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Testimony on AB 326

By

Wendy Simons

Prepared for the Assembly Health and Human Services Committee

4/2/03

Thank you for the opportunity to present an industry perspective of AB 326. My mother opened the first residential care facility in Nevada in 1948. I was born and raised in the "old folks" home and have been an active administrator and senior advocate since 1972.

Assisted Living Facilities in Nevada have become the sports utility vehicle of health care, driven by consumer choice, both here and nationally for the last 12 years. With that growth has come the confusion identified by Assemblywoman Buckley with regard to what it means, and how to clarify choice, risk, dignity, independence and quality of life. This confusion is not unique to Nevada. Currently a National Assisted Living Work Group is developing a national definition to be introduced April 29, 2003 at the direction of the Senate. It seems that this is a consumer education/marketing issue and is difficult to define at any level. It is predictable, we as a state would experience the same challenge.

During the past week we had occasion to meet with several members of this committee and share our concerns with AB 326 as introduced. We also met with Assemblywoman Buckley to review the intent and direction of the bill, and as a result of these meetings a workgroup was held on Friday, March 28th comprised of representatives from the Coalition of Assisted Residential Environments (Larry Fry and Wendy Simons), Division of Aging Services (Carol Sala), Medicaid (Tina Gerber-Winn), Department of Human Resources (Mike Willden & Mary Liveratti), AARP (Carla Sloan), and the state Health Division (Alex Hartz). This was a lively group that sorted through the issues, reviewed the points that needed clarification and discussed the fiscal impact to the agencies and industry. At the conclusion of that meeting, the consensus was to gut the bill and offer amendments. The amendments were distributed to the workgroup members and an agreement was made that this was legislation that could be supported by the participants. I have attached a copy of the draft, as prior to this meeting we had not received a copy from LCB.

By directing the Board of Health to assure the implementation of the assisted living facility philosophy is incorporated into the NAC 449 regulations, the amended AB326 allows for the clarification of assisted living facilities within existing regulations. This reduces the fiscal impact of the original bill on government agencies and facility providers.

I want to thank Assemblywoman Buckley for putting this group together to craft a solution to a bill that had caused great concern within the assisted living industry and residential care providers. I would further like to extend the offer to continue to work with legislators, regulators and industry partners to develop the regulations and any other needed action to assure all parties are comfortable with the intent of AB 326.

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ASSEMBLY HEALTH AND HUMAN SERVICES
DATE: 04/02 ROOM: 313B EXHIBIT E1-5
SUBMITTED BY: Wendy Simons

ASSEMBLY BILL NO. 326—ASSEMBLYMEN BUCKLEY,
CONKLIN, MCCLAIN, KOIVISTO, PARKS,
ANDERSON, ARBERRY, ATKINSON, CLABORN,
COLLINS, GEDDES, GIBBONS, GIUNCHIGLIANI,
GRADY, HORNE, LESLIE, MABEY, MANENDO,
OCEGUERA, PERKINS, PIERCE, SHERER AND
WILLIAMS

MARCH 14, 2003

Referred to Committee on Health and Human Services

SUMMARY—Provides for licensing and regulation of facilities
for assisted living. (BDR 40-954)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

EXPLANATION — Matter in *bolded italics* is new; matter between brackets ~~to be omitted~~ is material to be
omitted.

Green numbers along left margin indicate location on the printed bill (e.g., 5-15 indicates page 5, line 15).

AN ACT relating to assisted living; providing for the ~~licensing and~~
regulation of facilities for assisted living; providing that
certain provisions concerning services provided to aging
persons apply to residents of facilities for assisted living.
~~providing that certain provisions concerning property tax~~
~~assessments for senior citizens apply to residents of~~
~~facilities for assisted living; authorizing employees of~~
~~facilities for assisted living to possess and administer~~
~~controlled substances and dangerous drugs under certain~~
~~circumstances; providing for the licensure of administrators~~
~~of facilities for assisted living; providing penalties; and~~
~~providing other matters properly relating thereto.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

~~1.1 Section 1. Chapter 449 of NRS is hereby amended by adding
1.2 thereto the provisions set forth as sections 2 to 5, inclusive, of
this
1.3 act.~~

~~1.4 Sec. 2. 1. "Facility for assisted living" means a facility:~~
NRS 449.037 Adoption of standards, qualifications and other regulations.

1. The Board shall adopt:

(a) Licensing standards for each class of medical facility or facility for the dependent covered by NRS 449.001 to 449.240, inclusive, and for programs of hospice care.

(b) Regulations governing the licensing of such facilities and programs.

(c) Regulations governing the procedure and standards for granting an extension of the time for which a natural person may provide certain care in his home without being considered a residential facility for groups pursuant to NRS 449.017. The regulations must require that such grants are effective only if made in writing.

(d) Regulations establishing a procedure for the indemnification by the Health Division, from the amount of any surety bond or other obligation filed or deposited by a facility for refractive laser surgery pursuant to NRS 449.068 or 449.069, of a patient of the facility who has sustained any damages as a result of the bankruptcy of or any breach of contract by the facility.

(e) Any other regulations as it deems necessary or convenient to carry out the provisions of NRS 449.001 to 449.240, inclusive.

2. The Board shall adopt separate regulations governing the licensing and operation of:

(a) Facilities for the care of adults during the day; and

(b) Residential facilities for groups,

which provide care to persons with Alzheimer's disease.

(c) Residential facilities for groups, which provide assisted living services based upon the following principals:

Personalized care is furnished to individuals who reside in their own living units:

- (a) which may include shared units when both occupants consent to the arrangement,*
- (b) which may or may not include kitchenette and/or living rooms, and*
- (c) which contain bedrooms and toilet facilities.*

The resident retains the right to assume risk, tempered only by the individual's ability to assume the responsibility for that risk.

Regulations for assisted living facilities will incorporate these core principles:

- 1) to create a residential environment that actively supports and promotes each resident's quality of life, right to privacy, choice, dignity, and independence as defined by that resident.*
- 2) To offer quality supportive services, individualized for each resident and developed collaboratively with the assisted living residence.*
- 3) To provide resident-centered services with an emphasis on the particular needs of the individual and his/her choice of lifestyle incorporating creativity, variety and innovation.*
- 4) To support the resident's decision making control to the maximum extent possible.*
- 5) To foster a social climate that allows the resident to develop and maintain relationships within the assisted living residence and in the community-at-large.*
- 6) To make full consumer disclosure, including what services will be offered and their associated costs, before moving in and throughout the resident's stay.*
- 7) To minimize the need to move.*

8) To foster a culture that provides a quality environment for the residents, families, staff, volunteers, and community-at-large.

~~2-1 (a) Where senior citizens or persons with disabilities reside in individual living units that are:~~

~~2-3 (1) Self contained;~~

~~2-4 (2) Located in a building, a complex or a distinct part of a building or complex; and~~

~~2-5 (3) Occupied privately, and shared only at the election of the person who resides in the unit;~~

~~2-8 (b) That permits residents of the facility to choose services and amenities in a manner that promotes dignity, independence, the right to make personal decisions and quality of life;~~

~~2-11 (c) That provides access to staff on a 24-hour basis; and~~

~~2-12 (d) That provides scheduled and unscheduled assistance and services to residents of the facility, including, without limitation:~~

~~2-14 (1) Services that assist residents of the facility with their activities of daily living and instrumental activities of daily living,~~

~~2-16 and the oversight of such services;~~

~~2-17 (2) Health care services, including, without limitation, the management of medication;~~

~~2-18 (3) Social and recreational services;~~

~~2-20 (4) Meals;~~

~~2-21 (5) Laundry services;~~

~~2-22 (6) Transportation; and~~

~~2-23 (7) Security services.~~

~~2-24 2. "Facility for assisted living" does not include a facility that~~

~~2-25 provides ongoing skilled nursing assistance or intensive therapies~~

~~2-26 on a 24-hour basis for persons who have complex~~