4 and 5.

***Recommendation No. 6: Draft legislation requiring staff and personnel at long-term care facilities receiving funding from State or federal entities to complete a mandatory on-line training course. Employees and staff of these long-term care facilities would be mandated to complete a curriculum on how to respond to and act upon disclosures of abuse and sexual assault by residents of facilities (submitted by Lu Torres, Executive Director, and Elena Espinoza, Director of Client Services and Programs, RCC).***

***Recommendation No. 7: Draft legislation requiring agencies that receive State or federal funds and work with senior citizens (including health agencies, community centers, et cetera) to participate in no less than one service provider training a year. The training must include updates on best practices regarding senior abuse and reporting, legislative updates (including mandated reporting statutes), the changing demographics in the senior citizen community in Nevada, and action steps for possible first responders should a senior disclose instances of abuse (submitted by Lu Torres, Executive Director, and Elena Espinoza, Director of Client Services and Programs, RCC).***

***Recommendation No. 8: 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 in facilities for the dependent (as defined in NRS 449.0045) and facilities for skilled nursing (as defined in NRS 449.0039), including facility owners, as a condition of licensure (submitted by Wendy Simons, Assisted Living Consultant, Reno).***

- Chair McClain proposed combining Recommendation Nos. 6, 7, and 8 to require the State Board of Health to adopt the regulations that would require mandatory elder abuse training regulations which must include updates on best practices regarding senior abuse and reporting and legislative updates (including mandated reporting statutes).
- Senator Breeden recommended that employees be required to have a certain amount of training prior to beginning work in a facility, and not to limit training to online training, but rather include language to state “shall include but not be limited to online training.”
- Assemblywoman Spiegel concurred and suggested adding the language “approved or accredited training course” and stated that peer training is not acceptable.

During additional discussion it was determined that the training would be mandated for anyone who goes to work in a long-term care facility; a residential facility for groups; facility for intermediate care; facility for skilled nursing; home for individual residential care; homes for the dependent; and adult day care facilities. The Committee agreed that at this time, the requirement would only include facilities which have administrators; that the training must occur prior to the employee starting work; and that the training should be updated annually.

- Amber Joiner, previously identified, clarified that the motion will encompass all of Recommendation No. 8, in addition to portions of Recommendation Nos. 6 and 7, including the following recommendations:

1. The addition of long-term care facilities for the dependent as defined in NRS 427A.028 (except for an unlicensed establishment);
2. Include adult day care facilities;
3. Training components would include that training must occur before the first day of work;
4. Include an option for online training course to be determined by regulation;
5. Ongoing training in elder abuse and sexual assault to be required annually in an accredited or approved program, to be paid by the facility; and
6. Inclusion of an enforcement mechanism which ties the licensure of the facility to the administrator and to be determined by regulation by the State Board of Health.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR BREEDEN MOVED FOR APPROVAL OF A BDR ENCOMPASSING RECOMMENDATION NO. 8 AND AS DETAILED ABOVE. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SPIEGEL AND PASSED UNANIMOUSLY.

***Recommendation No. 9: Write a letter urging the DHHS to organize an advocacy response team comprised of members from the ADSD and the Bureau of Health Care Quality and Compliance (HCQC). 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 proper investigation occurs (submitted by Wendy Simons, Assisted Living Consultant, Reno).***

- Chair McClain proposed that the letter also be sent to the AG's Office. She commented that the recommendation would serve as an advocacy response team for persons in facilities and she emphasized that residents in care facilities need an advocate.
- Barry Gold, previously identified, suggested that the letter also be sent to Medicaid Services, Division of Health Care Financing and Policy (DHCFP), DHHS, since many of the facility residents receive Medicaid payments.

***Recommendation No. 10: Write a statement in the final report encouraging communities across the State to engage in dialogue on senior abuse through their participation in education and awareness presentations offered by community-based agencies. 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 (submitted by Lu Torres, Executive Director, and Elena Espinoza, Director of Client Services and Programs, RCC).***

- Chair McClain offered support for Recommendation No. 10, and noted that awareness and education will be the key to successful efforts to end elder abuse.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED FOR APPROVAL OF RECOMMENDATION NOS. 9 AND 10 WITH ADDITIONAL LETTERS TO BE SENT TO THE OFFICE OF THE ATTORNEY GENERAL AND TO MEDICAID SERVICES, DHCFP, DHHS, AS STATED ABOVE. THE MOTION WAS SECONDED BY ASSEMBLYMAN STEWART AND PASSED UNANIMOUSLY.

#### **RECOMMENDATIONS RELATING TO FACILITIES AND HOME CARE FOR SENIOR CITIZENS**

***Recommendation No. 18: Draft legislation amending NRS 319.147 to remove the requirement that a facility must be financed through tax credits relating to low-income housing or other public funds to be certified by the Housing Division, Department of Business and Industry, as an assisted living facility for the purpose of providing services pursuant to the provisions of the home and community-based services waiver (pursuant to NRS 422.2708) (submitted by Connie McMullen, Chair, SPAC).***

- Chair McClain noted that the ADSD, DHHS, is reviewing the issue of waivers and she expressed confidence in the agency's efforts to work with the recently enacted federal health care measures.

The Committee took no action on Recommendation No. 18.

***Recommendation No. 19: Draft legislation requiring facilities for long-term care to allow residents to return to the facility after a short hospitalization, unless there are no beds available (submitted in part by Barry Gold, Director of Government Relations, AARP Nevada).***

***Recommendation No. 20: Draft legislation to improve the transparency of ownership and administration in residential facilities, the names of the actual owner and administrator, and their contact information, must be posted at the facility and included in licensing documents (submitted in part by Barry Gold, Director of Government Relations, AARP Nevada, and Carl Martinez, Chair, Nevada Commission on Aging's Legislative Subcommittee).***

***Recommendation No. 21: Draft legislation directing the Health Division, DHHS, 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 (submitted by Carl Martinez, Chair, Nevada Commission on Aging's Legislative Subcommittee).***

- Chair McClain indicated her preference to combine Recommendation Nos. 19 through 21. Referring to Recommendation No. 19 she pointed out that in most instances the public is not aware of and cannot determine who owns a care facility. She emphasized the importance of transparency of ownership and administration, and she noted that when people are looking for a home to place a loved one, it is necessary for them to have all the information possible. Chair McClain also noted the importance of establishing uniform assessment tools for each of the different type of facilities, as outlined in Recommendation No. 21. She called for discussion from the Committee on how restrictive the regulations should be written as to the duration of a “short hospitalization.”

During discussion Chair McClain inquired whether Barry Gold, previously identified, could provide best practice regulations used in other states.

- Mr. Gold replied that families, patient advocates, and hospital representatives had been vocal regarding the problem of not having beds after returning from hospital stays. He offered to meet with interested persons and develop language to outline the standard practices, review what is done in other states, and determine a reasonable length of time to define a “short hospital stay” to return and have the patient’s bed held.

- Chair McClain assigned Mr. Gold to meet with interested persons and submit language outlining the specific intent before September 1, 2010. She clarified the BDR would include language to address the issue of transparency of ownership and administration and regulations for standardized and uniform assessment tools.
- Assemblywoman Spiegel suggested that if the actual owner of a care facility is a corporation, the corporate officers or owners should be listed by name.

The Committee was in agreement that to ensure complete transparency of ownership, facility owners and corporate officers should be listed by name and posted at the facility. In addition, if the owner is different than the onsite administrator, the administrator's names should also be posted at the facility.

- Mr. Gold pointed out that in many instances, the administrator of record is not the administrator on-site at the facility. It is common for the administrator stated on the license to live in another state or across the country. He proposed that the administrator of record be required to be available at the facility a certain number of days per month.

Chair McClain and Assemblywoman Spiegel discussed that the language should clarify that the name of the "on-site person" be provided and posted at the facility, whether the position is the administrator, manager, or actual owner. In addition, Mr. Gold requested that the information posted be limited to include contact information and not a physical address listing.

- Chair McClain stated that the BDR would set out the requirement for transparency of ownership and administration, by stating that contact information for all parties involved in the hierarchy of a corporation be posted, and that the agency will clarify the specific language by regulation.
- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED FOR APPROVAL OF RECOMMENDATIONS NOS. 19, 20, AND 21 AS DISCUSSED ABOVE. THE MOTION WAS SECONDED BY ASSEMBLYMAN STEWART AND PASSED UNANIMOUSLY.

***Recommendation No. 22: Draft legislation requiring the Health Division, DHHS, to adopt regulations establishing a minimum staff member to resident ratio per shift for facilities for long-term care. "Staff member" could include a registered nurse, a licensed practical nurse, or a certified nursing assistant. For example, the National Citizens' Coalition for Nursing Home Reform recommends 1 staff member for every 5 residents from 1 p.m. to 3 p.m., 1 staff member for every 10 residents from 3 p.m. to 11 p.m., and 1 staff member for every 15 residents from 11 p.m. to 7 a.m. (appropriate levels for Nevada may be different and***

*should be determined through the regulation proposal and hearing process). Defining the appropriate levels of staffing will ensure that regulators, residents, and their families know when a facility is not maintaining a minimum staffing level (submitted by Carl Martinez, Chair, Nevada Commission on Aging's Legislative Subcommittee).*

***Recommendation No. 23: Draft legislation to make the following changes concerning facilities for long-term care (submitted by Sylvia Healy on behalf of Citizens for Patient Dignity):***

- A. Require the adoption of regulations mandating specific nurse staffing levels in skilled nursing facilities, using Oregon's law as a model. For example, Oregon regulations (411-086-0100) require minimum nurse staffing levels of no less than 1 registered nurse hour per resident per week, and a licensed charge nurse must be on every shift, 24 hours per day. Additionally, nursing assistant ratios are set at 1 assistant per 7 residents during the day shift, 1 assistant per 11 residents during the swing shift, and 1 assistant per 18 residents during the night shift. Also require at least one licensed physician to be physically present at each facility on every shift.***
  - B. Upon entering a facility, a patient or the legal guardian of the patient must be provided a document which allows the patient or guardian to authorize the facility to perform an autopsy on the resident in the event that the resident dies. Require that an autopsy be performed on any resident for whom such an authorization has been obtained if the resident dies while residing at the facility.***
  - C. 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.***
  - D. Require that each facility provide monthly trainings and debriefing meetings which include the owners, administrators, and employees to discuss any problems, develop corrective action strategies, and provide training on the topics deemed necessary.***
  - E. Require that the accounting books of facilities be open to public inspection upon the request of any person or governmental entity, including State agencies, family members, and residents. Complete transparency in facility accounting, such as the amount of income a facility receives from Medicare and private insurance, is necessary for residents to be charged fair amounts and know how much the facility is receiving for their care.***
- Chair McClain referred to Recommendation Nos. 22 and 23A, and indicated that the concept is worthy, and noted that it is not possible to mandate the staffing levels of private businesses.
  - Assemblyman Stewart stated that if a family was not happy with a facility's staff ratio, they should move their loved one to another home or care facility.

- Assemblywoman Spiegel stated that it is difficult for family members looking for a facility to know what the best staffing levels should be. She suggested requiring the DHHS to publish suggested guidelines, so the general public would have some knowledge to make an informed decision from suggested standards.
- Chair McClain favored Assemblywoman Spiegel's recommendation and suggested amending the language into the previously approved BDR. She noted that the Committee does not want to overshadow its effective work by attempting to mandate staffing levels. In addition, Chair McClain clarified the language to include requiring the Health Division to adopt by regulation, the standards of best practices for nursing ratios and require facilities to publish their staffing levels in a manner to assist any person looking for a facility to determine how well a facility is meeting the best practice standards of nursing ratios determined for Nevada.
- Senator Breeden asked for clarification that the facilities would provide its staffing levels by posting at the facility.

A general discussion ensued and it was noted that the motion should include the DHHS be required to publish the staff ratios as suggested.

- Assemblyman Stewart inquired which employees would be counted as staff members and whether accountants or custodians would be included. He reiterated his earlier comment that the family member should make the decision as to what is adequate care for their loved one.
- Chair McClain explained that the attempt is to give the family comparative staffing ratios and to offer consumers more information than they currently have available.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN SPIEGEL MOVED FOR APPROVAL OF RECOMMENDATION NO. 23.A TO DRAFT LEGISLATION REQUIRING THE DHHS TO ADOPT REGULATIONS TO PUBLISH STANDARDS OF BEST PRACTICE STAFFING LEVELS, AND REQUIRE FACILITIES TO MAKE THEM AVAILABLE TO CONSUMERS, WHICH MAY INCLUDE AN ONLINE PUBLICATION. THE MOTION WAS SECONDED BY SENATOR BREEDEN AND PASSED UNANIMOUSLY.

- Chair McClain announced an agreement by the Committee that the earlier motion on Recommendation Nos. 19, 20, and 21 be included in a BDR with the language approved for Recommendation No. 23.A above.

- Chair McClain opened discussion on Recommendation Nos. 23.C and 23.E. She outlined the items included as: increasing the frequency of facility inspections to three or four times a year; requiring more transparency regarding the facility fees being charged to the consumer; and increasing the inspection fees charged to the facilities to pay for additional inspections. In addition, when deficiencies are found in a facility a method must be developed to notify the consumer and residents of the problems.
- Assemblywoman Spiegel opposed requiring a private company to open their accounting books to the public. She stated that internal business practices and competitive advantages do not need to be revealed to consumers or residents.

Following a general discussion, it was determined that proposed language for a BDR would include “if a facility is requested by a patient or resident, family member, guardian, or payer of services” the facility must provide them with an itemized “patient care accountability statement” that specifically states the amounts spent on food, care, and medicine for that patient. In addition, require that if a facility is found to have deficiencies by the BHCQC, DHHS, the patients, family members, guardians, payer for care, or other person designated by the patient must be notified immediately that the facility has been found to be deficient in specific areas. The regulations will be determined by the DHHS, or the Board of Health.

- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN STEWART MOVED TO ADOPT RECOMMENDATION NOS. 23.C AND 23.E, AS DISCUSSED AND STATED ABOVE. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SPIEGEL AND PASSED UNANIMOUSLY.

There was no further discussion of Recommendation Nos. 23.B, 23.F, and 24.

***Recommendation No. 25: 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” (submitted by Christopher Vito, M.H.A., President and Chief Executive Officer, Nevada Adult Day Healthcare Centers).***

***Recommendation No. 26:*** Write a statement in the final report stating the Committee's agreement that home- and community-based services should be prioritized; stable and adequate funding should be provided for services for seniors, veterans, and disabled people; it is important to protect the Tobacco Master Settlement Agreement funds; and it is important to have adequate oversight and funding for elder protective services (submitted by Barry Gold, Director of Government Relations, AARP Nevada).

***Recommendation No. 27:*** Write a statement in the final report to clarify that the Program of All-Inclusive Care for the Elderly (PACE) does not fall under the jurisdiction of the State Gaming Control Board (submitted by Connie McMullen, Chair, SPAC). **Staff Note:** According to a recent letter from the Division of Insurance, Nevada's Department of Business and Industry, PACE falls under the jurisdiction of the federal government and does not need to be licensed by the State.

***Recommendation No. 28:*** Write a statement in the final report indicating that the following are areas of concern in facilities for long-term care, and encouraging the Health Division and the ADSD, DHHS, to strengthen their oversight of the following issues (submitted by Sylvia Healy on behalf of Citizens for Patient Dignity):

- A. ***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.***
- B. ***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.***
- C. ***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.***

***Recommendation No. 29:*** Write a statement in the final report urging 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 (submitted by Connie McMullen, Chair, SPAC).

***Recommendation No. 30:*** Write a statement in the final report acknowledging the importance of reliable transportation for Medicaid patients who need to attend adult day care centers as part of their daily medical care, and urging the Division of Health Care Financing and Policy (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). Current 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 (submitted by Christopher Vito, M.H.A., President and Chief Executive Officer, Nevada Adult Day Healthcare Centers).*

- Chair McClain expressed the importance of Recommendation No. 26 and requested a strong statement be included in the Committee's final report. In addition, she restated the Committee's "over arching goal" to end elder abuse and also asked it be emphasized in the final report. Referring to Recommendation No. 27, she pointed out that the statement clarifying the jurisdiction of the PACE program should also be included in the final report.
- Assemblywoman Spiegel noted the importance of including Recommendation No. 28.C as an area of concern to the Committee, and said it should be included as a statement in the final report. She noted that it is important to protect the residents of long-term care facilities as well as their families, from feeling fearful or threatened for reporting problems. She said that constituents have described instances of being denied visitors. Assemblywoman Spiegel stated that the employees need to be deterred from intimidating patients and their families into not making complaints.
- Chair McClain agreed and suggested that the concept of non-tolerance and prevention of long-term care patients being threatened be included in the employee training, transparency, and the elder abuse issues previously discussed. She requested staff to incorporate the Committee's discussions and to emphasize the importance expressed by the members and to outline the goals in the final report.

The Chair emphasized the necessity to state support for improved enforcement of lethal overdosing as outlined in Recommendation No. 28.B. She noted that additional efforts are needed to focus on elder abuse prevention and prosecution to help eradicate abusive behavior of those in long-term care facilities.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED FOR APPROVAL OF RECOMMENDATION NOS. 25 THROUGH 30 TO WRITE A LETTER TO NEVADA'S CONGRESSIONAL DELEGATION AND INCLUDE A STATEMENT IN THE FINAL REPORT AS DISCUSSED. THE MOTION

WAS SECONDED BY SENATOR BREEDEN AND PASSED UNANIMOUSLY.

## RECOMMENDATIONS RELATING TO VETERANS

***Recommendation No. 31: Draft legislation in response to the following proposals developed during the Nevada Veteran Legislative Summit or submitted by Tim Tetz, Executive Director, Nevada's Office of Veterans Services (NOVS):***

***A. Revise the guardianship process for veterans in the following ways:***

- 1. 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;***

***OR***

- 2. Amend Chapter 159 of NRS to require that geographic proximity be a factor in the selection of a guardian, so that guardians who reside near the veteran are preferred after criteria relating to relationships and type of guardian are satisfied in NRS 159.061. Also, amend the NRS to follow federal guidelines relating to the transfer of guardianships, and remove the limit on the number of wards a guardian is allowed to serve; and***
- 3. Revise NRS 160.120 and any other provisions relating to veteran guardianships (e.g. Chapter 159 of NRS if A(1) above is not proposed) 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.***

***B. Regarding NOVS operations and structure:***

- 1. Appropriate funds to add two "Trinity Teams" in Nevada, one in Washoe County and one in Clark County. This requires creating and allocating funds for six new positions, two Veterans Service Officers and one Administrative Assistant per team; and***
- 2. Provide that the Veterans Services Commission advises the governor on the appointment of the NOVS Executive and Deputy Executive Directors.***

*The appointee must be chosen by the Governor from a list of three candidates submitted by the Nevada Veterans' Services Commission; and*

- C. Standardize the definition of "veteran" in the NRS to include the character and period of service. Replace all current definitions in the NRS with the federal definition as provided in Title 38 § 101 of the United States Code.*
- D. Eliminate tuition for veterans who are students attending a college or university in Nevada. In 2009, active military and veterans who were stationed in Nevada were provided this benefit, but it should be extended to all veterans of the armed forces, regardless of where they were stationed. Senate Bill 318 from the 2009 Legislative Session, as introduced, is a model for this proposal.*
- E. 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 (currently they are limited to two); and 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).*
- F. Allow a person who qualifies as both a veteran and the surviving spouse of a veteran with a permanent service-connected disability to claim both of the veterans' exemptions from property taxes and from governmental services taxes. This would be a reintroduction of the provisions of Assembly Bill 295 from the 2009 Legislative Session.*
- G. Mandate that funeral homes report the unclaimed human remains of persons who might be veterans to the 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.*
- H. Require the NOVS to provide, upon the request of the owner or operator of a cemetery in this State or a civic organization recognized by the Executive Director, a sufficient number of flags of the United States for placement on the graves of veterans interred in a veterans' cemetery to commemorate Memorial Day, Flag Day, Independence Day, and Veterans' Day. The flags must be of a size suitable for placement on a grave, provided without charge, and manufactured in the United States (language in Assembly Bill 134 of the 2007 Legislative Session may serve as a model).*

***Recommendation No. 32:*** *Write a statement in the final report supporting 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 (submitted by Tim Tetz, Executive Director, NOVS).*

***Recommendation No. 33: Write a statement in the final report encouraging the Regional Transportation Commission of Washoe County to establish routes to the Reno Veterans Benefits Administration, and encouraging the Regional Transportation Commission of Southern Nevada to establish routes to the Southern Nevada Veterans Affairs Medical Center (submitted by Tim Tetz, Executive Director, NOVS).***

***Recommendation No. 34: Write a statement in the final report encouraging 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 to NOVS. 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 (submitted by Tim Tetz, Executive Director, NOVS).***

- Chair McClain explained the proposed language as stated in Recommendation No. 31.A refers to guardianships for veterans. She suggested only changing the language in Chapter 160 of NRS, and indicated her support for Recommendation Nos. 31.A.1 and 31.A.3.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR BREEDEN MOVED FOR APPROVAL OF RECOMMENDATION NOS. 31.A.1 AND 31.A.3. THE MOTION WAS SECONDED BY SENATOR WOODHOUSE AND PASSED UNANIMOUSLY.

- Chair McClain commented on the proposals outlined in Recommendation No. 31.B and stated her preference for the recommendations to be submitted by the NOVS as agency measures.
- Assemblywoman Spiegel indicated support for Recommendation No. 31.E.
- Chair McClain requested the addition of a design for a women's veterans' license plate designation.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED FOR APPROVAL OF RECOMMENDATION NO. 31.E. WITH THE ADDITION OF A

DESIGNATION FOR A WOMEN'S VETERANS' LICENSE PLATE. THE MOTION WAS SECONDED BY ASSEMBLYWOMAN SPIEGEL AND PASSED UNANIMOUSLY.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR WOODHOUSE MOVED FOR APPROVAL OF RECOMMENDATION NO. 31.G. THE MOTION WAS SECONDED BY SENATOR BREEDEN PASSED UNANIMOUSLY.

- Chair McClain offered support for Recommendation Nos. 32, 33, and 34 regarding letters of support in the final report.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN SPIEGEL MOVED FOR APPROVAL OF RECOMMENDATION NOS. 32, 33, AND 34. THE MOTION WAS SECONDED BY ASSEMBLYMAN STEWART AND PASSED UNANIMOUSLY.

Following an inquiry from Assemblyman Stewart regarding Recommendation No. 31.G, Chair McClain directed the staff of the Legal and Research Divisions to work with the representatives of the NOVS to clarify the language to mandate the unclaimed human remains of persons who might be veterans.

### **RECOMMENDATIONS RELATING TO ADULTS WITH SPECIAL NEEDS**

***Recommendation No. 35:*** Draft legislation to create a voluntary statewide alert system for endangered adults. The alert system would authorize law enforcement agencies, broadcast organizations, and other voluntary organizations to share descriptive information about the endangered adult (submitted by Lucy Peres, President, Nevada Silver Haired Legislative Forum).

***Recommendation No. 36:*** Draft legislation requiring the Governor of Nevada to appoint a task force dedicated to identifying and addressing issues relating to persons with Alzheimer's disease and related dementias. This task force will 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 will include recommendations that will comprehensively address the related issues in the State of Nevada and these recommendations will be considered at the 2013 Legislative Session (submitted by Angie Pratt, Regional Director, Alzheimer's Association of Northern California and Northern Nevada, and Luis Carrillo, Regional Director, Alzheimer's Association Desert Southwest Chapter).

***Recommendation No. 37: Draft a letter urging the DHCFP, DHHS, to pursue the following three options available under the new federal Patient Protection and Affordable Care Act (H.R. 3590) at the earliest possible date:***

- A. 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.***
- B. 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.***
- C. 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 (submitted by Paul Gowins, Chairman, Commission on Services for Persons with Disabilities).***

- Chair McClain referred to Recommendation No. 35 and stated her preference to have the Committee send a letter to the Nevada Silver Haired Legislative Forum (NRS 427A.320 through 427A.400) offering suggestions to assist in working through the details to gain approval of such a substantial issue. In addition, she also suggested that the Forum recruit a legislator to sponsor the issue and to submit a BDR on their behalf. The letter should state that the Forum's proposal needs to be more detailed and specific, and suggest that the Forum recruit support from law enforcement and broadcasting organizations.

- The Committee **APPROVED THE FOLLOWING ACTION:**

SENATOR BREEDEN MOVED FOR APPROVAL FOR THE COMMITTEE TO WRITE A LETTER TO THE NEVADA SILVER HAIRED LEGISLATIVE FORUM ENCOURAGING THE MEMBERS TO MAKE A FEASIBLE PROPOSAL INCLUDING A SPONSOR FOR LEGISLATION OF RECOMMENDATION NO. 35 AND AS STATED ABOVE. THE MOTION

WAS SECONDED BY SENATOR WOODHOUSE AND PASSED UNANIMOUSLY.

- Chair McClain suggested Recommendation No. 36 be undertaken by SPAC to develop a Nevada State Plan for Alzheimer's disease and related dementias by working with the Alzheimer's Association. She suggested that in lieu of creating an Alzheimer's task force that staff develop a letter to SPAC urging it to work with the Alzheimer's organization. In addition, Chair McClain requested the Committee's support to include in the letter to SPAC the concerns voiced by Jack Mayes, previously identified, outlining the issue of parity of services by the ADSD, DHHS.
- Assemblywoman Spiegel proposed that the Committee send letters to the Assembly Standing Committee on Health and Human Services and the Senate Standing Committee on Health and Education encouraging presentations relating to Alzheimer's disease during the upcoming legislative session, to allow the members to stay informed on the prevalence of the illness.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYWOMAN SPIEGEL MOVED FOR APPROVAL TO SEND A LETTER URGING SPAC TO WORK WITH THE ALZHEIMER'S ASSOCIATION TO DEVELOP THE NEVADA STATE PLAN FOR ALZHEIMER'S DISEASE AND RELATED DEMENTIAS; IN ADDITION SEND LETTERS TO THE ASSEMBLY STANDING COMMITTEE ON HEALTH AND HUMAN SERVICES AND THE SENATE STANDING COMMITTEE ON HEALTH AND EDUCATION TO HEAR PRESENTATIONS RELATING TO ALZHEIMER'S DISEASE. THE MOTION WAS SECONDED BY ASSEMBLYMAN STEWART AND PASSED UNANIMOUSLY.

- Chair McClain asked Barry Gold, previously identified, to comment on grants discussed during a recent SPAC meeting. He proposed that a recommendation include language to encourage the State to maximize opportunities presented under the new federal health care measures that could improve services and bring federal funds to Nevada. Chair McClain requested Mr. Gold to work with her to expand or combine the language contained in Recommendation No. 37.A, 37.B, and 37.C.
- The Committee **APPROVED THE FOLLOWING ACTION:**

ASSEMBLYMAN STEWART MOVED FOR APPROVAL TO DRAFT LETTERS AS STATED IN RECOMMENDATION NO. 37 AND AS STATED ABOVE, AND TO URGE THE DHCFF, DHHS, TO MAXIMIZE OPPORTUNITIES AND APPLY FOR GRANTS. THE MOTION WAS SECONDED BY SENATOR BREEDEN AND PASSED UNANIMOUSLY.

## **PUBLIC COMMENT**

- Assemblyman Stewart thanked Chair McClain for her hard work especially regarding veterans, her dedication to the people of Nevada, and the inclusive manner in which she conducted the Committee.
- Barry Gold, previously identified, thanked the Chair and the Committee members for their efforts in examining the issues that are important to senior citizens, veterans, and adults with special needs.
- Assemblywoman Spiegel echoed the previous comments and offered her thanks to Chair McClain for her attention to the issues pertinent to seniors and veterans. In addition, bringing women's issues to the forefront and for her guidance to fight for groups who cannot always speak for themselves.
- Senator Breeden noted Chair McClain's passion and dedication and predicted she will be working on these issues during the 2011 Legislative Session.
- Senator Woodhouse seconded the comments of her colleagues and noted that there has not been a stronger advocate than Chair McClain.
- Grace Virzi, a retired nurse, Las Vegas, expressed disapproval for the failure of mandatory staffing levels primarily during the night shift hours. Mrs. Virzi supported the training of employees of group homes, and noted the importance of speaking up for those senior citizens who cannot speak for themselves.
- Chair McClain explained the Committee's goal did not include taking action on stark proposals, such as mandatory staffing levels. She expressed her objective was to make progress with senior citizen issues by enhancing training for employees, taking steps for transparency of ownership, and requiring additional inspections.

**ADJOURNMENT**

There being no further business to come before the Committee, the meeting was adjourned at 2:34 p.m.

Respectfully submitted,

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Ricka Benum  
Senior Research Secretary

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Amber J. Joiner  
Senior Research Analyst

APPROVED BY:

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Assemblywoman Kathy McClain, Chair

Date: \_\_\_\_\_

## LIST OF EXHIBITS

[Exhibit A](#) is the “Meeting Notice and Agenda” provided by Amber J. Joiner, Senior Research Analyst, Research Division, Legislative Counsel Bureau (LCB).

[Exhibit B](#) is the prepared testimony of Sally Crawford Ramm, Elder Rights Attorney, Aging and Disability Services Division, Department of Health and Human Services, dated June 15, 2010.

[Exhibit C](#) is the section by section proposal of Chapter 159 of *Nevada Revised Statutes*, submitted by Lora E. Myles, Attorney, Carson and Rural Elder Law Program, on behalf of the Guardianship Steering Committee, dated June 3, 2010.

[Exhibit D](#) is the “Work Session Document” dated June 15, 2010, prepared by Amber J. Joiner, Senior Research Analyst, Research Division, LCB.

[Exhibit E](#) is a pamphlet titled “Mortgage and Foreclosure Fraud, Tips for Prevention and Awareness,” prepared by the Office of the Attorney General, submitted by Brett Kandt, Executive Director, Nevada Prosecution Advisory Council, and Special Deputy Attorney General, Office of the Attorney General.

[Exhibit F](#) is the March 10, 2010, testimony of James M. O’Reilly, Certified Elder Law Attorney, James M. O’Reilly, L.L.C., Las Vegas.

This set of “Summary Minutes and Action Report” is supplied as an informational service. Exhibits in electronic format may not be complete. Copies of the complete exhibits, other materials distributed at the meeting, and the audio record are on file in the Research Library of the Legislative Counsel Bureau, Carson City, Nevada. You may contact the Library online at [www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm](http://www.leg.state.nv.us/lcb/research/library/feedbackmail.cfm) or telephone: 775/684-6827.