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TESTIMONY

BILL: Assembly Bill 395
BDR: 38-999

HEALTH CARE FINANCING AND POLICY DIVISION

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Good Morning Chairman Raggio and members of the Senate Finance Committee. I am Charles Duarte, Administrator of the Division of Health Care Financing and Policy (DHCFP). With me is Debbra King, the Division's Chief Financial Officer.

I am here today to provide testimony regarding Assembly Bill 395 as reprinted with amendments adopted on April 16, 2003. As you know, AB395 seeks to impose a tax on all nursing facilities in the State of Nevada. The purpose of this tax is to provide State matching funds to allow Medicaid to increase rates to these facilities.

Before commenting directly on the provisions of this bill, let me give you a brief history of Medicaid reimbursement to these providers. In 2000, DHCFP conducted a study of reimbursement methodologies for nursing facilities. DHCFP entered into negotiations with the industry through the Nevada Health Care Association. The result of that agreement was a rate setting model which is based, in part, on the relative acuity of the mix of patients in each facility. DHCFP has been transitioning to this model over a series of State Plan amendments starting in SFY 2002. The final phase of this methodology will be implemented at the beginning of SFY 2004.

In July 2003, the model will be based on more current cost reports which may reflect higher costs. Additionally the final change in the methodology is estimated to provide for approximately $1 million in additional reimbursements per year. Now, let me stress, none of the rate changes built into the model are automatic. The model includes a "budget adjustment factor." This means that any

rate increases are limited by available funding for those increases. Funding for additional increases for nursing facilities are not included in the Executive Budget. The purpose of the tax envisioned in AB 395 is to provide State matching funds to allow Medicaid to provide rate increases to fund the rate model. DHCFP could use the proceeds from this tax to pay nursing facilities to the extent it is justifiable under the model just discussed.

Now I would like to take a moment to discuss provider taxes. Many states use provider taxes as a means to generate state matching funds for Medicaid expenditures. The Centers for Medicare and Medicaid Services (CMS) have promulgated regulations for such taxes and scrutinizes them closely. One of the overriding criteria in federal regulations for such a tax is that the tax be "broad based." That is, it must be assessed on an entire class of provider. The provisions of AB395 does not appear to conflict with the broad based definitions.

However the bill references NRS 449 in defining facilities to which its provisions apply. The definitions do not exclude public nursing facilities and would therefore include the State Veterans Nursing Home. Due to the reimbursement methodology and annual cost settlement of public nursing facilities, the public facilities would be required to pay the provider tax with additional public funds but would not receive any benefit in the disbursement of the provider tax fund. Since federal regulations allow public facilities to be excluded from a provider tax, I recommend amendment of AB 395 to specifically exclude public nursing facilities.

Also federal regulations limit provider taxes to 6% of gross revenues. Included in the definition of provider taxes would be the fees the Bureau of Licensure currently charges to nursing facilities. This bill does not take into account these other "taxes." In SFY 2002, the Bureau collected approximately $400,000 in licensure

fees. The language of the bill should be amended to indicate the 6% assessment must be less these fees.

Thank you for the opportunity to provide testimony regarding Assembly Bill 395. I would be pleased to answer any questions the committee may have at this time.