

IN THE SUPREME COURT OF THE STATE OF NEVADA

APRIL PARKS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Electronically Filed
Sep 07 2021 12:35 p.m.
Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court Case No. 82876

APPELLANT'S APPENDIX VOLUME 3 OF 6 PAGES 0412-0626

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ATTORNEYS FOR RESPONDENT

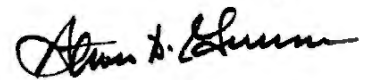
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CLERK OF THE COURT

PAG
April L. Parks, NCG
1022 Nevada Highway #110
Boulder City, NV 89005
702-629-6200
In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

| | | |
|---------------------------------------|---|---------------------|
| In the Matter of the Guardianship the |) | G - 13 - 039338 - A |
| person and the estate of: |) | CASE NO. G- |
| |) | DEPT. NO. E |
| HERMAN MESLOH |) | |
| |) | |
| _____ |) | |
| an Adult, |) | |
| _____ |) | |

PETITION FOR APPOINTMENT OF GUARDIAN

COMES NOW, Petitioner, APRIL L. PARKS, NCG, in accordance with Chapter 159 of the Nevada Revised Statutes, whose petition respectfully represents the following to this Honorable Court:

Information Regarding the Petitioner

1. That Petitioner, APRIL L. PARKS, NCG would like to be appointed the general guardian over Person of HERMAN MESLOH.
2. That Petitioner's full legal name is APRIL L. PARKS, NCG.
3. That Petitioner currently resides at 1022 Nevada Highway #110 Boulder City, NV 89005.
4. That Petitioner's mailing or post office address is the same as above.

5. The Petitioner's date of birth is [REDACTED] 1965.

6. That Petitioner has not been judicially determined to have committed abuse, neglect or exploitation of a child, spouse, parent or other person.

7. That the Petitioner has never been convicted of a felony.

8. That Petitioner has not been suspended for misconduct or disbarred from the practice of law, the practice of accounting or any other profession which involves the management or sale of money, investments, securities or real property and requires licensure in Nevada or any other state. The Petitioner has not filed for bankruptcy in the last 7 years.

9. That Petitioner is of no relation to the proposed ward.

10. That the Petitioner is a private professional guardian with documents proving the Petitioner meets the requirements filed with the court.

Information Regarding the Proposed Ward

11. That the proposed ward, HERMAN MESLOH, 69, was born on 1944

12. That the proposed ward's current address is: 6040 Draft Horse Drive North
Las Vegas, NV 89081 and they have resided at this location for: >2 years

13. There has not been another care provider that has control or responsibility of the proposed ward.

14. The proposed ward is a resident of the state of Nevada.

15. That the proposed ward has not executed a Revocable/Living Trust, A Durable Power of Attorney for Health or Finance or a written nomination for guardian.

16. The proposed ward is not party to pending criminal or civil litigation.

17. That the guardianship is not sought for the purpose of initiating litigation.

18. That documentation demonstrating the need for a guardianship will be filed with this petition.

19. A copy of identification will be filed for both the Petitioner and the proposed ward in a separate document.

20. The names and addresses of the following relatives of the ward are:


| Relative's Name | Relationship to Ward | Address (street address/city/state/zip code) |
|-----------------|----------------------|--|
| Kathy Mesloh | Wife | 6040 Draft Horse Drive North Las Vegas, NV 89081 |
| | | |
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21. That a general guardianship for the proposed ward is needed because: Proposed ward suffers from numerous health issues and is no longer capable of caring for himself. Proposed ward would not be able to respond to a substantial or immediate risk of physical harm. Proposed ward is currently in the hospital undergoing hip surgery and will need assistance in continuing to plan for his care and future health needs.

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23. That Petitioner has not been appointed as guardian over the proposed ward in a state other than Nevada. If Petitioner has been appointed Guardian over the proposed ward in another state, Petitioner will file an exemplified copy of the guardianship order with this Court.

WHEREFORE, Petitioner prays that this general guardianship be granted and for such other and further relief as the court may deem just and proper.


Petitioner

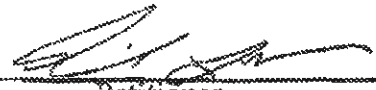
VERIFICATION

STATE OF NEVADA)

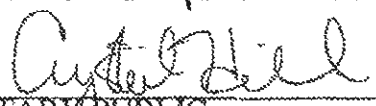
County of Clark) ss:

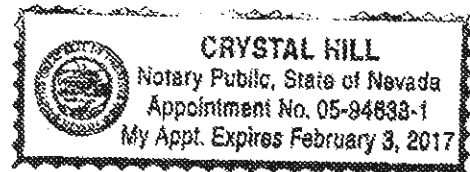
I, APRIL L. PARKS, NCG, being first duly sworn under penalty of perjury, hereby depose and say:

That I am the Petitioner in the within action; that I have read the foregoing Petition For Appointment of Guardian and know the contents thereof; that the same is true of my knowledge except as to those matters therein state upon information and belief and as to those matters, I believe them to be true;


Petitioner

SIGNED and SWORN to before me on the
20 day of Sept, 2013


NOTARY PUBLIC

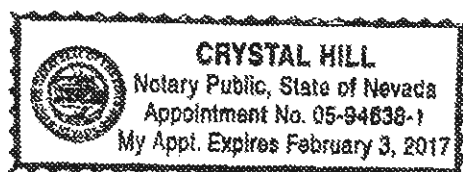


ACKNOWLEDGEMENT

STATE OF NEVADA)
COUNTY OF CLARK) ss.

On this 20 day of Sept, 2013, before me, the undersigned Notary Public in and for the said County and State, personally appeared APRIL L. PARKS known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that she did so freely and voluntarily and for the uses and purposes therein mentioned.

Witness my hand and official seal.




NOTARY REPUBLIC

Exhibit 1

PHYSICIAN'S CERTIFICATE

Please print clearly or type

PLEASE NOTE THAT THIS CERTIFICATE HAS BEEN UPDATED TO COMPLY WITH
THE REQUIREMENTS OF NRS 159.044 EFFECTIVE OCTOBER 1, 2009

John Reyes, PA-C

I, _____, am a physician licensed to practice in the State of Nevada.

I examined Mesleh, Herman, an adult, on 9-23-13.
Name of Patient Date of exam

This adult patient suffers from (Diagnosis): Embo carditis, Insufficiency, Venous
Chronic Debility & weakness, Left Hip Arthroplasty, Detached Retina

which is a ☒ Permanent ☐ Temporary condition.

I certify that this adult patient is unable to respond (check all that apply; at least one must be provided):

- ☒ To a substantial and immediate risk of physical harm
- ☒ To an immediate need for medical attention
- ☐ To a substantial and immediate risk of financial loss

The Proposed Ward ☐ does ☒ does not present a danger to himself or others.

Attendance at a court hearing ☒ would ☐ would not be detrimental to the health of the Proposed Ward.

The Proposed Ward ☒ would ☐ would not comprehend the reason for a hearing and ☒ would ☐ would not contribute to the proceeding.

The Proposed Ward ☐ is ☒ is not capable of living independently, ☐ with or ☐ without assistance.

Provide an assessment of the needs of the Proposed Ward: Patient needs 24/7 care
patient is dependent on others to have his needs
met

Identify the limitations of capacity of the Proposed Ward and describe how these limitations affect the ability of the Proposed Ward to maintain his/her safety and basic needs: Patient is dependent
physically and needs 24/7 care - He needs others to
provide for all his needs

Attached hereto is (check all that apply; at least one must be provided):

- ☐ A copy of my report of the above exam which includes my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
- ☐ A copy of the patient's chart notes which support and/or detail my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
- ☒ A letter, signed by me, detailing my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.

PHYSICIAN'S CERTIFICATE

PAGE 2 of 2

Patient Mesloh, Herman

It is my opinion that this patient needs a guardian of:

☒ Person and Estate ☐ Estate only

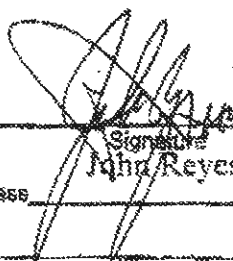
It is my opinion that this patient is:

- ☐ Able to attend the guardianship court hearing.
☒ Unable to attend the guardianship court hearing. (Written documentation specifying reason patient cannot attend must accompany this Physician's Certificate.)

TO BE COMPLETED ONLY IF THE PATIENT IS UNABLE TO ATTEND THE HEARING:

- ☒ I have advised the patient of his/her right to counsel and the Proposed Ward ☐ does ☒ does not wish to be represented by counsel in the guardianship proceeding, or ☐ is unable to respond.

Date: 9/30/13



Signature
John Reyes, PA-C

Address



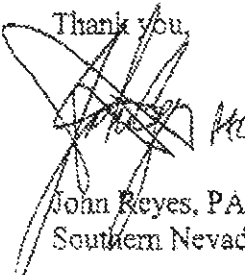
Sept 26, 2013

To Whom It May Concern:

Mr. Mesloh is currently a patient at Southern Nevada Medical and Rehabilitation Center. At this time Mr. Mesloh is alert and oriented and is able to make his own decisions. Mr. Mesloh has decided it is in his best interest to have a private guardian. Mr. Mesloh's physical conditions prevent him from attending any court proceedings. Patient diagnosed with Coronary artery disease, Left hip arthroplasty, Retinal detachment, legally blind, COPD, Chronic debility and weakness, Hyperlipidemia, Atrial Fibrillation. Mr. Mesloh needs 24/hr care and is totally dependent on others for all his care.

Thank you for your consideration in this matter. Please feel free to contact me at anytime.

Thank you,

 MC
John Reyes, PA-C

Southern Nevada Medical and Rehabilitation Center

ORIGINAL

49

FILED

JUL 18 8 56 AM '08

CLERK OF THE COURT

RR

Elizabeth Brickfield, NSB #6236
Meredith Stow, NSB #9203
Lionel Sawyer & Collins
300 South 4th Street, Suite 1700
Las Vegas, NV 89101
(Telephone) 702-383-8888
(Facsimile) 702-383-8845

Attorneys for Milly Kaplove

DISTRICT COURT, FAMILY COURT

CLARK COUNTY, NEVADA

In the Matter of the Person and Estate

of

MILLY KAPLOVE,

an Adult Ward.

Case No.: G07-031337-A

Dept. No.: H

Date of hearing: April 16, 2008

Time of hearing: 10:00 a.m.

REPORT AND RECOMMENDATION

APPEARANCES:

Elyse Tyrell, Esq., Counsel for Paula Ferguson; Paula Ferguson

Dara Goldsmith, Esq., counsel for Ronald Kaplove

Noel Palmer Simpson, Esq., counsel for April Parks; April Parks

Carol Kingman, Esq., Guardian Ad Litem, of the Senior Citizens Law Project

Elizabeth Brickfield, Esq., of Lionel Sawyer & Collins, Counsel for Milly Kaplove; Milly Kaplove

Temporary Guardian April Parks' and former Temporary Co-Guardian Ronald Kaplove's
Petition For Appointment Of Temporary And General Co-Guardians Of The Person And Estate,
Milly Kaplove's verified *Objection To Petition For Guardianship On Grounds That Guardianship*
Is Unnecessary And Should Be Terminated; Request To Enter A "No-Contact" Order In Favor Of
Milly Kaplove And Against Ronald Kaplove And Shawn Adolph, And To Shift All Attorneys' Fees
And Costs To Ronald Kaplove, and Ronald Kaplove's Reply To Objection To Petition For

1 *Guardianship On Grounds That Guardianship Is Unnecessary And Should Be Terminated; Request*
2 *To Enter A "No-Contact" Order In Favor Of Milly Kaplove And Against Ronald Kaplove And Shawn*
3 *Adolph, And To Shift All Attorneys' Fees And Costs To Ronald Kaplove* came on for hearing on April
4 16, 2008 at 10:00 a.m. The ward, Milly Kaplove, and her counsel Elizabeth Brickfield, Esq.,
5 appeared; the Temporary Guardian April Parks and her counsel, Noel Palmer Simpson, Esq.,
6 appeared; Dara Goldsmith, Esq., counsel for Ronald Kaplove, appeared; the Guardian Ad Litem
7 Carol Kingman, Esq., of the Senior Citizens Law Project appeared; and Paula Ferguson and her
8 counsel, Elyse Tyrell, Esq., appeared. The Guardianship Commissioner, having reviewed the points
9 and authorities, having heard oral argument, and good cause appearing therefor, finds and
10 recommends as follows:

11 I.

12 FINDINGS

13 THE COMMISSIONER FINDS that:

- 14 1. Notice of the time and place of such hearing has been given in the manner
15 required by law;
- 16 2. Petitioners April Parks and Ronald Kaplove were justified in filing their initial
17 *Petition For Appointment Of Temporary And General Co-Guardians Of The Person And Estate*;
- 18 3. Paula Ferguson's behavior since she moved in with Ms. Kaplove has been
19 appropriate;
- 20 4. The medical evidence submitted to the Court confirms that Ms. Kaplove has
21 capacity at this time and does not need a guardian of her Person or Estate at this time;
- 22 5. Petitioners have not proved by clear and convincing evidence that the ward,
23 Milly Kaplove, lacks capacity at this time or need a guardian of her Person or Estate at this time;
- 24 6. The Guardianship of the Person and Estate of Milly Kaplove is terminated;
- 25 7. Ms. Kaplove's request for a No Contact Order is denied;
- 26 8. Milly Kaplove's Guardian Ad Litem, the Senior Citizens' Law Project, should
27 be discharged;
- 28 9. Temporary Guardian April Parks should be discharged and her Letters of

1 Temporary Guardianship revoked; and,

2 10. Temporary Guardian April Parks shall prepare and file a final accounting.

3 II.

4 **RECOMMENDATIONS**

5 Based on the above findings, **IT IS HEREBY RECOMMENDED** that the
6 Guardianship of the Person and Estate of Milly Kaplove is terminated;

7 **IT IS FURTHER RECOMMENDED** that Ms. Kaplove's request for a No Contact
8 Order is denied;

9 **IT IS FURTHER RECOMMENDED** that the Guardian Ad Litem, the Senior
10 Citizens' Law Project, be discharged;

11 **IT IS FURTHER RECOMMENDED** that Temporary Guardian April Parks be
12 discharged and her Letters of Temporary Guardianship revoked; and,

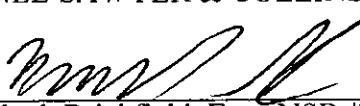
13 **IT IS FURTHER RECOMMENDED** that Temporary Guardian April Parks prepare
14 and file a final accounting.

15 DATED this 18 day of June, 2008.

16
17 
18 GUARDIANSHIP COMMISSIONER
19

20 Submitted by:

21 LIONEL SAWYER & COLLINS

22 By: 
23 Elizabeth Brickfield, Esq., NSB #6236
24 Meredith Stow, Esq., NSB #9203
25 300 S. Fourth Street, Suite 1700
26 Las Vegas, Nevada 89101
27 Attorneys for Milly Kaplove
28

1 Approved as to form and content by:

2 GOLDSMITH & GUYMON

3 By: 

4 Dara Goldsmith, Esq.
2055 N. Village Ctr. Cir
5 Las Vegas, NV 89134
Attorneys for Ronald Kaplove

6
7
8 DRIZIN CHTD.

9 By: _____

10 Noel Palmer Simpson, Esq.
5542 S. Fort Apache Rd., #110
11 Las Vegas, NV 89148
Attorney for April Parks

12
13
14 SENIOR CITIZENS LAW PROJECT

15 By: _____

16 Carol Kingman, Esq.
310 S. 9th Street, 2nd Floor
17 Las Vegas, NV 89101
Guardian Ad Litem

18
19
20 TRENT TYRELL & PHILLIPS

21 By: _____

22 Elyse Tyrell, Esq.
11920 So. Southern Highlands Parkway, Suite 200
23 Las Vegas, NV 89141
Attorneys for Paula Ferguson

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2 GOLDSMITH & GUYMON

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By: _____

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8 DRIZIN CHTD.

9

By:  _____

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11 Las Vegas, NV 89148
Attorney for April Parks

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Attorneys for Paula Ferguson

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5 Las Vegas, NV 89134
Attorneys for Ronald Kaplove

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8 DRIZIN CHTD.

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20 TRENT TYRELL & PHILLIPS

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2 GOLDSMITH & GUYMON

3

By: _____

4 Dara Goldsmith, Esq.

2055 N. Village Ctr. Cir.

5 Las Vegas, NV 89134

Attorneys for Ronald Kaplove

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8 DRIZIN CHTD.

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11 Las Vegas, NV 89148

Attorney for April Parks

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By: _____

16 Carol Kingman, Esq.

310 S. 9th Street, 2nd Floor

17 Las Vegas, NV 89101

Guardian Ad Litem

18

19

20 TRENT TYRELL & PHILLIPS

21

By: 

22 Elyse Tyrell, Esq.

11920 So. Southern Highlands Parkway, Suite 200

23 Las Vegas, NV 89141

Attorneys for Paula Ferguson

24

25

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1 NOTICE

2 Pursuant to NRCP 53(e)(2), an objection must be filed and served no more than ten (10) days
3 after receipt of the Guardianship Commissioner's Report. The Commissioner's Report is deemed
4 received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days
5 after mailing to a party or his attorney, or three (3) days after the clerk of the court deposits a copy
6 of the report in a folder of a party's lawyer in the Clerk's office.

7 A copy of the foregoing Guardianship Commissioner's Report was:

8 _____ Mailed to the parties' counsel at the following addresses on the ____ day
9 of _____, 2008.

10 _____ Dara Goldsmith, Esq.
11 GOLDSMITH & GUYMON
12 2055 N. Village Ctr. Cir.
13 Las Vegas, NV 89134
14 Attorneys for Ronald Kaplove

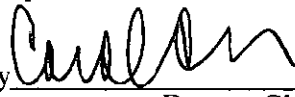
15 _____ Noel Palmer Simpson, Esq.
16 DRIZIN CHTD.
17 5542 S. Fort Apache Rd., #110
18 Las Vegas, NV 89148
19 Attorney for April Parks

20 _____ Carol Kingman, Esq.
21 SENIOR CITIZENS LAW PROJECT
22 310 S. 9th Street, 2nd Floor
23 Las Vegas, NV 89101
24 Guardian Ad Litem

25 _____ Elyse Tyrell, Esq.
26 TRENT TYRELL & PHILLIPS
27 11920 So. Southern Highlands Parkway, Suite 200
28 Las Vegas, NV 89141
Attorneys for Paula Ferguson

_____ Elizabeth Brickfield, Esq.
LIONEL SAWYER & COLLINS
300 S. Fourth Street, Suite 1700
Las Vegas, Nevada 89101
Attorneys for Milly Kaplove

✓
_____ Placed in the folder of the parties' counsel in the Clerk's office on the ____ day of
JUN 2 2008, 2008.

By  JUN 2 2008
Deputy Clerk **CAROL CRITCHETT**

Case Name: In re Guardianship of Milly Kaplove
Case No. G 07-031337-A

1 **ORDER**

2 The Court, having reviewed the above report and recommendations prepared by the
3 Guardianship Commissioner and,

4 The parties having waived the right to object thereto,

5 No timely objections having been filed thereto,


6 Having received the objections thereto and the written arguments in support of said
7 objections, and good cause appearing,

8 IT IS HEREBY ORDERED the Guardianship Commissioner's Report and
Recommendations are affirmed and adopted.

9 IT IS HEREBY ORDERED the Guardianship Commissioner's Report and
10 Recommendations are affirmed and adopted as modified in the following manner.
(Attached hereto.)

11 IT IS HEREBY ORDERED that a hearing on the Guardianship Commissioner's Report is
12 set for , 2008.

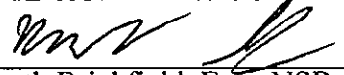
13 DATED this 8 day of July, 2008.

14 
DISTRICT JUDGE

15 Submitted by:

16 LIONEL SAWYER & COLLINS

17 C. ARTHUR RITCHIE, JR.

18 By: 
Elizabeth Brickfield, Esq., NSB #6236
Meredith Stow, Esq., NSB #9203
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1995

AB 585 By Judiciary AGED PERSONS

Makes various changes to provisions prohibiting abuse,
neglect and exploitation of older persons. (EDR 15-848)

Fiscal Note: Effect on Local Government: No. Effect on the
State or on Industrial Insurance: Yes.

05/10 72 Read first time. Referred to Committee on
Judiciary. To printer.

05/11 73 From printer. To committee.
05/11 73 Dates discussed in committee: 5/19, 5/31, 6/9 (A&DP)
06/22 105 From committee: Amend, and do pass as amended.
06/22 105 (Amendment number 936.)
06/22 105 Placed on Second Reading File.
✓06/22 105 Read second time. Amended. To printer.
06/23 106 From printer. To engrossment.
06/23 106 Engrossed. First reprint. ✓
06/23 106 Placed on General File.
✓06/23 106 Read third time. Passed, as amended. Title approved.
(37 Yeas, 2 Nays, 3 Absent, 0 Excused, 0 Not Voting.) To
Senate.

06/23 106 In Senate.
06/23 106 Read first time. Referred to Committee on
Judiciary. To committee.

06/23 106 Dates discussed in Committee: 6/27, 6/28 (DP)
06/28 111 From committee: Do pass.
06/28 111 Declared an emergency measure under the Constitution and
placed on General File for next legislative day.

✓06/29 112 Read third time. Amended. To printer.
06/29 112 (Amendment number 1421.)
06/29 112 From printer. To re-engrossment.
06/29 112 Re-engrossed. Second reprint. ✓ Placed on General File.
06/29 112 Taken from General File. Placed on General File for next
legislative day.

06/30 113 Taken from General File. Placed on General File for next
legislative day.

✓07/01 114 Read third time. Amended. To printer.
07/01 114 (Amendment number 1479.)
07/01 114 From printer. To re-engrossment.
07/01 114 Re-engrossed. Third reprint. ✓ Placed on General File.
✓07/01 114 Read third time. Passed, as amended. Title approved.
(21 Yeas, 0 Nays, 0 Absent, 0 Excused, 0 Not Voting.)
To Assembly.

07/01 114 In Assembly.
07/01 114 Senate amendments concurred in. To enrollment.
07/03 116 Enrolled and delivered to Governor.
07/05 0 Approved by the Governor.
07/06 0 Chapter 607.
Section 10 of this act effective 12:01 a.m. October 1, 1995.
Remainder of this act effective October 1, 1995.

(* = instrument from prior session)

NEVADA LEGISLATURE

SIXTY-EIGHTH SESSION

1995

SUMMARY OF LEGISLATION

PREPARED BY

RESEARCH DIVISION

LEGISLATIVE COUNSEL BUREAU

AA 0431

0 1
SUPP 0256

BILL SUMMARY

ASSEMBLY BILL 585

(Enrolled)

Assembly Bill 585 makes various changes relating to the abuse, neglect, and exploitation of older persons. An agency investigating the abuse of an older person may disclose investigative information to other agencies if it is in the best interest of the person and ensures confidentiality. The ability of an investigating agency to inspect records relevant to the abuse is expanded, provided the agency obtains the consent of the older person or guardian. The investigating agency is authorized to file a petition for removal of a guardian if it appears the guardian is abusing, neglecting, or exploiting an older person.

The bill also expands the definition of exploitation to include acts by persons in a position of trust and confidence and the improper use of a power of attorney or guardianship. The penalty for abuse of an older person is increased from a gross misdemeanor to a felony. If substantial harm or death occur to the older person because of the abuse, the penalty is 1 to 20 years in prison. A person who neglects an older person or permits that person to suffer is guilty of a gross misdemeanor. If substantial harm or death occur to the older person because of the neglect, the penalty is 1 to 6 years in prison. A person who exploits an older person is guilty of a gross misdemeanor if the amount involved is less than \$250. If the amount is more than \$250, but less than \$5,000, then the punishment is 1 to 10 years in prison, a fine of not more than \$10,000, or both. If the amount exceeds \$5,000, the punishment is 1 to 20 years in prison, a fine of not more than \$25,000, or both.

Finally, this measure authorizes the designation of an attendant to assist a witness involved in the prosecution of the abuse, neglect, or exploitation of an older person.

ASSEMBLY BILL No. 585—COMMITTEE ON JUDICIARY

MAY 10, 1995

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons. (BDR 15-848)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to older persons; revising the circumstances under which a report of the suspected abuse, neglect or exploitation of an older person must be made; revising the definition of exploitation; expanding the list of persons and agencies to which such reports may be disclosed; permitting the attendance of a person to support a prosecuting witness at the preliminary hearing and trial in a case involving the abuse, neglect or exploitation of an older person; authorizing the welfare division of the department of human resources and a county's office for protective services to petition for the removal of a guardian of an older person or for the modification or termination of that guardianship under certain circumstances; revising certain penalties related to the abuse, neglect or exploitation of older persons; and providing other matters properly relating thereto.

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *The provisions of NRS 200.5091 to 200.5099, inclusive, do not prohibit an agency which is investigating a report of abuse, neglect or exploitation, or which provides protective services, from disclosing data or information concerning the reports and investigations of the abuse, neglect or exploitation of an older person to other federal, state or local agencies or the legal representatives of the older person on whose behalf the investigation is being conducted if:*

1. *The agency making the disclosure determines that the disclosure is in the best interest of the older person; and*
2. *Proper safeguards are taken to ensure the confidentiality of the information.*

Sec. 3. 1. *Notwithstanding any other statute to the contrary, the local office of the welfare division of the department of human resources and a county's office for protective services, if one exists in the county where a violation is alleged to have occurred, may, after obtaining the written consent required by subsection 2 and for the limited purpose of investigating an alleged violation of NRS 200.5091 to 200.5099, inclusive, inspect all records pertaining to the older person on whose behalf the investigation is being*

1 conducted, including, but not limited to, that person's medical and financial
2 records.

3 2. If a guardian has not been appointed for the older person, the welfare
4 division or the county's office for protective services shall obtain the written
5 consent of the older person before inspecting those records. Except as other-
6 wise provided in this subsection, if a guardian has been appointed for the
7 older person, the welfare division or the county's office for protective services
8 shall obtain the written consent of the guardian before inspecting those
9 records. If the welfare division or the county's office for protective services
10 has reason to believe that the guardian is abusing, neglecting or exploiting
11 the older person, the inspection may be conducted without the consent of the
12 guardian.

13 Sec. 4. The local office of the welfare division or the county's office for
14 protective services may petition a court in accordance with NRS 159.185 or
15 159.1905 for the removal of the guardian of an older person, or the termina-
16 tion or modification of that guardianship, if, based on its investigation, the
17 welfare division or the county's office of protective services has reason to
18 believe that the guardian is abusing, neglecting or exploiting the older person
19 in violation of NRS 200.5095 to 200.5099, inclusive.

20 Sec. 5. NRS 200.5092 is hereby amended to read as follows:

21 200.5092 As used in NRS 200.5091 to 200.5099, inclusive, and sections
22 2, 3 and 4 of this act, unless the context otherwise requires:

23 1. "Abuse" means willful and unjustified:

24 (a) Infliction of pain, injury or mental anguish; or

25 (b) Deprivation of food, shelter, clothing or services which are necessary
26 to maintain the physical or mental health of an older person.

27 2. "Exploitation" means [wrongful use of an older person or his money
28 or property to the advantage of another.] :

29 (a) Any act taken by a person who has the trust and confidence of an older
30 person; or

31 (b) Any use of the power of attorney or guardianship of an older person,
32 to obtain control, through deception, intimidation or undue influence, over
33 the older person's money, assets or property with the intention of permanently
34 depriving the older person of the ownership, use, benefit or possession of his
35 money, assets or property.

36 3. "Neglect" means the failure of:

37 (a) A person who has assumed legal responsibility or a contractual obliga-
38 tion for caring for an older person or who has voluntarily assumed responsi-
39 bility for his care to provide food, shelter, clothing or services which are
40 necessary to maintain the physical or mental health of the older person; or

41 (b) An older person to provide for his own needs because of inability to do
42 so.

43 4. "Older person" means a person who is 60 years of age or older.

44 5. "Protective services" means services the purpose of which is to pre-
45 vent and remedy the abuse, exploitation and neglect of older persons. The
46 services may include investigation, evaluation, counseling, arrangement and
47 referral for other services and assistance.

48 Sec. 6. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. [If any of the persons listed in subsection 2 suspects an instance of abuse, neglect or exploitation of an older person, he shall] *Any person required to make a report pursuant to this section shall make the report immediately, but in no event later than 24 hours after there is reason to believe that an older person has been abused, neglected or exploited . [, report his suspicion] The report must be made to:*

(a) The local office of the welfare or aging services division of the department of human resources;

(b) Any police department or sheriff's office; or

(c) The county's office for protective services, if one exists in the county where the suspected action occurred.

If the report of abuse, neglect or exploitation involves an act or omission of the welfare division, aging services division or a law enforcement agency, the report must be made to an agency other than the one alleged to have committed the act or omission. Each agency, after reducing the report to writing, shall forward a copy of the report to the aging services division of the department of human resources.

2. Reports must be made by [:] *the following persons who, in their professional or occupational capacities, know or have reason to believe that an older person is being or has been abused, neglected or exploited:*

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician's assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this state . [, who examines, attends or treats an older person who appears to have been abused, neglected or exploited.]

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect or exploitation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every clergyman, practitioner of Christian Science or religious healer, unless he acquired the knowledge of abuse, neglect or exploitation from the offender during a confession.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every attorney, unless he has acquired the knowledge of abuse, neglect or exploitation from a client who has been or may be accused of the abuse, neglect or exploitation.

(g) Any employee of the department of human resources.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

1 (j) Any person who maintains, is employed by or serves as a volunteer for
2 an agency or service which advises persons regarding the abuse, neglect or
3 exploitation of an older person and refers them to persons and agencies where
4 their requests and needs can be met.

5 (k) Every social worker.

6 3. [Every physician who, as a member of the staff of a hospital or similar
7 institution, has reason to believe that an older person has been abused,
8 neglected or exploited shall notify the superintendent, manager or other
9 person in charge of the institution. The superintendent, manager or other
10 person in charge shall make a report as required in subsection 1.

11 4.] A report may be filed by any other person.

12 [5.] 4. *Any person required to make a report pursuant to this section who*
13 *has reasonable cause to believe that an older person has died as a result of*
14 *abuse or neglect shall report this belief to the appropriate medical examiner*
15 *or coroner, who shall investigate the cause of death of the older person and*
16 *submit to the appropriate local law enforcement agencies, the appropriate*
17 *prosecuting attorney and the aging services division of the department of*
18 *human resources his written findings. The written findings must include the*
19 *information required pursuant to the provisions of NRS 200.5094, when*
20 *possible.*

21 5. A division, office or department which receives a report pursuant to this
22 section shall cause the investigation of the report to commence within 3
23 working days. *A copy of the final report of the investigation conducted by a*
24 *division, office or department, other than the aging services division of the*
25 *department of human resources, must be forwarded to the aging services*
26 *division within 90 days after the completion of the report.*

27 6. If the investigation of the report results in the belief that the older
28 person is abused, neglected or exploited, the welfare division of the depart-
29 ment of human resources or the county's office for protective services may
30 provide protective services to the older person if he is able and willing to
31 accept them.

32 Sec. 7. NRS 200.5095 is hereby amended to read as follows:

33 200.5095 1. Reports made pursuant to NRS 200.5093 and 200.5094 ,
34 *and records and investigations relating to those reports, are confidential.*

35 2. Any person, law enforcement agency or public or private agency,
36 institution or facility who willfully releases data or information concerning
37 the reports and investigation of the abuse, neglect or exploitation of older
38 persons, except:

39 (a) Pursuant to a criminal prosecution ; [under the provisions of NRS
40 200.5092 to 200.5099, inclusive; and]

41 (b) Pursuant to section 2 of this act; or

42 (c) To persons or agencies enumerated in subsection 3 of this section,
43 is guilty of a misdemeanor.

44 3. [Data] *Except as otherwise provided in subsection 2 and section 2 of*
45 *this act, data or information concerning the reports and investigations of the*
46 *abuse, neglect or exploitation of an older person is available only to:*

47 (a) A physician who has in his care an older person who he reasonably
48 believes may have been abused, neglected or exploited;

1 (b) An agency responsible for or authorized to undertake the care, treat-
2 ment and supervision of the older person;

3 (c) A district attorney or other law enforcement official who requires the
4 information in connection with an investigation of the abuse, neglect or
5 exploitation of the older person;

6 (d) A court which has determined, in camera, that public disclosure of
7 such information is necessary for the determination of an issue before it;

8 (e) A person engaged in bona fide research, but the identity of the subjects
9 of the report must remain confidential;

10 (f) A grand jury upon its determination that access to such records is
11 necessary in the conduct of its official business;

12 (g) Any comparable authorized person or agency in another jurisdiction;

13 (h) A legal guardian of the older person, if the identity of the person who
14 was responsible for reporting the alleged abuse, neglect or exploitation to the
15 public agency is protected, and the legal guardian of the older person is not
16 the person suspected of the abuse, neglect or exploitation; [or]

17 (i) *If the older person is deceased, the executor or administrator of his*
18 *estate, if the identity of the person who was responsible for reporting the*
19 *alleged abuse, neglect or exploitation to the public agency is protected, and*
20 *the executor or administrator is not the person suspected of the abuse, neglect*
21 *or exploitation; or*

22 (j) The person named in the report as allegedly being abused, neglected or
23 exploited, if that person is not legally incompetent.

24 4. If the person who is reported to have abused, neglected or exploited an
25 older person is the holder of a license or certificate issued pursuant to
26 chapters 449, 630 to [640, inclusive, or chapter 641 or 641A] 641B, inclu-
27 sive, or 654 of NRS, information contained in the report must be submitted to
28 the board which issued the license.

29 Sec. 8. NRS 200.5096 is hereby amended to read as follows:

30 200.5096 Immunity from civil or criminal liability extends to every person
31 [participating] who, pursuant to NRS 200.5091 to 200.5099, inclusive, and
32 sections 2, 3 and 4 of this act, in good faith :

33 1. Participates in the making of a report [pursuant to NRS 200.5093 and
34 200.5094.] ;

35 2. Causes or conducts an investigation of alleged abuse, neglect or
36 exploitation of an older person; or

37 3. Submits information contained in a report to a licensing board pursuant
38 to subsection 4 of NRS 200.5095.

39 Sec. 9. NRS 200.5099 is hereby amended to read as follows:

40 200.5099 1. Any person who knowingly and willfully violates any of the
41 provisions of NRS [200.5092 to 200.5095, inclusive,] 200.5093 is guilty of a
42 misdemeanor.

43 2. [Any adult] Except as otherwise provided in subsection 6, any person
44 who [willfully causes or permits] abuses an older person , causing the older
45 person to suffer unjustifiable physical pain or mental suffering [as a result of
46 abuse, neglect or exploitation, or who willfully causes or permits an] , is
47 guilty of a felony and shall be punished by imprisonment in the state prison

1 for not less than 1 year nor more than 6 years, unless a more severe penalty is
2 prescribed by law for the act or omission which brings about the abuse.

3 3. Except as otherwise provided in subsection 7, any person who has
4 assumed responsibility, legally, voluntarily or pursuant to a contract, to care
5 for an older person and who:

6 (a) Neglects the older person, causing the older person to suffer physical
7 pain or mental suffering;

8 (b) Permits or allows the older person to suffer unjustifiable physical pain
9 or mental suffering; or

10 (c) Permits or allows the older person to be placed in a situation where the
11 older person may suffer [unjustifiable] physical pain or mental suffering as
12 the result of abuse [, neglect or exploitation,] or neglect,
13 is guilty of a gross misdemeanor unless a more severe penalty is prescribed
14 by law for the act or omission which brings about the abuse [, neglect, danger
15 or loss through exploitation.

16 3.] or neglect.

17 4. Except as otherwise provided in subsection 5, any person who exploits
18 an older person shall be punished, if the value of any money, assets and
19 property obtained or used:

20 (a) Is less than \$250, by imprisonment in the county jail for not more than
21 1 year, or by a fine of not more than \$2,000, or by both fine and
22 imprisonment;

23 (b) Is at least \$250, but less than \$5,000, by imprisonment in the state
24 prison for not less than 1 year nor more than 10 years, or by a fine of not
25 more than \$10,000, or by both fine and imprisonment; or

26 (c) Is \$5,000 or more, by imprisonment in the state prison for not less than
27 1 year nor more than 20 years, or by a fine of not more than \$25,000, or by
28 both fine and imprisonment,

29 unless a more severe penalty is prescribed by law for the act which brought
30 about the exploitation. The monetary value of all of the money, assets and
31 property of the older person which have been obtained or used, or both, may
32 be combined for the purpose of imposing punishment for an offense charged
33 pursuant to this subsection.

34 5. If a person exploits an older person and the monetary value of any
35 money, assets and property obtained cannot be determined, the person shall
36 be punished by imprisonment in the county jail for not more than 1 year, or by
37 a fine of not more than \$2,000, or by both fine and imprisonment.

38 6. A person who violates any provision of subsection 2, if substantial
39 bodily or mental harm or death results to the older person, shall be punished
40 by imprisonment in the state prison for not less than 1 year nor more than [6
41 years.

42 4.] 20 years, unless a more severe penalty is prescribed by law for the act
43 or omission which brings about the abuse.

44 7. A person who violates any provision of subsection 3, if substantial
45 bodily or mental harm or death results to the older person, shall be punished
46 by imprisonment in the state prison for not less than 1 year nor more than 6
47 years, unless a more severe penalty is prescribed by law for the act or
48 omission which brings about the abuse or neglect.

8. As used in this section [, "permit"] :

(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person if the person knows or has reason to know that the older person is being abused or neglected.

(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person.

Sec. 10. NRS 178.571 is hereby amended to read as follows:

178.571 1. A prosecuting witness in a case involving a violation of NRS 200.366 [,] or 200.368, any provision of NRS 200.5091 to 200.5099, inclusive, or 201.180, 201.210, 201.220 or 201.230 may designate an attendant who must be allowed to attend the preliminary hearing and the trial during the [witness'] witness's testimony to provide support. The person so designated must not himself be a witness in the proceedings.

2. Except as otherwise provided in this subsection [,] and subsection 3, the attendant must not be a reporter or editorial employee of any newspaper, periodical or press association or an employee of any radio or television station. The [parent, child, brother or sister of the prosecuting witness may serve as the witness' attendant whether or not he is a person described in the preceding sentence, but no attendant may make notes during the hearing or trial.] provisions of this subsection do not apply to an attendant to a prosecuting witness in a case involving a violation of any provision of NRS 200.5091 to 200.5099, inclusive.

3. The parent, child, brother or sister of the prosecuting witness may serve as the witness's attendant whether or not he is a reporter or an editorial employee of any newspaper, periodical or press association or an employee of any radio or television station, but no such attendant may make notes during the hearing or trial.

4. If the attendant influences or affects, or attempts to influence or affect, in any manner the testimony of the prosecuting witness during the giving of testimony, the court shall exclude that attendant and allow the witness to designate another attendant.

[4.] 5. The defendant may move to exclude a particular attendant for good cause, and the court shall hear the motion out of the presence of the jury, if any. If the court grants the motion, the prosecuting witness may designate another attendant.

RECEIVED

MAY 11 1995

DEPARTMENT OF ADMINISTRATION
FISCAL DIVISION

BDR 15-848
A.B. 585
S.B.

EXECUTIVE AGENCY
FISCAL NOTE

STATE AGENCY'S ESTIMATES

Date Prepared _____

Agency Submitting Department of Prisons

| Items of Revenue or Expense or Both | Fiscal Year 1994-95 | Fiscal Year 1995-96 | Fiscal Year 1996-97 | Continuing (Y/N) |
|--|------------------------|------------------------|------------------------|------------------|
| None | 0 | 0 | 0 | 0 |
| | | | | |
| | | | | |
| | | | | |
| Total | 0 | 0 | 0 | 0 |

Explanation (Use Additional Sheets or Attachments, if required)

This BDR proposes to adjust the statutes related to the abuse of older persons. Of particular interest to the Department of Prisons is the provision that increases penalties for this offense in NRS 200.5099. The Department is not able to predict the impact of increasing this penalty, which was previously a gross misdemeanor, to a felony. This is because misdemeanor offenders are not sent to prison. We suspect however, that the impact would be negligible. The current felony provision of the law has not, according to departmental records, resulted in the incarceration of a single offender. Some offenders may have been convicted and granted probation, but again, having not arrived in the Department, we would not be aware of the conviction. We must presume from this that an extension of the felony provision would have little or no impact.

Signature [Signature]

Title Director, Department of Prisons

DEPARTMENT OF ADMINISTRATION'S
COMMENTS

Date _____

Agency estimate appears reasonable

Signature _____

Title _____

FISCAL EFFECT ON LOCAL GOVERNMENT
(LCB - Fiscal Division Use Only)

Date _____

Signature _____

Title Deputy Fiscal Analyst



**MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Sixty-eighth Session
May 19, 1995**

The Committee on Judiciary was called to order at 8:11 a.m., on Friday, May 19, 1995, Chairman Humke presiding in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. David E. Humke, Chairman
Ms. Barbara E. Buckley, Vice Chairman
Mr. Brian Sandoval, Vice Chairman
Mr. Thomas Batten
Mr. John C. Carpenter
Mr. David Goldwater
Mr. Mark Manendo
Mrs. Jan Monaghan
Ms. Genie Ohrenschall
Mr. Michael A. (Mike) Schneider
Ms. Dianne Steel
Ms. Jeannine Stroth

COMMITTEE MEMBERS EXCUSED:

Mr. Richard Perkins

GUEST LEGISLATORS PRESENT:

Senator Mark A. James, District No. 8

STAFF MEMBERS PRESENT:

Dennis Neilander, Research Analyst
Patty Hicks, Committee Secretary

Assembly Committee on Judiciary

May 19, 1995

Page 3

to lose their life to a violent criminal nor any other grandchildren have to ask why a bad man would kill their papa, so no other families will have to search for answers that will never come. They expressed their concern that victims have no voice in the appellate court.

Ms. Elizabeth B. Kolkoski, Chief of Elder Rights, Nevada Division for Aging Services, testified in support of S.B. 416, attached as (Exhibit C).

Chairman Humke inquired if she suggested amendment to A.B. 585 or make the provisions in S.B. 416. In the event A.B. 585 does not pass Ms. Kolkoski advised the provision of 1-20 years in S.B. 416 be considered. Chairman Humke will confer with the committee but indicated they would probably be inclined to amend A.B. 585 with the provisions she suggested. *

Senator Mark A. James, District No. 8, sponsor, advised he reappeared to answer any more detailed questions the committee may have on S.B. 416. Senator James reiterated every sentence set forth in the bill is a revision and would be a longer sentence. It will provide at least a one year minimum, in some cases, two, three, or five year minimum based on the statutes. In addition, it is whatever minimum the judge gives within the forty percent rule in order to keep violent criminals in prison longer and release nonviolent criminals into probation sooner.

Presiding Chairman Sandoval recognized Ms. Buckley, who expressed concern with the hardening of the prison population and ensuring safeguards for staff and guards. Senator James agreed the bill should go forward and there is demonstrable proof this bill will enhance public safety.

Mr. Anderson said Ms. Buckley has spoken to part of the concerns as it is our responsibility to make the record clear of an increase of costs in prison operations. Mr. Anderson advised the current facilities will have to be refurbished to meet the needs of this hardened population as evidenced by the prison tours. Senator James commented the prison population will not be substantially changed until later on, five years. Senator James did not see it as a large capital issue.

Mr. Carpenter commented he fully supports S.B. 416 and did not see a fiscal note. Mr. Carpenter advised monies will be available in the Governor's budget to take care of the next two years. One issue not discussed is the deterrent factor which could cut down the number of incarcerations. Mr. Carpenter noted one new prison will open by July with another under construction. If communities are to be kept

**MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Sixty-eighth Session
May 31, 1995**

The Committee on Judiciary was called to order at 8:20 a.m., on Wednesday, May 31, 1995, Chairman Humke presiding in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. David E. Humke, Chairman
Ms. Barbara E. Buckley, Vice Chairman
Mr. Brian Sandoval, Vice Chairman
Mr. Thomas Batten
Mr. John C. Carpenter
Mr. David Goldwater
Mr. Mark Manendo
Mrs. Jan Monaghan
Ms. Genie Ohrenschall
Mr. Richard Perkins
Mr. Michael A. (Mike) Schneider
Ms. Dianne Steel
Ms. Jeannine Stroth

STAFF MEMBERS PRESENT:

Dennis Neilander, Research Analyst
Joi Davis, Committee Secretary

OTHERS PRESENT:

Joe Guild, Attorney at Law
Ed Fend, American Association Retired Persons
Ernest Nielsen, Attorney at Law, Washoe Legal Services
Mary Liveratti, State of Nevada Division of Aging Services
Myla Florence, State of Nevada Department of Welfare
Betsy Kolkoski, State of Nevada Division of Aging Services
Joe Johnson, private citizen

Assembly Committee on Judiciary
May 31, 1995
Page 2

Michael Bell, private citizen
Despina Hutton, Attorney at Law, Senior Law Project
Phil Galeoto, Lieutenant, Reno Police Department

Chairman Humke announced a quorum was present and the committee would first consider Assembly Bill 585 noting Mr. Anderson had a bill draft request.

B.D.R. 16-471 Authorizes counties to create departments of alternative sentencing.

ASSEMBLYMAN ANDERSON MOVED FOR COMMITTEE INTRODUCTION OF B.D.R. 16-471.

ASSEMBLYMAN BUCKLEY SECONDED THE MOTION.

THE MOTION CARRIED. ASSEMBLYMAN PERKINS WAS NOT PRESENT FOR THE VOTE.

* * * * *

ASSEMBLY BILL 585 - Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons.

Betsy Kolkoski, Chief of Elder Rights, State of Nevada Division of Aging Services, stated the Welfare Administrator, Myla Florence, and Mary Liveratti, Division of Aging Services would together present A.B. 585 as proponents of the bill.

Ms. Kolkoski stated the division is requesting NRS 200.5091 be revised to better define the crime of elder abuse, to punish the wrongdoer, clarify the crimes of abuse, neglect, and exploitation against elders, and include penalties for abuse of powers of attorneys, and guardianships.

Ms. Kolkoski declared since the printing of the bill there has been much confusion and concern about the drafting language in terms of the exploitation definition, specifically sections 1 and 2 of the bill. Further discussion regarding recommendations to these sections is contained in Ms. Kolkoski's prepared testimony attached hereto as (Exhibit C). She stated they would like to improve the monitoring and prosecution of elder abuse by having the coroner investigate the

cause of death of an older person who has died as a result of abuse or neglect. The coroner's findings would then be sent to the Division of Aging Services and the district attorney. Ms. Kolkoski elaborated further on the intent behind A.B. 585 and concluded by stating they would like to see civil or criminal immunity extended to anyone who causes or conducts an investigation of elder abuse.

Myla Florence, Administrator, State of Nevada Welfare Division, testified they support A.B. 585 with three minor amendments which would facilitate agency investigations. The amendments are included in her prepared testimony attached hereto as (Exhibit D).

Ms. Florence remarked that normally when an investigation is commenced consent is obtained from the elderly person to review records. However, many times the elderly person is unable to give consent and there are no appointed guardians for the elder. Ms. Florence stated their amendment would allow investigators access to records for the sole purpose of determining if a complaint is valid. Further, another proposed amendment would allow the investigator to share information with the elderly persons' treating physician.

Dennis Neilander, Senior Research Analyst, discussed the "flush rule" which is in statutory construction in many states. Basically the rule prevents repetitive language. These comments were directed to Ms. Kolkoski's testimony with regard to the drafting of the bill and the definitions of abuse, neglect, and exploitation. Ms. Kolkoski replied she has discussed the matter with the Legislative Counsel Bureau (LCB) many times and she agrees. However, she was advised that it could be written either way. Mr. Neilander responded to re-write it would be in violation of the existing statutes but he would check with LCB.

Mr. Carpenter expressed his concerns regarding the inspection of records without the elder's consent. He asked if that would be better accomplished by obtaining court approval. Ms. Florence stated the court process is cumbersome and time consuming and could impede the investigation. She reiterated the purpose of viewing the records would be for the sole purpose of determining validity of the complaint investigated.

Mr. Carpenter asked if the agency can remove an elder from a potentially damaging situation. Ms. Florence stated this could be done with a court order adding that adult protective services are very different from child protective services.

Assembly Committee on Judiciary

May 31, 1995

Page 4

Ms. Ohrenschall stated southern Nevada agencies, including the Public Administrator, will immediately remove an elder sometimes without just cause. She then relayed a situation where this occurred and the removal was wrong. Ms. Florence stated the recommendation for the deletion of the word "written" in the bill as set forth in their amendments was at the request of the Las Vegas Metropolitan Police Department. She added the Public Administrators in southern Nevada have better access to judges whereas the same sort of access is not available in northern Nevada.

Ms. Ohrenschall remarked she was in favor of protecting seniors but she was not in favor of presuming someone guilty until found innocent. She asked if what the Public Administrator is doing in southern Nevada could be expanding to the Division of Aging Services. Ms. Florence replied the investigating agency of abuse, neglect, and exploitation are State Welfare Division or a local, county protective service agency if one exists. Clark County is the only county with such an agency providing services to those over age 60 years who are not on welfare. The State Welfare Division provides the service for the remaining 16 counties in Nevada.

Ms. Ohrenschall asked if the Public Administrator in southern Nevada was asked to testify on this bill. Ms. Kolkoski stated the Public Administrator was not asked to testify however he has been involved with the drafting of the bill since the inception. Chairman Humke informed Ms. Ohrenschall she could contact the Public Administrator outside the hearing and further indicated A.B. 585 would most likely be heading for a subcommittee.

Mr. Anderson asked, with regard to Section 5 of the bill which discusses use of powers of attorney, if there could possibly be a misuse of these powers by family members of the elderly person and who makes the determination of the abuse or exploitation? Ms. Kolkoski stated the bill sets forth "undue influence" be coupled with the intention to "permanently deprive" so the division for aging services and Welfare in these cases would go to the police department and through them to the district attorney for investigation and prosecution. Mr. Anderson asked if the blood relationship alone is within the concept of "undue influence." Ms. Kolkoski stated the bill has sufficient protection for those persons with good intentions but would take care of and prosecute the bad apples, whether a blood relative or not. Further discussion was held in this regard between Mr. Anderson and Ms. Kolkoski. Mr. Anderson stated the "trust and confidence" issue has been met by the granting of the power of attorney. Ms. Kolkoski reminded the undue influence must be with the intention of permanently depriving the elder.

Chairman Humke stated the material contained in Section 5 of the bill tends to shift the analysis the court goes through in an "undue influence" case in an estate matter. Now those same standards are being applied to the power of attorney matter and it is a high standard to be met with intent being proven. Ms. Kolkoski concurred and added her experience indicates the largest problem area is with powers of attorneys and guardianships. Mr. Carpenter stated he had similar concerns as Mr. Anderson pertaining to Section 5.

Ms. Ohrenschall expressed her concern for individuals who care for their parents and someone may come along and determine they are not administering the appropriate level of care. Who determines what the best level of care is and does this mean all our seniors will be forced into nursing homes? Myla Florence, Nevada State Welfare, stated A.B. 585 does not have that intent. The first premise for elders is to have them as independent as possible. The level of care is ultimately determined by a physician in conjunction with the court.

Sheila Smith, Deputy Attorney General, Welfare Division, stated the purpose of seeking the records of individuals not able to give consent is merely for the limited purposes of determining whether or not a complaint they have received is valid and would not be used for any other purpose. Ms. Ohrenschall asked how that would apply to a senior who has a joint tenancy in a bank account with other members of the family. Would that not be invading the privacy of those other family members? Ms. Smith reiterated the investigator would merely be looking at the account to view the claims concerning abuse, neglect, or exploitation in the complaint are valid.

Ms. Kolkoski concluded by thanking the committee for their diligence and effort in reviewing the elder statutes and urged the committee to pass A.B. 585.

Mr. Ed Fend, Chairman, American Association of Retired Persons (AARP), testified in support of A.B. 585. Mr. Fend stated laws have been provided during this legislative session to protect children and it is time to provide protection to elders and implement a range of penalties for crimes against elders. Mr. Fend's prepared testimony is attached hereto as (Exhibit E). Mr. Fend concluded other members from AARP were present to show their support but did not wish to testify.

Despina Hatton, Attorney at Law, Senior Law Center, representing Washoe County residents over the age of 60, stated she was also testifying in support of counterpart in Las Vegas, Sherry Vogel. They both support A.B. 585 and they see

the bill as being a tremendous help for their clientele.

Chairman Humke announced Michael F. Bell, a private citizen of Carson City, was signed in to testify but needed to return to work. Mr. Bell provided his written testimony for the committee which is attached hereto as (Exhibit F).

Phil Galeoto, Lieutenant, Reno Police Department, testified his department is in support of A.B. 585. He stated he sat on a panel last year wherein one of the primary goals from that panel was a recommendation to work on legislation to enhance the ability to protect senior citizens in the state of Nevada. A.B. 585 is a result of that effort. Mr. Galeoto acknowledged the concerns expressed by the committee members regarding the balance of civil rights versus the inability to protect senior citizens at times. However, A.B. 585 will provide the tools necessary when action needs to be taken.

Mr. Galeoto informed he has personally investigated crimes against seniors and he is fully aware of the limitations placed on the state agencies. Further, the definition of exploitation on page 2, lines 31-35, places the same standards and rules of evidence as in other investigations and court cases and allows for immediate action due to fear of the safety of that individual.

ASSEMBLY BILL 632 - Limits costs which are recoverable by landlord who enforces lien for unpaid rent.

Despina Hatton, Attorney at Law, Senior Law Center, Washoe County, along with Joe Johnson, a lobbyist, and past legislator, and Ernest Nielsen, Attorney at Law, Washoe Legal Services, came forward to testify in support of A.B. 632. Mr. Johnson stated A.B. 632 is brought as a result of 1991 legislation dealing with mobile home liens. A problem arose surrounding the forms and notices involved with the lien process, specifically involving attorney's fees. However, the legislative intent from the 1991 legislation has been the subject of some confusion in that the original intent was to enable the owner of the mobile home park to prepare a simple form and notice of lien. A.B. 632, in part, addresses that issue.

Ernest Nielsen stated he is the attorney for Washoe Legal Services which is a nonprofit law firm representing low income individuals in Washoe County. He stated he was involved in the 1991 legislation dealing with mobile home liens in

DIVISION FOR AGING SERVICES

OFFICE OF ELDER RIGHTS

A B - 5 8 5

PROPOSED REVISION OF THE

ELDER ABUSE STATUTE

The Division for Aging Services is requesting that NRS 200.5091 et seq. be revised to assist Nevada's seniors as follows:

- To better define the crime of elder abuse which is being challenged as unconstitutional
- To punish any wrongdoer and not limit the wrongdoers to adults
- To proscribe and punish abuse, neglect, and exploitation differently from one another
- To improve the definition of exploitation and include penalties for abuse of a power of attorney or a guardianship

There is confusion by some because the exploitation definition is divided into §§ (a) and (b). Some people who have read the bill are concerned because they believe that § (a) is complete by itself and stands alone.

The Division recommends that § (a) contain the same language as § (b) [to obtain control, through deception, intimidation or undue influence...] for the purposes of clarity even though this may be unnecessary in terms of statutory construction.

- To provide a range of penalties, including financial penalties, up to 20 years imprisonment or fines of up to \$25,000 for more serious cases
- To provide that intentionally obtaining the money, assets or property of an older person through deception, intimidation or undue influence is a serious crime.
- To improve monitoring and prosecution of elder abuse by having the coroner investigate the cause of death of an older person who has died as a result of abuse or neglect and to send his written findings to prosecuting attorneys, law enforcement and aging services.
- To request that physicians or staff of a hospital or similar facility be relieved of the legal duty to report elder abuse to the Superintendent, manager or other person in-charge of the hospital because of the potential conflict of interest this may create if the hospital or facility is the suspected abuser.

- To enable the older person's legal representative or the executor or administrator of his estate, if not suspect, to obtain data or information concerning abuse, neglect or exploitation of the older person
- To provide that immunity from civil or criminal liability be extended to anyone who causes or conducts an investigation, or submits information to a licensing board.
- To request that NRS 178.571 which permits certain victims to have an attendant during court proceedings to include elder abuse victims.
- The Welfare Division has added a section that provides protective service workers certain powers.



DEPARTMENT OF HUMAN RESOURCES
WELFARE DIVISION

2527 North Carson Street - Capitol Complex
Carson City, Nevada 89710
(702) 687-4770

AB 585 - MAKES VARIOUS CHANGES TO PROVISIONS PROHIBITING ABUSE
AND EXPLOITATION OF OLDER PERSONS
NEVADA STATE WELFARE DIVISION
CONTACT: MYLA C. FLORENCE, WELFARE DIVISION ADMINISTRATOR, 687-
4128

THE WELFARE DIVISION SUPPORTS AB 585. I AM HERE TO RECOMMEND
MINOR AMENDMENTS TO THE BILL TO FACILITATE AGENCY INVESTIGATIONS.

ADULT PROTECTIVE SERVICES INVESTIGATORS FREQUENTLY NEED TO HAVE
ACCESS TO THE MEDICAL OR FINANCIAL INFORMATION REGARDING THE
ELDERLY PERSON WHO HAS BEEN ALLEGEDLY ABUSED, NEGLECTED OR
EXPLOITED TO DETERMINE IF A COMPLAINT IS VALID. IN CASES WHERE THE
ELDERLY INDIVIDUAL IS CAPABLE OF GIVING CONSENT TO REVIEW THOSE
RECORDS, THE DIVISION OBTAINS THEIR PERMISSION AND WILL CONTINUE
TO OBTAIN THEIR PERMISSION.

HOWEVER, CONSENT IS NOT ALWAYS POSSIBLE. THERE ARE MANY CASES
WHERE THE ELDERLY INDIVIDUAL IS CLEARLY NOT CAPABLE OF GIVING
CONSENT. FOR EXAMPLE, THERE ARE ELDERLY INDIVIDUALS WHO ARE NOT
CAPABLE OF UNDERSTANDING THE NATURE OF THE PROCESS, THEIR SUR-

-(H:\CPDOCS\MEDIA\AB585TST.ATM) May 30, 1995)

ROUNDINGS AND CIRCUMSTANCES. FREQUENTLY THERE ARE NO GUARDIANS APPOINTED FOR THESE INDIVIDUALS. PHYSICAL AND MENTAL CAPABILITIES MAY HAVE DIMINISHED. THERE ARE ALSO MANY INDIVIDUALS WHO MAY HAVE BEEN PERSUADED, THREATENED OR INTIMIDATED BY CAREGIVERS OR CULPABLE FAMILY MEMBERS TO NOT GRANT PERMISSION. THERE HAVE BEEN CASES WHERE ACCESS TO THE OLDER PERSON HAS BEEN THWARTED BY MOVING THE ELDERLY PERSON TO A CONCEALED LOCATION. THEREFORE THE WELFARE DIVISION IS REQUESTING AMENDMENTS TO AB 585 WHICH WOULD ALLOW THE INVESTIGATORS ACCESS TO THE RECORDS FOR THE LIMITED PURPOSE OF DETERMINING IF A COMPLAINT IS VALID. BE ASSURED, HOWEVER, THE DIVISION WILL CONTINUE TO SECURE WRITTEN CONSENT IN EVERY INVESTIGATION IN WHICH IT IS POSSIBLE.

THE DIVISION PROPOSES AMENDING SECTION 7 OF AB 585 TO SHARE INFORMATION WITH THE OLDER PERSON'S TREATING PHYSICIAN. TREATING

-(H:\CPDOCS\MEDP\AB585TST.ATM) May 30, 1995)

AB 585
TESTIMONY - PAGE 3
NEVADA STATE WELFARE DIVISION

PHYSICIANS ARE CRITICAL IN DETERMINING IF THE ALLEGED COMPLAINT IS
VALID AND THEY ALSO CAN RECOMMEND AN APPROPRIATE COURSE OF
ACTION OR TREATMENT TO ALLEVIATE THE ABUSE, NEGLECT OR EXPLOITA-
TION.

THE DIVISION HAS THE RECOMMENDED AMENDMENTS AND WILL PROVIDE
THEM TO THE COMMITTEE.

I WOULD BE HAPPY TO RESPOND TO ANY QUESTIONS THE COMMITTEE
MEMBERS MAY HAVE.

-(H. C7DOCS\MEDI\AB585TST ATM) May 30, 1995)

PROPOSED AMENDMENTS TO AB 585

SECTION 3, SUBSECTION 1, LINES 17-18 TO READ:

violation is alleged to have occurred, may, [after obtaining the written consent required by Subsection 2 and] for the limited purpose of investigating an

SECTION 3, SUBSECTION 2 LINES 4-8 TO READ:

division or the county's office for protective services shall obtain the [written] consent of the older person *if the older person is capable of giving such consent* before inspecting those records. Except as otherwise provided in this subsection, if a guardian has been appointed for the older person, the welfare division or the county's office for protective services shall obtain the [written] consent of the guardian before inspecting those

SECTION 7, SUBSECTION 3, SUB-SUBSECTION (a) TO READ LINES 47-48 TO READ:

(a) A physician who [has in his care] *is providing care to* an older person who [he reasonably believes] may have been abused, neglected or exploited.

Bringing lifetimes of experience and leadership to serve all generations.

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12. 1991年12月1日，某公司因故被宣告破产，清算组接管了该公司。清算组在清理过程中，发现该公司在破产前曾与某银行签订了一份借款合同，借款金额为100万元，期限自1991年1月1日起至1992年12月31日止。借款合同约定，该笔借款用于购买原材料。然而，清算组在清理过程中发现，该笔借款并未用于购买原材料，而是被挪作他用。清算组遂向法院提起诉讼，要求该银行承担违约责任。

Testimony in support of A.B. 585
before the Judiciary Committee on 31 May, 1995

As this session winds down we find the need to look at protecting our senior citizens from ABUSE, NEGLECT, and EXPLOITATION. We have already provided additional protection for our children. It is a sad commentary that our society seems to take advantage of the young and the old of our population. We must indicate to all concerned we will not tolerate the abuse, neglect and exploitation of our elder citizens. As the number of this group increases in our state, we must increase the punishment to wrong-doers. It's important to proscribe and punish this crime by the nature of the offense and provide a range of penalties that will indicate we no longer tolerate this abhorrent behavior. When through intentionally obtaining money, assets or property of an older person through deception, intimidation or undue influences this crime is serious. They have not only taken away the older citizens assets, which cannot be reacquired at their age, but they have also taken away their self respect and pride for frequently they can no longer support or care for themselves. We cannot let this continue and the increase penalties with active enforcement may reduce this crime. AARP strongly supports this Bill and urges your unanimous support A.B. -585.

Thank You

Sincerely,
Ed ~~End~~

Ed Fend


EXHIBIT E

26

American Association of Retired Persons. (n.d.). *U.S. Social Security Administration*. Washington, D.C.: 2004-9. (202). 434-2277.

2368

SUPP 0281

AA 0456

I am writing in support of AB585, which amends Chapter 200 of the Nevada Revised Statutes, especially the expansion of the definition of the term "Exploitation" in Section 5, the removal of criminal and civil penalties for persons required to make reports regarding suspected exploitation in Section 8 and the imposition of at least misdemeanor charges in Section 9 of the Act.

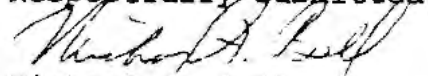
My mother died in 1993, of complications related to severe debilitation from the effects of alcoholism. For the last two-and-one-half years of her life, she was cared for by a woman who methodically insinuated herself into my mother's life and shut off access to my mother by anyone else. As a result, at the time her death, my mother was essentially impoverished of any cash for day-to-day living. The caretaker had systematically siphoned off her cash for her own gambling, drinking, gifts and trips for the caretaker's relatives and herself, and every manner of comforts for the caretaker and her family.

I truly believe that my mother's death was hastened by her knowledge that she was broke financially, even though she owned a house and ranch acreage that, on paper, made her worth several hundred thousand dollars. After my mother's death, investigation by the executor of her estate and by me established that the caretaker had written checks on my mother's checking account, after transferring monies from savings accounts (which the caretaker could not access directly) and had admittedly signed my mother's name on dozens of checks that benefitted the caretaker or her family. According to the caretaker in court testimony, the checks, deposit records and all receipts for the two-and-one-half year period that the caretaker was with my mother were burned up by my mother because my mother was mad at me. My mother was, during the period of this alleged act of anger, essentially bedridden. Forgery cannot be sustained on the basis of photocopies of checks.

After a six day trial in which I contested the will that the caretaker admittedly typed herself (all previous wills having been prepared free of charge by an attorney), the First Judicial District Court awarded me the entirety of my mother's estate and completely removed the caretaker from the will. The costs of the investigation into the records of my mother's estate, plus the litigation to get the caretaker removed from the will, plus the problems that continue to this day with the Internal Revenue Service amount to nearly \$150,000 in bills, that can only be paid by a mortgage on the property that was my mother's.

AB585 will make it much easier for a person in my position to "light a fire" under a person designated under the Act as being required to make a report about allegations of abuse, neglect or exploitation. Admittedly, there may be "fishing expeditions," as a result of such investigations; however, the law as it now stands frightens away those who should have the right and obligation to at least watch out for those who cannot watch out for themselves.

Respectfully submitted,



Michael F. Bell
5000 Hell s Bells Road
Carson City, Nevada
894 1140

**MINUTES OF THE
ASSEMBLY COMMITTEE ON JUDICIARY**

**Sixty-eighth Session
June 9, 1995**

The Committee on Judiciary was called to order at 8:00 a.m., on Friday, June 9, 1995, Chairman Anderson presiding in Room 332 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Mr. Bernie Anderson, Chairman
Mr. David E. Humke, Chairman
Ms. Barbara E. Buckley, Vice Chairman
Mr. Brian Sandoval, Vice Chairman
Mr. Thomas Batten
Mr. John C. Carpenter
Mr. David Goldwater
Mr. Mark Manendo
Mrs. Jan Monaghan
Ms. Genie Ohrenschall
Mr. Richard Perkins
Mr. Michael A. (Mike) Schneider
Mrs. Dianne Steel
Ms. Jeannine Stroth

GUEST LEGISLATORS PRESENT:

Senator Mark James
Senator Maurice Washington

STAFF MEMBERS PRESENT:

Dennis Neilander, Research Analyst

OTHERS PRESENT:

Bob Martin, Executive Director, Nevada Association of Homeopathic
Physicians
David Horton, Alternative Therapy Support Group
Nancy Tiffany, Unit Manager, Nevada Division of Parole and Probation

ASSEMBLY BILL 623 - Authorizes juvenile division of district court to bind over for trial child certified as adult after formal adversarial hearing.

ASSEMBLYMAN HUMKE MOVED AMEND AND DO PASS A.B. 623 WITH AMENDMENT AS OUTLINED BY MR. BOB TEUTON.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

Mr. Neilander clarified the amendment essentially rewrites the bill. It is amending NRS 62.080 and is written based on the statute, not on the bill.

Responding to Ms. Steel's inquiry as to whether A.B. 623 conflicts with other bills regarding certification, Mr. Humke stated it simply makes everything consistent whereas A.B. 317 did alter the rules by which a child can be certified upward. This bill only governs the procedure by which the certification would take place.

THE MOTION CARRIED.

A.B. 623 was assigned to Mr. Humke for presentation on the floor.

ASSEMBLY BILL 646 - Makes various changes to procedure in juvenile cases.

ASSEMBLYMAN CARPENTER MOVED AMEND AND DO PASS A.B. 646.

ASSEMBLYMAN HUMKE SECONDED THE MOTION.

THE MOTION CARRIED.

ASSEMBLY BILL 585 - Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons.

Mr. Anderson called committee attention to a letter written to him (Exhibit E) in response to Ms. Ohrenschall's concerns relative to the Public Administrator of Clark County noted for his expertise in this area. Attached to the letter are proposed amendments to A.B. 585.

Assembly Committee on Judiciary
June 9, 1995
Page 7

Ms. Ohrenschall stated she had met with the proponent of the bill, Ms. Kolkoski of the Division of Aging Services, and a preference was indicated for the one paragraph language on the first page of the proposed amendments.

Committee discussion ensued involving the difficult question of possible power of attorney abuses, etc.

ASSEMBLYMAN HUMKE MOVED AMEND AND DO PASS A.B. 585.

ASSEMBLYMAN GOLDWATER SECONDED THE MOTION.

Mr. Carpenter indicated the Division of Aging Services did not prove a strong enough case to demonstrate the need for this particular bill.

THE MOTION CARRIED WITH MR. CARPENTER VOTING NO.

A.B. 585 was assigned to Mr. Manendo for presentation on the floor.

There being no further testimony, the hearing was adjourned at 10.15 a.m.



BOB MILLER
Governor

STATE OF NEVADA
DEPARTMENT OF HUMAN RESOURCES
DIVISION FOR AGING SERVICES
340 N. 11th Street, Suite 203
Las Vegas, Nevada 89101
(702) 486-3545 • Fax: (702) 486-3572

SCOTT M. CRAIGIE
Director

SUZANNE EFVST
Administrator

June 8, 1995

ADDRESS REPLY TO

ADMINISTRATIVE OFFICE
Maining Address
State Machine Complex
Las Vegas, Nevada 89158
(702) 486-3545
Fax: 486-3572

1665 Hot Springs Road
Suite 105
Carson City, Nevada 89710
(702) 687-4210
Fax: 687-4264

445 Apple Street
Suite 104
Reno, Nevada 89502
(702) 688-2904
Fax: 688-2909

850 Elm Street
Elko, Nevada 89801
(702) 748-1966
Fax: 754-8913

Co-Chairman Bernie Anderson
Assembly Judiciary Committee
Nevada State Legislature
Carson City, NV 89701

Dear Chairman Anderson:

Re: AB-585

Attached is a copy of the proposed amendments for AB-585 requested by the Nevada State Welfare Division. The Division for Aging Services is agreeable to these amendments. In addition, we are submitting two proposals to amend the definition of exploitation, as discussed in committee.

We have been in contact with Jared Shafer, Clark County Public Administrator. He has spoken to Mrs. Ohrenschall. He has advised her and authorized us to state that he does support this legislation as proposed by the Aging Services and Welfare Divisions.

If you have any questions please call Betsy Kolkoski in the Las Vegas Office at 486-3545.

Sincerely,

Mary Liveratti
Mary Liveratti
Deputy Administrator

cc: Jared Shafer, Clark County Public Administrator
ML:sl

EXHIBIT E

31

3403

SUPP 0286

AA 0461

PROPOSED AMENDMENT TO AB 585

SECTION 5, SUBSECTION 2, LINES 27 - 36 TO READ:

"Exploitation" means

(a) Any act taken by a person who has the trust and confidence of an older person [; or] to obtain control, through deception, intimidation or undue influence, over the older person's money, assets or property with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property.

(b) Any use of the power of attorney or guardianship of an older person, to obtain control, through deception, intimidation or undue influence, over the older person's money, assets or property with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property.

OR

"Exploitation" means to obtain control, through deception, intimidation or undue influence, over the older person's money, assets or property with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property through any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship of an older person.

PROPOSED AMENDMENTS TO AB 585

SECTION 3, SUBSECTION 1, LINES 17-18 TO READ:

violation is alleged to have occurred, may, [after obtaining the written consent required by Subsection 2 and] for the limited purpose of investigating an

SECTION 3, SUBSECTION 2 LINES 4-8 TO READ:

division or the county's office for protective services shall obtain the [written] consent of the older person *if the older person is capable of giving such consent* before inspecting those records. Except as otherwise provided in this subsection, if a guardian has been appointed for the older person, the welfare division or the county's office for protective services shall obtain the [written] consent of the guardian before inspecting those

SECTION 7, SUBSECTION 3, SUB-SUBSECTION (a) TO READ LINES 47-48 TO READ:

(a) A physician who [has in his care] *is providing care to* an older person who [he reasonably believes] may have been abused, neglected or exploited.

TEXT OF REPEALED SECTIONS

322.0048 "Floating dock or platform" defined. "Floating dock or platform" means a structure, other than a vessel or pier, designed to float on water while anchored to the shore or bed of a navigable body of water.

322.0064 "Swim line" defined. "Swim line" means a floating line used for the designation of an area for swimming or bathing in a navigable body of water."

Amend the title of the bill to read as follows:

"An Act relating to state land; revising certain fees of the state land registrar for the use of state land; requiring the state land registrar to grant credit towards fees paid for the commercial use of state land under certain circumstances; and providing other matters properly relating thereto."

Amend the summary of the bill to read as follows:

"Summary—Makes various changes regarding fees paid to state land registrar for use of state land. (BDR 26-1399)".

Assemblyman Carpenter moved the adoption of the amendment.

Remarks by Assemblyman Carpenter.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 585.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 936.

Amend sec. 3, page 1, by deleting lines 17 and 18 and inserting: "*violation is alleged to have occurred, may for the purpose of investigating an*".

Amend sec. 3, page 2, by deleting lines 3 and 4 and inserting:

"2. *Except as otherwise provided in this subsection, if a guardian has not been appointed for the older person, the welfare division or the county's office for protective services shall obtain the*".

Amend sec. 3, page 2, line 5, after "records." by inserting: "*If the welfare division or the county's office for protective services determines that the older person is unable to consent to the inspection, the inspection may be conducted without his consent.*".

Amend sec. 3, page 2, line 8, by deleting "written".

Amend sec. 5, page 2, by deleting lines 28 through 31 and inserting: "*or property to the advantage of another.] any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship of an older person*".

Amend sec. 7, page 4, by deleting line 47 and inserting:

"(a) A physician who [has in his care] *is providing care to* an older person who [he reasonably".

Amend sec. 7, page 4, line 48, by inserting a closed bracket after "believes".

Assemblyman Humke moved the adoption of the amendment.

Remarks by Assemblyman Humke.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

ASSEMBLY BILL NO. 585—COMMITTEE ON JUDICIARY

MAY 10, 1995

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons. (BDR 15-848)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to older persons; revising the circumstances under which a report of the suspected abuse, neglect or exploitation of an older person must be made; revising the definition of exploitation; expanding the list of persons and agencies to which such reports may be disclosed; permitting the attendance of a person to support a prosecuting witness at the preliminary hearing and trial in a case involving the abuse, neglect or exploitation of an older person; authorizing the welfare division of the department of human resources and a county's office for protective services to petition for the removal of a guardian of an older person or for the modification or termination of that guardianship under certain circumstances; revising certain penalties related to the abuse, neglect or exploitation of older persons; and providing other matters properly relating thereto.

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

1 Section 1. Chapter 200 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2, 3 and 4 of this act.

3 Sec. 2. *The provisions of NRS 200.5091 to 200.5099, inclusive, do not*
4 *prohibit an agency which is investigating a report of abuse, neglect or*
5 *exploitation, or which provides protective services, from disclosing data or*
6 *information concerning the reports and investigations of the abuse, neglect or*
7 *exploitation of an older person to other federal, state or local agencies or the*
8 *legal representatives of the older person on whose behalf the investigation is*
9 *being conducted if:*

10 1. *The agency making the disclosure determines that the disclosure is in*
11 *the best interest of the older person; and*

12 2. *Proper safeguards are taken to ensure the confidentiality of the*
13 *information.*

14 Sec. 3. 1. *Notwithstanding any other statute to the contrary, the local*
15 *office of the welfare division of the department of human resources and a*
16 *county's office for protective services, if one exists in the county where a*
17 *violation is alleged to have occurred, may for the purpose of investigating an*
18 *alleged violation of NRS 200.5091 to 200.5099, inclusive, inspect all records*
19 *pertaining to the older person on whose behalf the investigation is being*

1 conducted, including, but not limited to, that person's medical and financial
2 records.

3 2. Except as otherwise provided in this subsection, if a guardian has not
4 been appointed for the older person, the welfare division or the county's office
5 for protective services shall obtain the consent of the older person before
6 inspecting those records. If the welfare division or the county's office for
7 protective services determines that the older person is unable to consent to the
8 inspection, the inspection may be conducted without his consent. Except as
9 otherwise provided in this subsection, if a guardian has been appointed for
10 the older person, the welfare division or the county's office for protective
11 services shall obtain the consent of the guardian before inspecting those
12 records. If the welfare division or the county's office for protective services
13 has reason to believe that the guardian is abusing, neglecting or exploiting
14 the older person, the inspection may be conducted without the consent of the
15 guardian.

16 Sec. 4. The local office of the welfare division or the county's office for
17 protective services may petition a court in accordance with NRS 159.185 or
18 159.1905 for the removal of the guardian of an older person, or the termina-
19 tion or modification of that guardianship, if, based on its investigation, the
20 welfare division or the county's office of protective services has reason to
21 believe that the guardian is abusing, neglecting or exploiting the older person
22 in violation of NRS 200.5095 to 200.5099, inclusive.

23 Sec. 5. NRS 200.5092 is hereby amended to read as follows:

24 200.5092 As used in NRS 200.5091 to 200.5099, inclusive, and sections
25 2, 3 and 4 of this act, unless the context otherwise requires:

26 1. "Abuse" means willful and unjustified:

27 (a) Infliction of pain, injury or mental anguish; or

28 (b) Deprivation of food, shelter, clothing or services which are necessary
29 to maintain the physical or mental health of an older person.

30 2. "Exploitation" means [wrongful use of an older person or his money
31 or property to the advantage of another.] any act taken by a person who has
32 the trust and confidence of an older person or any use of the power of attorney
33 or guardianship of an older person to obtain control, through deception,
34 intimidation or undue influence, over the older person's money, assets or
35 property with the intention of permanently depriving the older person of the
36 ownership, use, benefit or possession of his money, assets or property.

37 3. "Neglect" means the failure of:

38 (a) A person who has assumed legal responsibility or a contractual obliga-
39 tion for caring for an older person or who has voluntarily assumed responsi-
40 bility for his care to provide food, shelter, clothing or services which are
41 necessary to maintain the physical or mental health of the older person; or

42 (b) An older person to provide for his own needs because of inability to do
43 so.

44 4. "Older person" means a person who is 60 years of age or older.

45 5. "Protective services" means services the purpose of which is to pre-
46 vent and remedy the abuse, exploitation and neglect of older persons. The
47 services may include investigation, evaluation, counseling, arrangement and
48 referral for other services and assistance.

Sec. 6. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. [If any of the persons listed in subsection 2 suspects an instance of abuse, neglect or exploitation of an older person, he shall] *Any person required to make a report pursuant to this section shall make the report immediately, but in no event later than 24 hours after there is reason to believe that an older person has been abused, neglected or exploited . [, report his suspicion] The report must be made to:*

(a) The local office of the welfare or aging services division of the department of human resources;

(b) Any police department or sheriff's office; or

(c) The county's office for protective services, if one exists in the county where the suspected action occurred.

If the report of abuse, neglect or exploitation involves an act or omission of the welfare division, aging services division or a law enforcement agency, the report must be made to an agency other than the one alleged to have committed the act or omission. Each agency, after reducing the report to writing, shall forward a copy of the report to the aging services division of the department of human resources.

2. Reports must be made by *[:] the following persons who, in their professional or occupational capacities, know or have reason to believe that an older person is being or has been abused, neglected or exploited:*

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician's assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this state . *[, who examines, attends or treats an older person who appears to have been abused, neglected or exploited.]*

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect or exploitation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every clergyman, practitioner of Christian Science or religious healer, unless he acquired the knowledge of abuse, neglect or exploitation from the offender during a confession.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every attorney, unless he has acquired the knowledge of abuse, neglect or exploitation from a client who has been or may be accused of the abuse, neglect or exploitation.

(g) Any employee of the department of human resources.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

1 (j) Any person who maintains, is employed by or serves as a volunteer for
2 an agency or service which advises persons regarding the abuse, neglect or
3 exploitation of an older person and refers them to persons and agencies where
4 their requests and needs can be met.

5 (k) Every social worker.

6 3. [Every physician who, as a member of the staff of a hospital or similar
7 institution, has reason to believe that an older person has been abused,
8 neglected or exploited shall notify the superintendent, manager or other
9 person in charge of the institution. The superintendent, manager or other
10 person in charge shall make a report as required in subsection 1.

11 4.] A report may be filed by any other person.

12 [5.] 4. *Any person required to make a report pursuant to this section who*
13 *has reasonable cause to believe that an older person has died as a result of*
14 *abuse or neglect shall report this belief to the appropriate medical examiner*
15 *or coroner, who shall investigate the cause of death of the older person and*
16 *submit to the appropriate local law enforcement agencies, the appropriate*
17 *prosecuting attorney and the aging services division of the department of*
18 *human resources his written findings. The written findings must include the*
19 *information required pursuant to the provisions of NRS 200.5094, when*
20 *possible.*

21 5. A division, office or department which receives a report pursuant to this
22 section shall cause the investigation of the report to commence within 3
23 working days. *A copy of the final report of the investigation conducted by a*
24 *division, office or department, other than the aging services division of the*
25 *department of human resources, must be forwarded to the aging services*
26 *division within 90 days after the completion of the report.*

27 6. If the investigation of the report results in the belief that the older
28 person is abused, neglected or exploited, the welfare division of the depart-
29 ment of human resources or the county's office for protective services may
30 provide protective services to the older person if he is able and willing to
31 accept them.

32 Sec. 7. NRS 200.5095 is hereby amended to read as follows:

33 200.5095 1. Reports made pursuant to NRS 200.5093 and 200.5094 ,
34 *and records and investigations relating to those reports,* are confidential.

35 2. Any person, law enforcement agency or public or private agency,
36 institution or facility who willfully releases data or information concerning
37 the reports and investigation of the abuse, neglect or exploitation of older
38 persons, except:

39 (a) Pursuant to a criminal prosecution ; [under the provisions of NRS
40 200.5092 to 200.5099, inclusive; and]

41 (b) Pursuant to section 2 of this act; or

42 (c) To persons or agencies enumerated in subsection 3 of this section,
43 is guilty of a misdemeanor.

44 3. [Data] *Except as otherwise provided in subsection 2 and section 2 of*
45 *this act, data or information concerning the reports and investigations of the*
46 *abuse, neglect or exploitation of an older person is available only to:*

47 (a) A physician who [has in his care] *is providing care to* an older person
48 who [he reasonably believes] may have been abused, neglected or exploited;

1 (b) An agency responsible for or authorized to undertake the care, treat-
2 ment and supervision of the older person;

3 (c) A district attorney or other law enforcement official who requires the
4 information in connection with an investigation of the abuse, neglect or
5 exploitation of the older person;

6 (d) A court which has determined, in camera, that public disclosure of
7 such information is necessary for the determination of an issue before it;

8 (e) A person engaged in bona fide research, but the identity of the subjects
9 of the report must remain confidential;

10 (f) A grand jury upon its determination that access to such records is
11 necessary in the conduct of its official business;

12 (g) Any comparable authorized person or agency in another jurisdiction;

13 (h) A legal guardian of the older person, if the identity of the person who
14 was responsible for reporting the alleged abuse, neglect or exploitation to the
15 public agency is protected, and the legal guardian of the older person is not
16 the person suspected of the abuse, neglect or exploitation; [or]

17 (i) *If the older person is deceased, the executor or administrator of his*
18 *estate, if the identity of the person who was responsible for reporting the*
19 *alleged abuse, neglect or exploitation to the public agency is protected, and*
20 *the executor or administrator is not the person suspected of the abuse, neglect*
21 *or exploitation; or*

22 (j) The person named in the report as allegedly being abused, neglected or
23 exploited, if that person is not legally incompetent.

24 4. If the person who is reported to have abused, neglected or exploited an
25 older person is the holder of a license or certificate issued pursuant to
26 chapters 449, 630 to [640, inclusive, or chapter 641 or 641A] 641B, inclu-
27 sive, or 654 of NRS, information contained in the report must be submitted to
28 the board which issued the license.

29 Sec. 8. NRS 200.5096 is hereby amended to read as follows:

30 200.5096 Immunity from civil or criminal liability extends to every person
31 [participating] who, pursuant to NRS 200.5091 to 200.5099, inclusive, and
32 sections 2, 3 and 4 of this act, in good faith :

33 1. Participates in the making of a report [pursuant to NRS 200.5093 and
34 200.5094.] ;

35 2. Causes or conducts an investigation of alleged abuse, neglect or
36 exploitation of an older person; or

37 3. Submits information contained in a report to a licensing board pursuant
38 to subsection 4 of NRS 200.5095.

39 Sec. 9. NRS 200.5099 is hereby amended to read as follows:

40 200.5099 1. Any person who knowingly and willfully violates any of the
41 provisions of NRS [200.5092 to 200.5095, inclusive,] 200.5093 is guilty of a
42 misdemeanor.

43 2. [Any adult] Except as otherwise provided in subsection 6, any person
44 who [willfully causes or permits] abuses an older person, causing the older
45 person to suffer unjustifiable physical pain or mental suffering [as a result of
46 abuse, neglect or exploitation, or who willfully causes or permits an], is
47 guilty of a felony and shall be punished by imprisonment in the state prison

1 for not less than 1 year nor more than 6 years, unless a more severe penalty is
2 prescribed by law for the act or omission which brings about the abuse.

3 3. Except as otherwise provided in subsection 7, any person who has
4 assumed responsibility, legally, voluntarily or pursuant to a contract, to care
5 for an older person and who:

6 (a) Neglects the older person, causing the older person to suffer physical
7 pain or mental suffering;

8 (b) Permits or allows the older person to suffer unjustifiable physical pain
9 or mental suffering; or

10 (c) Permits or allows the older person to be placed in a situation where the
11 older person may suffer [unjustifiable] physical pain or mental suffering as
12 the result of abuse [, neglect or exploitation,] or neglect,
13 is guilty of a gross misdemeanor unless a more severe penalty is prescribed
14 by law for the act or omission which brings about the abuse [, neglect, danger
15 or loss through exploitation.

16 3.] or neglect.

17 4. Except as otherwise provided in subsection 5, any person who exploits
18 an older person shall be punished, if the value of any money, assets and
19 property obtained or used:

20 (a) Is less than \$250, by imprisonment in the county jail for not more than
21 1 year, or by a fine of not more than \$2,000, or by both fine and
22 imprisonment;

23 (b) Is at least \$250, but less than \$5,000, by imprisonment in the state
24 prison for not less than 1 year nor more than 10 years, or by a fine of not
25 more than \$10,000, or by both fine and imprisonment; or

26 (c) Is \$5,000 or more, by imprisonment in the state prison for not less than
27 1 year nor more than 20 years, or by a fine of not more than \$25,000, or by
28 both fine and imprisonment,

29 unless a more severe penalty is prescribed by law for the act which brought
30 about the exploitation. The monetary value of all of the money, assets and
31 property of the older person which have been obtained or used, or both, may
32 be combined for the purpose of imposing punishment for an offense charged
33 pursuant to this subsection.

34 5. If a person exploits an older person and the monetary value of any
35 money, assets and property obtained cannot be determined, the person shall
36 be punished by imprisonment in the county jail for not more than 1 year, or by
37 a fine of not more than \$2,000, or by both fine and imprisonment.

38 6. A person who violates any provision of subsection 2, if substantial
39 bodily or mental harm or death results to the older person, shall be punished
40 by imprisonment in the state prison for not less than 1 year nor more than [6
41 years.

42 4.] 20 years, unless a more severe penalty is prescribed by law for the act
43 or omission which brings about the abuse.

44 7. A person who violates any provision of subsection 3, if substantial
45 bodily or mental harm or death results to the older person, shall be punished
46 by imprisonment in the state prison for not less than 1 year nor more than 6
47 years, unless a more severe penalty is prescribed by law for the act or
48 omission which brings about the abuse.

8. As used in this section [, "permit"] :

(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person if the person knows or has reason to know that the older person is being abused or neglected.

(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person.

Sec. 10. NRS 178.571 is hereby amended to read as follows:

178.571 1. A prosecuting witness in a case involving a violation of NRS 200.366 [,] or 200.368, any provision of NRS 200.5091 to 200.5099, inclusive, or 201.180, 201.210, 201.220 or 201.230 may designate an attendant who must be allowed to attend the preliminary hearing and the trial during the [witness'] witness's testimony to provide support. The person so designated must not himself be a witness in the proceedings.

2. Except as otherwise provided in this subsection [,] and subsection 3, the attendant must not be a reporter or editorial employee of any newspaper, periodical or press association or an employee of any radio or television station. The [parent, child, brother or sister of the prosecuting witness may serve as the witness' attendant whether or not he is a person described in the preceding sentence, but no attendant may make notes during the hearing or trial.] provisions of this subsection do not apply to an attendant to a prosecuting witness in a case involving a violation of any provision of NRS 200.5091 to 200.5099, inclusive.

3. The parent, child, brother or sister of the prosecuting witness may serve as the witness's attendant whether or not he is a reporter or an editorial employee of any newspaper, periodical or press association or an employee of any radio or television station, but no such attendant may make notes during the hearing or trial.

4. If the attendant influences or affects, or attempts to influence or affect, in any manner the testimony of the prosecuting witness during the giving of testimony, the court shall exclude that attendant and allow the witness to designate another attendant.

[4.] 5. The defendant may move to exclude a particular attendant for good cause, and the court shall hear the motion out of the presence of the jury, if any. If the court grants the motion, the prosecuting witness may designate another attendant.

1542

JOURNAL OF THE ASSEMBLY

Roll call on Assembly Bill No. 521:

YEAS—39.

NAYS—None.

Absent—Arberry, Sandoval, Williams—3.

Assembly Bill No. 521 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 548.

Bill read third time.

Remarks by Assemblymen Carpenter, Segerblom, Ernaut and Hettrick.

Roll call on Assembly Bill No. 548:

YEAS—37.

NAYS—Freeman, Segerblom—2.

Absent—Arberry, Sandoval, Williams—3.

Assembly Bill No. 548 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Stroth moved that Senate Bill No. 144 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Goldwater moved that Senate Bill No. 377 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 552.

Bill read third time.

Remarks by Assemblymen Nolan, Goldwater and Bache.

Roll call on Assembly Bill No. 552:

YEAS—38.

NAYS—None.

Absent—Arberry, Sandoval, Williams—3.

Not voting—Krenzer.

Assembly Bill No. 552 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 585.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 585:

YEAS—37.

NAYS—Carpenter, Steel—2.

Absent—Arberry, Sandoval, Williams—3.

Assembly Bill No. 585 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 607.

Bill read third time.

Remarks by Assemblyman Hettrick.

Roll call on Assembly Bill No. 607:

YEAS—39.

NAYS—None.

Absent—Arberry, Sandoval, Williams—3.

Assembly Bill No. 607 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 623.

Bill read third time.

Remarks by Assemblymen Humke and Goldwater.

Roll call on Assembly Bill No. 623:

YEAS—39.

NAYS—None.

Absent—Arberry, Sandoval, Williams—3.

Assembly Bill No. 623 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 697.

Bill read third time.

Remarks by Assemblyman Fetic.

Roll call on Assembly Bill No. 697:

YEAS—33.

NAYS—Bennett, Braunlin, Krenzer, Schneider, Spitler—5.

Absent—Arberry, Sandoval, Williams—3.

Not voting—Harrington.

Assembly Bill No. 697 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 717.

Bill read third time.

Remarks by Assemblymen Carpenter and Freeman.

Roll call on Assembly Bill No. 717:

YEAS—39.

NAYS—None.

Absent—Arberry, Sandoval, Williams—3.

Assembly Bill No. 717 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Sixty-eighth Session
June 27, 1995**

The Senate Committee on Judiciary was called to order by Chairman Mark A. James, at 8:30 a.m., on Tuesday, June 27, 1995, in Room 224 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. James, Chairman
Senator Maurice Washington
Senator Mike McGinness
Senator Ernest E. Adler
Senator Dina Titus
Senator O. C. Lee

COMMITTEE MEMBERS ABSENT:

Senator Jon C. Porter, Vice Chairman (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Barbara E. Buckley

STAFF MEMBERS PRESENT:

Allison Combs, Senior Research Analyst
Lori M. Story, Committee Secretary
Brenda Erdoes, Legislative Counsel, Legislative Counsel Bureau

OTHERS PRESENT:

George L. Cotton, Affirmative Action Manager, Clark County
Paul Gowins, Representative, Disabled Community
Carol A. Jackson, Director, Department of Employment, Training and Rehabilitation
I.R. "Renny" Ashleman, Lobbyist, Southern Nevada Home Builders Association
Elizabeth B. Kolkoski, Chief, Aging Services Division, Department of Human Resources
Myla C. Florence, Director, Welfare Division, Department of Human Resources

Senate Committee on Judiciary
June 27, 1995
Page 10

Mr. Cotton came forward. He noted that NRS 233.170 is the enabling legislation for the commission which deals with all areas covered by the commission. Section 16 is mainly dealing with the employment area, he stated, and the issue of back-pay. The intent of the original (current) law was to address the whole gamut of remedies for the commission, he said.

From the standpoint of punitive damages, Mr. Cotton speculated if, in chapter 118 of NRS it was spelled out that the chapter deals with housing and the punitive damages were inserted there and left out of chapter 613, the employment chapter, and 651, the public accommodations chapter, the intent would be clear. He noted the primary concern is to retain the punitive damages allowance in the housing section.

Ms. Buckley interjected it might be easier to have the bill read, "the court shall award in employment cases..." leaving the old language in; and "in housing discrimination they may order..." It was pointed out the provisions refer to different statutes.

Senator Adler explained the housing provision refers to an actual court case, which is filed. The employment and public accommodations provision refers to the enforcement of a commission decision, he told. The Legislature has said, in terms of a commission decision, the commission may issue a decision awarding actual damages. This decision might be subsequently enforced by the court through a petition for judicial review, he explained.

In section 5, the senator continued, the provision refers to an original complaint, filed with a court. This is why punitive damages are appropriate in section 5, but not in section 6. If the punitive damages are allowed in the later section it would have the effect of allowing the commission to decide punitive damage, which is totally inappropriate, he stated. Therefore, Senator Adler opined, Mr. Ashleman is correct.

Senator James observed the goal could be accomplished by simply removing the reference to punitive damages in section 16, page 7, line 27. He asked if there was anything further. Ms. Buckley replied in the negative. There were no further witnesses and the hearing on A.B. 502 was closed.

The chairman moved to the next order of business, A.B. 585.

ASSEMBLY BILL 585: Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons.

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Senate Committee on Judiciary
June 27, 1995
Page 11

Elizabeth B. Kolkoski, Chief, Aging Services Division, Department of Human Resources, addressed the committee. She offered a copy of her testimony as Exhibit E. Ms. Kolkoski also provided a letter from Mr. Michael F. Bell (Exhibit F) which tells of his experiences with elder abuse, and an overview of the provisions of the bill (Exhibit G).

Following Ms. Kolkoski was Myla C. Florence, Director, Welfare Division, Department of Human Resources, who also spoke in support of this measure. A copy of her testimony is attached as Exhibit H. At the conclusion of her statement Senator Adler voiced agreement with Ms. Florence, noting it is his opinion that such legislation is necessary.

Senator Washington asked Ms. Florence if the Welfare Division has sufficient staff to conduct these investigations. Ms. Florence replied the division is chronically understaffed, however, the Governor's budget does provide for additional staff. This additional personnel should be effective in helping with these matters. She stated this area has a very high priority with the division and law requires such cases be investigated within 72 hours. Generally, they are investigated within 24 hours, she reported.

Ms. Kolkoski interjected the Aging Services Division has ombudsmen who also investigate complaints in long-term care facilities. Also, the number of these ombudsmen will be increased during the coming fiscal year, she stated. She assured the committee it would be one of her highest priorities, upon enactment of this measure, to engage law enforcement in a more vigorous level of activity in this area with more vigorous investigation, etc. She reported she has heard complaints from the district attorney's office in Clark County that the current statute is not easily prosecuted, particularly the exploitation aspect.

Despina Hatton, Attorney, Senior Law Practice, reported it is her job to represent persons who are over the age of 60 years old and who are Washoe County residents. She stated she is also speaking on behalf of the attorney for the Senior Law Project in Las Vegas. Between these two offices, numerous cases of exploitation and abuse are seen, particularly in the area of financial exploitation. Both agencies support this measure, Ms. Hatton stated. She urged the committee's support.

Senator James asked if the attendant provisions "square" with the other attendant bills recently passed by the committee. Ms. Kolkoski replied she has not had an opportunity to closely examine the bills with this in mind. She speculated it does, but she is not certain, she stated.

Senator Titus voiced her support for the measure, noting there are many effective and worthwhile state agencies; the division on aging being one of the best. She thanked the agencies for their efforts in this matter.

Ms. Kolkoski read a letter to the committee which was written by Thelma Clark. The letter stated:

I represent Nevada's Seniors Coalition, Inc., in Las Vegas. Our corporate members discussed this bill at our last meeting and agreed that we should support this bill wholeheartedly.

Many of our members have gone through the abuse mentioned in this bill, they have also had occasions where someone is making decisions for them about where they will live without asking them. We had one member put in a home to recover from a hospital stay and was terribly mistreated by neglect. Her family called aging services, who rescued her. Her family then was able to put her in another nursing home for 1 month. Then she was able to go home. These are only a few cases from our membership.

Your support of this bill will be very much appreciated. I am on the liquefied petroleum gas board and I have to be there at 9:30. I'm sorry I could not stay.

Ms. Kolkoski noted there is also a representative from the American Association of Retired Persons present to testify. C. Edwin Fend, Lobbyist, Senior Legislative Commission Chairman, American Association of Retired Persons (AARP), came forward to speak in support of A.B. 585. Mr. Fend echoed the comments made by those before him. He asked the committee to strongly support this bill and to move it out of the session and into law. He stepped down.

There was no further testimony on the bill. The chairman closed the hearing and moved to a work session.

SENATE BILL 416: Makes various changes regarding sentencing of persons convicted of felonies.

The chairman noted that A.B. 585 brings out a number of conflicts with S.B. 416. * He asked the research analyst to research how the crimes created in A.B. 585 would mesh in the grid layout of crimes in S.B. 416. He then moved to take action on other bills.

DIVISION FOR AGING SERVICES

TESTIMONY AB-585

JUNE 27, 1995

CHAIRMAN JAMES AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE, THE DIVISION FOR AGING SERVICES IS REQUESTING THAT THE STATUE GOVERNING THE VERY SERIOUS CRIME OF ELDER ABUSE, NEGLECT, AND EXPLOITATION BE REVISED TO INCREASE THE PENALTIES FOR THE MOST SERIOUS CASES, TO PUNISH ANY WRONGDOER NOT ONLY ADULTS, AND TO MAKE CERTAIN OTHER CHANGES AS OUTLINED IN THE INFORMATION PROVIDED.

MICHAEL F. BELL OF CARSON CITY PROVIDED COMPELLING WRITTEN TESTIMONY TO THE ASSEMBLY JUDICIARY COMMITTEE IN SUPPORT OF THIS STATUES PARTICULARLY THE EXPLOITATION DEFINITION. MR. BELL'S MOTHER DIED IN 1993. QUOTING FROM MR. BELL, "FOR THE LAST TWO AND ONE HALF YEARS OF HER LIFE, SHE WAS CARED FOR BY A

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WOMAN WHO METHODICALLY INSINUATED HERSELF INTO MY MOTHER'S LIFE AND SHUT OFF ACCESS TO MY MOTHER BY ANYONE ELSE. AS A RESULT, AT THE TIME OF HER DEATH, MY MOTHER WAS ESSENTIALLY IMPOVERISHED OF ANY CASH FOR DAY-TO-DAY LIVING. THE CARETAKER HAD SYSTEMATICALLY SIPHONED OFF HER CASH FOR HER OWN GAMBLING, DRINKING, GIFTS AND TRIPS.... I TRULY BELIEVE THAT MY MOTHER'S DEATH WAS HASTENED BY HER KNOWLEDGE THAT SHE WAS BROKE FINANCIALLY, EVEN THOUGH SHE OWNED A HOUSE AND RANCH ACREAGE THAT, ON PAPER, MAKE HER WORTH SEVERAL HUNDRED THOUSAND DOLLARS."

MR. BELL WAS FORCED TO SUE TO CONTEST HIS MOTHERS ALLEGED WILL TYPED BY THE CARETAKER AND BENEFITTING HER, AND ALTHOUGH HE SUCCEEDED IN THIS SUIT, THE ENTIRE PROCESS COST NEARLY \$150,000 WHICH COULD ONLY BE PAID BY MORTGAGING HIS MOTHER'S PROPERTY.

EVEN THOUGH IT IS NATIONALLY RECOGNIZED THAT ELDER ABUSE, NEGLECT AND EXPLOITATION ARE UNDER-REPORTED, IN SFY 95 TO DATE 2,028 CASES OF ABUSE, THE NEGLECT OR EXPLOITATION OF NEVADANS OVER AGE OF 60 HAVE BEEN INVESTIGATED. THE REVISIONS THAT WE ARE RECOMMENDING WILL BETTER PROTECT NEVADA'S SENIORS.

Members of the Assembly Judiciary Committee:

I am writing in support of AB585, which amends Chapter 200 of the Nevada Revised Statutes, especially the expansion of the definition of the term "Exploitation" in Section 5, the removal of criminal and civil penalties for persons required to make reports regarding suspected exploitation in Section 8 and the imposition of at least misdemeanor charges in Section 9 of the Act.

My mother died in 1993, of complications related to severe debilitation from the effects of alcoholism. For the last two-and-one-half years of her life, she was cared for by a woman who methodically insinuated herself into my mother's life and shut off access to my mother by anyone else. As a result, at the time her death, my mother was essentially impoverished of any cash for day-to-day living. The caretaker had systematically siphoned off her cash for her own gambling, drinking, gifts and trips for the caretaker's relatives and herself, and every manner of comforts for the caretaker and her family.

I truly believe that my mother's death was hastened by her knowledge that she was broke financially, even though she owned a house and ranch acreage that, on paper, made her worth several hundred thousand dollars. After my mother's death, investigation by the executor of her estate and by me established that the caretaker had written checks on my mother's checking account, after transferring monies from savings accounts (which the caretaker could not access directly) and had admittedly signed my mother's name on dozens of checks that benefitted the caretaker or her family. According to the caretaker in court testimony, the checks, deposit records and all receipts for the two-and-one-half year period that the caretaker was with my mother were burned up by my mother because my mother was mad at me. My mother was, during the period of this alleged act of anger, essentially bedridden. Forgery cannot be sustained on the basis of photocopies of checks.

After a six day trial in which I contested the will that the caretaker admittedly typed herself (all previous wills having been prepared free of charge by an attorney), the First Judicial District Court awarded me the entirety of my mother's estate and completely removed the caretaker from the will. The costs of the investigation into the records of my mother's estate, plus the litigation to get the caretaker removed from the will, plus the problems that continue to this day with the Internal Revenue Service amount to nearly \$150,000 in bills, that can only be paid by a mortgage on the property that was my mother's.

AB585 will make it much easier for a person in my position to "light a fire" under a person designated under the Act as being required to make a report about allegations of abuse, neglect or exploitation. Admittedly, there may be "fishing expeditions," as a result of such investigations; however, the law as it now stands frightens away those who should have the right and obligation to at least watch out for those who cannot watch out for themselves.

Respectfully submitted,

Michael F. Bell
Michael F. Bell
5000 Hell s Bells Road
Carson City, Nevada
89401-3348

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|--|------------------------|-------------------|
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| To: <i>Betsy Kankolcki</i> | | From: <i>JACV</i> |
| Co. | Co. | |
| Dept. | Phone # <i>87-8148</i> | |
| Fax # <i>87-4261</i> | Fax # | |

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EXHIBIT F

AA 0481

DIVISION FOR AGING SERVICES

OFFICE OF ELDER RIGHTS

A B - 5 8 5

PROPOSED REVISION OF THE

ELDER ABUSE STATUTE

The Division for Aging Services is requesting that NRS 200.5091 et seq. be revised to assist Nevada's seniors as follows:

- To better define the crime of elder abuse which is being challenged as unconstitutional
- To punish any wrongdoer and not limit the wrongdoers to adults
- To proscribe and punish abuse, neglect, and exploitation differently from one another
- To improve the definition of exploitation and include penalties for abuse of a power of attorney or a guardianship
- To provide a range of penalties, including financial penalties, up to 20 years imprisonment or fines of up to \$25,000 for more serious cases

- To provide that intentionally obtaining the money, assets or property of an older person through deception, intimidation or undue influence is a serious crime.
- To improve monitoring and prosecution of elder abuse by having the coroner investigate the cause of death of an older person who has died as a result of abuse or neglect and to send his written findings to prosecuting attorneys, law enforcement and aging services.
- To request that physicians or staff of a hospital or similar facility be relieved of the legal duty to report elder abuse to the Superintendent, manager or other person in-charge of the hospital because of the potential conflict of interest this may create if the hospital or facility is the suspected abuser.
- To enable the older person's legal representative or the executor or administrator of his estate, if not suspect, to obtain data or information concerning abuse, neglect or exploitation of the older person
- To provide that immunity from civil or criminal liability be extended to anyone who causes or conducts an investigation, or submits information to a licensing

board.

- To request that NRS 178.571 which permits certain victims to have an attendant during court proceedings to include elder abuse victims.
- The Welfare Division has added a section that provides protective service workers certain powers.



DEPARTMENT OF HUMAN RESOURCES
WELFARE DIVISION
2527 North Carson Street - Capitol Complex
Carson City, Nevada 89710
(702) 687-4770

**AB 585 - MAKES VARIOUS CHANGE TO PROVISIONS PROHIBITING ABUSE,
NEGLECT AND EXPLOITATION OF OLDER PERSONS
NEVADA STATE WELFARE DIVISION
CONTACT: MYLA C. FLORENCE, ADMINISTRATOR 687-4128**

AB 585 as reprinted with the adopted amendments is supported by the Welfare Division.

AB 585 includes provisions which will assist agency personnel in conducting investigations of alleged elder abuse, neglect and exploitation. These provisions clarify the right of investigators to review financial and medical records and when records and information can be shared with outside agencies and professionals.

The changes in definitions and punishments for elder abuse, neglect and exploitation are supported.

With the passage of AB 585, we will be better equipped to protect the elder Nevada citizens who need protection.

I would be happy to respond to any questions the committee members may have.

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**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Sixty-eighth Session
June 28, 1995**

The Senate Committee on Judiciary was called to order by Chairman Mark A. James, at 2:00 p.m., on Wednesday, June 28, 1995, in Room 226 of the Legislative Building, Carson City, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. James, Chairman
Senator Jon C. Porter, Vice Chairman
Senator Maurice Washington
Senator Mike McGinness
Senator Ernest E. Adler
Senator Dina Titus
Senator O. C. Lee

STAFF MEMBERS PRESENT:

Allison Combs, Senior Research Analyst
Lori M. Story, Committee Secretary

OTHERS PRESENT:

Harvey Whittemore, Lobbyist, Nevada Resort Association and RJ Reynolds Tobacco USA
Dale A. R. Erquiaga, Chief Deputy Secretary of State, Office of the Secretary of State
Myla C. Florence, Administrator, Welfare Division, Department of Human Resources
Ben Graham, Chief Deputy, Clark County District Attorney, Lobbyist, Nevada District Attorneys Association
Sam McMullen, Lobbyist, Las Vegas Chamber of Commerce, Philip Morris, U.S.A.
Mary Santana-Lau, Lobbyist, Retail Association of Nevada
Brooke Nielsen, Assistant Attorney General, Office of the Attorney General
John "Jack" Jeffrey, Lobbyist, Tobacco Institute
Sher Todd, Citizen

Senate Committee on Judiciary
June 28, 1995
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SENATOR LEE MOVED TO DO PASS A.B. 622.

SENATOR PORTER SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR ADLER VOTED NO. SENATORS
TITUS AND WASHINGTON WERE ABSENT FOR THE VOTE.)

ASSEMBLY BILL 502: Makes various changes relating to discriminatory
practices.

Senator James explained the bill was opposed because of the punitive damages provisions that were inserted, as well as wording, "at the expense of the commission." He reported he possesses the amendments on these concerns, and they appear correct. On page 6, line 44 of the bill the words, "at the expense of the commission" are removed. On line 47 of page 6, the reference to punitive damages would be limited to federal caps. There was a change on the effective date, page 12, section 30, lines 44-46 are deleted. Instead the phrase, "The provisions of this act relating to the enforcement of discriminatory housing practices by the Nevada Equal Rights Commission do not become effective until the...." These provisions are the only ones which must be delayed. He asked for questions. There were none.

SENATOR ADLER MOVED TO AMEND AND DO PASS A.B. 502 AS
OUTLINED ABOVE.

SENATOR WASHINGTON SECONDED THE MOTION.

The chairman was reminded of one other amendment. On page 1, line 14, it was requested the word "interior" be removed. He asked Senator Adler to amend his motion. The senator agreed.

THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

ASSEMBLY BILL 585: Makes various changes to provisions prohibiting abuse,
neglect and exploitation of older persons.

Senate Committee on Judiciary
June 28, 1995
Page 17

ASSEMBLY BILL 560: Revises provisions permitting attendant to support prosecuting witness at preliminary hearing and trial.

Finally, this bill, dealing with elders' rights, was held to confirm it did not conflict with A.B. 560 regarding the attendant provisions for minors, as well as to examine the penalties to determine if they are consistent with S.B. 416. They are consistent, the research analyst confirmed.

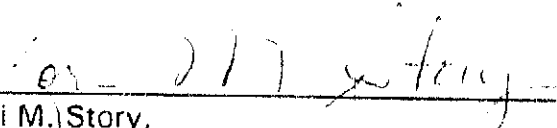
SENATOR LEE MOVED TO DO PASS A.B. 585. *

SENATOR ADLER SECONDED THE MOTION.


THE MOTION CARRIED. (SENATOR TITUS WAS ABSENT FOR THE VOTE.)

There was no further business and the hearing was adjourned at 3:50 p.m.

RESPECTFULLY SUBMITTED:


Lori M. Story,
Committee Secretary

APPROVED BY:


Senator Mark A. James, Chairman

DATE: 8 - 17 - 95

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Senator O'Donnell moved the adoption of the amendment.

Remarks by Senators O'Donnell, Raggio and Neal.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 377.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:
Amendment No. 1408.

Amend section 1, page 1, by deleting lines 4 through 7 and inserting:
"*ious, charitable or educational purposes if it complies with the provisions of this section.*".

Amend section 1, page 2, line 11, by deleting "*or*".

Amend section 1, page 2, line 12, after "(3)" by inserting: "*Provide instruction and disseminate information on subjects beneficial to the community; or*

(4)".

Senator Lowden moved the adoption of the amendment.

Remarks by Senator Lowden.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 548.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 1387.

Amend sec. 14, page 3, by deleting line 43 and inserting:

"Sec. 14. 1. This section, sections 1 to 8, inclusive, and 10 to 13, inclusive, of this act become effective on July 1, 1995.

2. Section 9 of this act becomes effective on July 1, 1996."

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 585.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 1421.

Amend sec. 10, page 7, by deleting lines 9 through 14 and inserting:

"178.571 1. In a case involving:

(a) A violation of NRS 200.366, 200.368 or 200.373, a battery with intent to commit a sexual assault pursuant to NRS 200.400, *a violation of any provision of NRS 200.5091 to 200.5099, inclusive*, a violation of NRS 201.180, 201.210, 201.220 or 201.230 or an attempt or a conspiracy to commit any of these offenses; or

(b) An offense in which a minor is the prosecuting witness, the prosecuting witness may designate an attendant who must be allowed to attend the preliminary hearing and the trial during the [witness'] *witness's* testimony to provide support. The attendant may be designated by a party as a witness and, except as otherwise provided in this section, must not be excluded from the proceedings. If a party designates the attendant as a witness, the attendant must be examined and cross-examined before any other witness testifies."

Amend the bill as a whole by adding a new section designated sec. 11, following sec. 10, to read as follows:

"Sec. 11. Section 10 of this act becomes effective at 12:01 a.m. on October 1, 1995."

Senator James moved the adoption of the amendment.

Remarks by Senator James.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 646.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 1440.

Amend sec. 3, page 3, by deleting lines 10 through 13 and inserting:
"other transcript of the hearing are not required unless the court so orders. All proceedings pursuant to this chapter must be open to the general public unless the judge, or in case of a reference, the referee, upon his own motion or upon the motion of another person, determines that all or part of the proceedings must be closed to the general public because such closure is in the best interests of the child or the general public. If the judge or referee determines that all or part of the proceedings must be closed to the general public, the general public must be excluded and only those persons having a direct interest in the case may be admitted, as ordered by the judge or referee. The judge or referee in his sole discretion may determine that a victim or any member of a victim's family is a person having a direct interest in the case who may be admitted to the proceedings."

Amend sec. 3, page 4, by deleting lines 32 through 35 and inserting:

"12. The prosecuting attorney shall disclose to the victim of an act committed by a child the disposition of the child's case regarding that act if the victim, or a parent or guardian of the victim, requests such a disclosure."

Senator James moved the adoption of the amendment.

Remarks by Senator James.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 650.

Bill read third time.

The following amendment was proposed by the Committee on Judiciary:
Amendment No. 1439.

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT

A.B. 585

ASSEMBLY BILL NO. 585—COMMITTEE ON JUDICIARY

MAY 10, 1995

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons. (BDR 15-848)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to older persons; revising the circumstances under which a report of the suspected abuse, neglect or exploitation of an older person must be made; revising the definition of exploitation; expanding the list of persons and agencies to which such reports may be disclosed; permitting the attendance of a person to support a prosecuting witness at the preliminary hearing and trial in a case involving the abuse, neglect or exploitation of an older person; authorizing the welfare division of the department of human resources and a county's office for protective services to petition for the removal of a guardian of an older person or for the modification or termination of that guardianship under certain circumstances; revising certain penalties related to the abuse, neglect or exploitation of older persons; and providing other matters properly relating thereto.

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

1 Section 1. Chapter 200 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2, 3 and 4 of this act.

3 Sec. 2. *The provisions of NRS 200.5091 to 200.5099, inclusive, do not*
4 *prohibit an agency which is investigating a report of abuse, neglect or*
5 *exploitation, or which provides protective services, from disclosing data or*
6 *information concerning the reports and investigations of the abuse, neglect or*
7 *exploitation of an older person to other federal, state or local agencies or the*
8 *legal representatives of the older person on whose behalf the investigation is*
9 *being conducted if:*

10 1. *The agency making the disclosure determines that the disclosure is in*
11 *the best interest of the older person; and*

12 2. *Proper safeguards are taken to ensure the confidentiality of the*
13 *information.*

14 Sec. 3. 1. *Notwithstanding any other statute to the contrary, the local*
15 *office of the welfare division of the department of human resources and a*
16 *county's office for protective services, if one exists in the county where a*
17 *violation is alleged to have occurred, may for the purpose of investigating an*
18 *alleged violation of NRS 200.5091 to 200.5099, inclusive, inspect all records*
19 *pertaining to the older person on whose behalf the investigation is being*

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1 conducted, including, but not limited to, that person's medical and financial
2 records.

3 2. Except as otherwise provided in this subsection, if a guardian has not
4 been appointed for the older person, the welfare division or the county's office
5 for protective services shall obtain the consent of the older person before
6 inspecting those records. If the welfare division or the county's office for
7 protective services determines that the older person is unable to consent to the
8 inspection, the inspection may be conducted without his consent. Except as
9 otherwise provided in this subsection, if a guardian has been appointed for
10 the older person, the welfare division or the county's office for protective
11 services shall obtain the consent of the guardian before inspecting those
12 records. If the welfare division or the county's office for protective services
13 has reason to believe that the guardian is abusing, neglecting or exploiting
14 the older person, the inspection may be conducted without the consent of the
15 guardian.

16 Sec. 4. The local office of the welfare division or the county's office for
17 protective services may petition a court in accordance with NRS 159.185 or
18 159.1905 for the removal of the guardian of an older person, or the termina-
19 tion or modification of that guardianship, if, based on its investigation, the
20 welfare division or the county's office of protective services has reason to
21 believe that the guardian is abusing, neglecting or exploiting the older person
22 in violation of NRS 200.5095 to 200.5099, inclusive.

23 Sec. 5. NRS 200.5092 is hereby amended to read as follows:

24 200.5092 As used in NRS 200.5091 to 200.5099, inclusive, and sections
25 2, 3 and 4 of this act, unless the context otherwise requires:

26 1. "Abuse" means willful and unjustified:

27 (a) Infliction of pain, injury or mental anguish; or

28 (b) Deprivation of food, shelter, clothing or services which are necessary
29 to maintain the physical or mental health of an older person.

30 2. "Exploitation" means [wrongful use of an older person or his money
31 or property to the advantage of another.] any act taken by a person who has
32 the trust and confidence of an older person or any use of the power of attorney
33 or guardianship of an older person to obtain control, through deception,
34 intimidation or undue influence, over the older person's money, assets or
35 property with the intention of permanently depriving the older person of the
36 ownership, use, benefit or possession of his money, assets or property.

37 3. "Neglect" means the failure of:

38 (a) A person who has assumed legal responsibility or a contractual obliga-
39 tion for caring for an older person or who has voluntarily assumed responsi-
40 bility for his care to provide food, shelter, clothing or services which are
41 necessary to maintain the physical or mental health of the older person; or

42 (b) An older person to provide for his own needs because of inability to do
43 so.

44 4. "Older person" means a person who is 60 years of age or older.

45 5. "Protective services" means services the purpose of which is to pre-
46 vent and remedy the abuse, exploitation and neglect of older persons. The
47 services may include investigation, evaluation, counseling, arrangement and
48 referral for other services and assistance.

Sec. 6. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. [If any of the persons listed in subsection 2 suspects an instance of abuse, neglect or exploitation of an older person, he shall] *Any person required to make a report pursuant to this section shall make the report immediately, but in no event later than 24 hours after there is reason to believe that an older person has been abused, neglected or exploited . [, report his suspicion] The report must be made to:*

(a) The local office of the welfare or aging services division of the department of human resources;

(b) Any police department or sheriff's office; or

(c) The county's office for protective services, if one exists in the county where the suspected action occurred.

If the report of abuse, neglect or exploitation involves an act or omission of the welfare division, aging services division or a law enforcement agency, the report must be made to an agency other than the one alleged to have committed the act or omission. Each agency, after reducing the report to writing, shall forward a copy of the report to the aging services division of the department of human resources.

2. Reports must be made by [:] *the following persons who, in their professional or occupational capacities, know or have reason to believe that an older person is being or has been abused, neglected or exploited:*

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician's assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this state . [, who examines, attends or treats an older person who appears to have been abused, neglected or exploited.]

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect or exploitation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every clergyman, practitioner of Christian Science or religious healer, unless he acquired the knowledge of abuse, neglect or exploitation from the offender during a confession.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every attorney, unless he has acquired the knowledge of abuse, neglect or exploitation from a client who has been or may be accused of the abuse, neglect or exploitation.

(g) Any employee of the department of human resources.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

3. [Every physician who, as a member of the staff of a hospital or similar institution, has reason to believe that an older person has been abused, neglected or exploited shall notify the superintendent, manager or other person in charge of the institution. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

4.] A report may be filed by any other person.

[5.] 4. Any person required to make a report pursuant to this section who has reasonable cause to believe that an older person has died as a result of abuse or neglect shall report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the aging services division of the department of human resources his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

5. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the aging services division of the department of human resources, must be forwarded to the aging services division within 90 days after the completion of the report.

6. If the investigation of the report results in the belief that the older person is abused, neglected or exploited, the welfare division of the department of human resources or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

Sec. 7. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093 and 200.5094, and records and investigations relating to those reports, are confidential.

2. Any person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect or exploitation of older persons, except:

(a) Pursuant to a criminal prosecution ; [under the provisions of NRS 200.5092 to 200.5099, inclusive; and]

(b) Pursuant to section 2 of this act; or

(c) To persons or agencies enumerated in subsection 3 of this section, is guilty of a misdemeanor.

3. [Data] Except as otherwise provided in subsection 2 and section 2 of this act, data or information concerning the reports and investigations of the abuse, neglect or exploitation of an older person is available only to:

(a) A physician who [has in his care] is providing care to an older person who [he reasonably believes] may have been abused, neglected or exploited;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect or exploitation of the older person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person, if the identity of the person who was responsible for reporting the alleged abuse, neglect or exploitation to the public agency is protected, and the legal guardian of the older person is not the person suspected of the abuse, neglect or exploitation; [or]

(i) *If the older person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect or exploitation to the public agency is protected, and the executor or administrator is not the person suspected of the abuse, neglect or exploitation; or*

(j) The person named in the report as allegedly being abused, neglected or exploited, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected or exploited an older person is the holder of a license or certificate issued pursuant to chapters 449, 630 to [640, inclusive, or chapter 641 or 641A] 641B, inclusive, or 654 of NRS, information contained in the report must be submitted to the board which issued the license.

Sec. 8. NRS 200.5096 is hereby amended to read as follows:

200.5096 Immunity from civil or criminal liability extends to every person [participating] who, pursuant to NRS 200.5091 to 200.5099, inclusive, and sections 2, 3 and 4 of this act, in good faith :

1. Participates in the making of a report [pursuant to NRS 200.5093 and 200.5094.] ;

2. Causes or conducts an investigation of alleged abuse, neglect or exploitation of an older person; or

3. Submits information contained in a report to a licensing board pursuant to subsection 4 of NRS 200.5095.

Sec. 9. NRS 200.5099 is hereby amended to read as follows:

200.5099 1. Any person who knowingly and willfully violates any of the provisions of NRS [200.5092 to 200.5095, inclusive,] 200.5093 is guilty of a misdemeanor.

2. [Any adult] Except as otherwise provided in subsection 6, any person who [willfully causes or permits] abuses an older person, causing the older person to suffer unjustifiable physical pain or mental suffering [as a result of abuse, neglect or exploitation, or who willfully causes or permits an] , is guilty of a felony and shall be punished by imprisonment in the state prison

1 for not less than 1 year nor more than 6 years, unless a more severe penalty is
2 prescribed by law for the act or omission which brings about the abuse.

3 3. Except as otherwise provided in subsection 7, any person who has
4 assumed responsibility, legally, voluntarily or pursuant to a contract, to care
5 for an older person and who:

6 (a) Neglects the older person, causing the older person to suffer physical
7 pain or mental suffering;

8 (b) Permits or allows the older person to suffer unjustifiable physical pain
9 or mental suffering; or

10 (c) Permits or allows the older person to be placed in a situation where the
11 older person may suffer [unjustifiable] physical pain or mental suffering as
12 the result of abuse [, neglect or exploitation,] or neglect,
13 is guilty of a gross misdemeanor unless a more severe penalty is prescribed
14 by law for the act or omission which brings about the abuse [, neglect, danger
15 or loss through exploitation.

16 3.] or neglect.

17 4. Except as otherwise provided in subsection 5, any person who exploits
18 an older person shall be punished, if the value of any money, assets and
19 property obtained or used:

20 (a) Is less than \$250, by imprisonment in the county jail for not more than
21 1 year, or by a fine of not more than \$2,000, or by both fine and
22 imprisonment;

23 (b) Is at least \$250, but less than \$5,000, by imprisonment in the state
24 prison for not less than 1 year nor more than 10 years, or by a fine of not
25 more than \$10,000, or by both fine and imprisonment; or

26 (c) Is \$5,000 or more, by imprisonment in the state prison for not less than
27 1 year nor more than 20 years, or by a fine of not more than \$25,000, or by
28 both fine and imprisonment,

29 unless a more severe penalty is prescribed by law for the act which brought
30 about the exploitation. The monetary value of all of the money, assets and
31 property of the older person which have been obtained or used, or both, may
32 be combined for the purpose of imposing punishment for an offense charged
33 pursuant to this subsection.

34 5. If a person exploits an older person and the monetary value of any
35 money, assets and property obtained cannot be determined, the person shall
36 be punished by imprisonment in the county jail for not more than 1 year, or by
37 a fine of not more than \$2,000, or by both fine and imprisonment.

38 6. A person who violates any provision of subsection 2, if substantial
39 bodily or mental harm or death results to the older person, shall be punished
40 by imprisonment in the state prison for not less than 1 year nor more than [6
41 years.

42 4.] 20 years, unless a more severe penalty is prescribed by law for the act
43 or omission which brings about the abuse.

44 7. A person who violates any provision of subsection 3, if substantial
45 bodily or mental harm or death results to the older person, shall be punished
46 by imprisonment in the state prison for not less than 1 year nor more than 6
47 years, unless a more severe penalty is prescribed by law for the act or
48 omission which brings about the abuse or neglect.

1 8. As used in this section [, "permit"] :

2 (a) *"Allow" means to take no action to prevent or stop the abuse or*
3 *neglect of an older person if the person knows or has reason to know that the*
4 *older person is being abused or neglected.*

5 (b) *"Permit" means permission that a reasonable person would not grant*
6 *and which amounts to a neglect of responsibility attending the care and*
7 *custody of an older person.*

8 **Sec. 10.** NRS 178.571 is hereby amended to read as follows:

9 178.571 1. In a case involving:

10 (a) A violation of NRS 200.366, 200.368 or 200.373, a battery with intent
11 to commit a sexual assault pursuant to NRS 200.400, *a violation of any*
12 *provision of NRS 200.5091 to 200.5099, inclusive*, a violation of NRS
13 201.180, 201.210, 201.220 or 201.230 or an attempt or a conspiracy to
14 commit any of these offenses; or

15 (b) An offense in which a minor is the prosecuting witness,
16 the prosecuting witness may designate an attendant who must be allowed to
17 attend the preliminary hearing and the trial during the [witness'] *witness's*
18 testimony to provide support. The attendant may be designated by a party as a
19 witness and, except as otherwise provided in this section, must not be
20 excluded from the proceedings. If a party designates the attendant as a
21 witness, the attendant must be examined and cross-examined before any other
22 witness testifies.

23 2. Except as otherwise provided in this subsection [,] *and subsection 3,*
24 *the attendant must not be a reporter or editorial employee of any newspaper,*
25 *periodical or press association or an employee of any radio or television*
26 *station. The [parent, child, brother or sister of the prosecuting witness may*
27 *serve as the witness' attendant whether or not he is a person described in the*
28 *preceding sentence, but no attendant may make notes during the hearing or*
29 *trial.] provisions of this subsection do not apply to an attendant to a prosecut-*
30 *ing witness in a case involving a violation of any provision of NRS 200.5091*
31 *to 200.5099, inclusive.*

32 3. *The parent, child, brother or sister of the prosecuting witness may serve*
33 *as the witness's attendant whether or not he is a reporter or an editorial*
34 *employee of any newspaper, periodical or press association or an employee*
35 *of any radio or television station, but no such attendant may make notes*
36 *during the hearing or trial.*

37 4. If the attendant influences or affects, or attempts to influence or affect,
38 in any manner the testimony of the prosecuting witness during the giving of
39 testimony, the court shall exclude that attendant and allow the witness to
40 designate another attendant.

41 [4.] 5. The defendant may move to exclude a particular attendant for good
42 cause, and the court shall hear the motion out of the presence of the jury, if
43 any. If the court grants the motion, the prosecuting witness may designate
44 another attendant.

45 **Sec. 11.** Section 10 of this act becomes effective at 12:01 a.m. on October
46 1, 1995.

Roll call on Assembly Bill No. 351:

YEAS—19.

NAYS—Coffin, O'Connell—2.

Assembly Bill No. 351 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 406.

Bill read third time.

Remarks by Senators Porter and Rawson.

Roll call on Assembly Bill No. 406:

YEAS—18.

NAYS—Coffin, O'Connell, Titus—3.

Assembly Bill No. 406 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 415.

Bill read third time.

Roll call on Assembly Bill No. 415:

YEAS—21.

NAYS—None.

Assembly Bill No. 415 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 443.

Bill read third time.

Roll call on Assembly Bill No. 443:

YEAS—20.

NAYS—O'Connell.

Assembly Bill No. 443 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Porter moved that Assembly Bill No. 458 be taken from the General File and placed on the next agenda.

Remarks by Senator Porter.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 585.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 1479.

Amend sec. 3, page 2, by deleting line 15 and inserting: "*guardian, except that if the records to be inspected are in the personal possession of the guardian, the inspection must be approved by a court of competent jurisdiction.*".

Amend sec. 5, page 2, line 36, after "*property.*" by inserting: "*As used in this subsection, 'undue influence' does not include the normal influence that one member of a family has over another.*".

Amend sec. 6, page 3, line 27, by deleting: "state . [," and inserting: "state,".

Amend sec. 6, page 3, line 29, by deleting the bracket.

Amend sec. 9, page 5, line 40, by deleting "Any" and inserting "A".

Amend sec. 9, page 5, line 43, by deleting "[Any" and inserting "[An".

Amend sec. 9, page 5, line 47, after "a" by inserting "category B".

Amend sec. 9, page 6, by deleting line 1 and inserting: "*for a minimum term of not less than 1 year and a maximum term of not more than 6 years, unless a more severe penalty is*".

Amend sec. 9, page 6, line 20, after "\$250," by inserting: "*for a misdemeanor*".

Amend sec. 9, page 6, by deleting lines 23 through 27 and inserting:

"(b) Is at least \$250, but less than \$5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment; or

(c) Is \$5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than \$25,000, or by".

Amend sec. 9, page 6, line 36, after "*punished*" by inserting: "*for a gross misdemeanor*".

Amend sec. 9, page 6, by deleting lines 39 and 40 and inserting: "*bodily or mental harm or death results to the older person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than [6*".

Amend sec. 9, page 6, line 45, after "*punished*" by inserting: "*for a category B felony*".

Amend sec. 9, page 6, by deleting line 46 and inserting: "*by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6*".

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 735.

Bill read third time.

Remarks by Senator Raggio.

(REPRINTED WITH ADOPTED AMENDMENTS)
THIRD REPRINT

A.B. 585

ASSEMBLY BILL No. 585—COMMITTEE ON JUDICIARY

MAY 10, 1995

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions prohibiting abuse, neglect and exploitation of older persons. (BDR 15-848)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.



EXPLANATION—Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to older persons; revising the circumstances under which a report of the suspected abuse, neglect or exploitation of an older person must be made; revising the definition of exploitation; expanding the list of persons and agencies to which such reports may be disclosed; permitting the attendance of a person to support a prosecuting witness at the preliminary hearing and trial in a case involving the abuse, neglect or exploitation of an older person; authorizing the welfare division of the department of human resources and a county's office for protective services to petition for the removal of a guardian of an older person or for the modification or termination of that guardianship under certain circumstances; revising certain penalties related to the abuse, neglect or exploitation of older persons; and providing other matters properly relating thereto.

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

1 Section 1. Chapter 200 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2, 3 and 4 of this act.

3 Sec. 2. *The provisions of NRS 200.5091 to 200.5099, inclusive, do not*
4 *prohibit an agency which is investigating a report of abuse, neglect or*
5 *exploitation, or which provides protective services, from disclosing data or*
6 *information concerning the reports and investigations of the abuse, neglect or*
7 *exploitation of an older person to other federal, state or local agencies or the*
8 *legal representatives of the older person on whose behalf the investigation is*
9 *being conducted if:*

10 1. *The agency making the disclosure determines that the disclosure is in*
11 *the best interest of the older person; and*

12 2. *Proper safeguards are taken to ensure the confidentiality of the*
13 *information.*

14 Sec. 3. 1. *Notwithstanding any other statute to the contrary, the local*
15 *office of the welfare division of the department of human resources and a*
16 *county's office for protective services, if one exists in the county where a*
17 *violation is alleged to have occurred, may for the purpose of investigating an*
18 *alleged violation of NRS 200.5091 to 200.5099, inclusive, inspect all records*
19 *pertaining to the older person on whose behalf the investigation is being*

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1 conducted, including, but not limited to, that person's medical and financial
2 records.

3 2. Except as otherwise provided in this subsection, if a guardian has not
4 been appointed for the older person, the welfare division or the county's office
5 for protective services shall obtain the consent of the older person before
6 inspecting those records. If the welfare division or the county's office for
7 protective services determines that the older person is unable to consent to the
8 inspection, the inspection may be conducted without his consent. Except as
9 otherwise provided in this subsection, if a guardian has been appointed for
10 the older person, the welfare division or the county's office for protective
11 services shall obtain the consent of the guardian before inspecting those
12 records. If the welfare division or the county's office for protective services
13 has reason to believe that the guardian is abusing, neglecting or exploiting
14 the older person, the inspection may be conducted without the consent of the
15 guardian, except that if the records to be inspected are in the personal
16 possession of the guardian, the inspection must be approved by a court of
17 competent jurisdiction.

18 Sec. 4. The local office of the welfare division or the county's office for
19 protective services may petition a court in accordance with NRS 159.185 or
20 159.1905 for the removal of the guardian of an older person, or the termina-
21 tion or modification of that guardianship, if, based on its investigation, the
22 welfare division or the county's office of protective services has reason to
23 believe that the guardian is abusing, neglecting or exploiting the older person
24 in violation of NRS 200.5095 to 200.5099, inclusive.

25 Sec. 5. NRS 200.5092 is hereby amended to read as follows:

26 200.5092 As used in NRS 200.5091 to 200.5099, inclusive, and sections
27 2, 3 and 4 of this act, unless the context otherwise requires:

28 1. "Abuse" means willful and unjustified:

29 (a) Infliction of pain, injury or mental anguish; or

30 (b) Deprivation of food, shelter, clothing or services which are necessary
31 to maintain the physical or mental health of an older person.

32 2. "Exploitation" means [wrongful use of an older person or his money
33 or property to the advantage of another.] any act taken by a person who has
34 the trust and confidence of an older person or any use of the power of attorney
35 or guardianship of an older person to obtain control, through deception,
36 intimidation or undue influence, over the older person's money, assets or
37 property with the intention of permanently depriving the older person of the
38 ownership, use, benefit or possession of his money, assets or property. As
39 used in this subsection, "undue influence" does not include the normal
40 influence that one member of a family has over another.

41 3. "Neglect" means the failure of:

42 (a) A person who has assumed legal responsibility or a contractual obliga-
43 tion for caring for an older person or who has voluntarily assumed responsi-
44 bility for his care to provide food, shelter, clothing or services which are
45 necessary to maintain the physical or mental health of the older person; or

46 (b) An older person to provide for his own needs because of inability to do
47 so.

48 4. "Older person" means a person who is 60 years of age or older.

1 5. "Protective services" means services the purpose of which is to pre-
2 vent and remedy the abuse, exploitation and neglect of older persons. The
3 services may include investigation, evaluation, counseling, arrangement and
4 referral for other services and assistance.

5 Sec. 6. NRS 200.5093 is hereby amended to read as follows:

6 200.5093 1. [If any of the persons listed in subsection 2 suspects an
7 instance of abuse, neglect or exploitation of an older person, he shall] *Any*
8 *person required to make a report pursuant to this section shall make the*
9 *report immediately, but in no event later than 24 hours after there is reason to*
10 *believe that an older person has been abused, neglected or exploited . [,*
11 *report his suspicion] The report must be made to:*

12 (a) The local office of the welfare or aging services division of the depart-
13 ment of human resources;

14 (b) Any police department or sheriff's office; or

15 (c) The county's office for protective services, if one exists in the county
16 where the suspected action occurred.

17 If the report of abuse, neglect or exploitation involves an act or omission of
18 the welfare division, aging services division or a law enforcement agency, the
19 report must be made to an agency other than the one alleged to have commit-
20 ted the act or omission. Each agency, after reducing the report to writing,
21 shall forward a copy of the report to the aging services division of the
22 department of human resources.

23 2. Reports must be made by *[:] the following persons who, in their*
24 *professional or occupational capacities, know or have reason to believe that*
25 *an older person is being or has been abused, neglected or exploited:*

26 (a) Every physician, dentist, dental hygienist, chiropractor, optometrist,
27 podiatric physician, medical examiner, resident, intern, professional or prac-
28 tical nurse, physician's assistant, psychiatrist, psychologist, marriage and
29 family therapist, alcohol or drug abuse counselor, driver of an ambulance,
30 advanced emergency medical technician or other person providing medical
31 services licensed or certified to practice in this state, who examines, attends
32 or treats an older person who appears to have been abused, neglected or
33 exploited.

34 (b) Any personnel of a hospital or similar institution engaged in the admis-
35 sion, examination, care or treatment of persons or an administrator, manager
36 or other person in charge of a hospital or similar institution upon notification
37 of the suspected abuse, neglect or exploitation of an older person by a
38 member of the staff of the hospital.

39 (c) A coroner.

40 (d) Every clergyman, practitioner of Christian Science or religious healer,
41 unless he acquired the knowledge of abuse, neglect or exploitation from the
42 offender during a confession.

43 (e) Every person who maintains or is employed by an agency to provide
44 nursing in the home.

45 (f) Every attorney, unless he has acquired the knowledge of abuse, neglect
46 or exploitation from a client who has been or may be accused of the abuse,
47 neglect or exploitation.

48 (g) Any employee of the department of human resources.

1 (h) Any employee of a law enforcement agency or a county's office for
2 protective services or an adult or juvenile probation officer.

3 (i) Any person who maintains or is employed by a facility or establishment
4 that provides care for older persons.

5 (j) Any person who maintains, is employed by or serves as a volunteer for
6 an agency or service which advises persons regarding the abuse, neglect or
7 exploitation of an older person and refers them to persons and agencies where
8 their requests and needs can be met.

9 (k) Every social worker.

10 3. [Every physician who, as a member of the staff of a hospital or similar
11 institution, has reason to believe that an older person has been abused,
12 neglected or exploited shall notify the superintendent, manager or other
13 person in charge of the institution. The superintendent, manager or other
14 person in charge shall make a report as required in subsection 1.

15 4.] A report may be filed by any other person.

16 [5.] 4. *Any person required to make a report pursuant to this section who*
17 *has reasonable cause to believe that an older person has died as a result of*
18 *abuse or neglect shall report this belief to the appropriate medical examiner*
19 *or coroner, who shall investigate the cause of death of the older person and*
20 *submit to the appropriate local law enforcement agencies, the appropriate*
21 *prosecuting attorney and the aging services division of the department of*
22 *human resources his written findings. The written findings must include the*
23 *information required pursuant to the provisions of NRS 200.5094, when*
24 *possible.*

25 5. A division, office or department which receives a report pursuant to this
26 section shall cause the investigation of the report to commence within 3
27 working days. *A copy of the final report of the investigation conducted by a*
28 *division, office or department, other than the aging services division of the*
29 *department of human resources, must be forwarded to the aging services*
30 *division within 90 days after the completion of the report.*

31 6. If the investigation of the report results in the belief that the older
32 person is abused, neglected or exploited, the welfare division of the depart-
33 ment of human resources or the county's office for protective services may
34 provide protective services to the older person if he is able and willing to
35 accept them.

36 Sec. 7. NRS 200.5095 is hereby amended to read as follows:

37 200.5095 1. Reports made pursuant to NRS 200.5093 and 200.5094 ,
38 *and records and investigations relating to those reports,* are confidential.

39 2. Any person, law enforcement agency or public or private agency,
40 institution or facility who willfully releases data or information concerning
41 the reports and investigation of the abuse, neglect or exploitation of older
42 persons, except:

43 (a) Pursuant to a criminal prosecution ; [under the provisions of NRS
44 200.5092 to 200.5099, inclusive; and]

45 (b) Pursuant to section 2 of this act; or

46 (c) To persons or agencies enumerated in subsection 3 of this section,
47 is guilty of a misdemeanor.

1 3. [Data] *Except as otherwise provided in subsection 2 and section 2 of*
2 *this act, data or information concerning the reports and investigations of the*
3 *abuse, neglect or exploitation of an older person is available only to:*

4 (a) A physician who [has in his care] *is providing care to* an older person
5 who [he reasonably believes] may have been abused, neglected or exploited;

6 (b) An agency responsible for or authorized to undertake the care, treat-
7 ment and supervision of the older person;

8 (c) A district attorney or other law enforcement official who requires the
9 information in connection with an investigation of the abuse, neglect or
10 exploitation of the older person;

11 (d) A court which has determined, in camera, that public disclosure of
12 such information is necessary for the determination of an issue before it;

13 (e) A person engaged in bona fide research, but the identity of the subjects
14 of the report must remain confidential;

15 (f) A grand jury upon its determination that access to such records is
16 necessary in the conduct of its official business;

17 (g) Any comparable authorized person or agency in another jurisdiction;

18 (h) A legal guardian of the older person, if the identity of the person who
19 was responsible for reporting the alleged abuse, neglect or exploitation to the
20 public agency is protected, and the legal guardian *of the older person* is not
21 the person suspected of the abuse, neglect or exploitation; [or]

22 (i) *If the older person is deceased, the executor or administrator of his*
23 *estate, if the identity of the person who was responsible for reporting the*
24 *alleged abuse, neglect or exploitation to the public agency is protected. and*
25 *the executor or administrator is not the person suspected of the abuse, neglect*
26 *or exploitation; or*

27 (j) The person named in the report as allegedly being abused, neglected or
28 exploited, if that person is not legally incompetent.

29 4. If the person who is reported to have abused, neglected or exploited an
30 older person is the holder of a license or certificate issued pursuant to
31 chapters 449, 630 to [640, inclusive, or chapter 641 or 641A] *641B, inclu-*
32 *sive, or 654 of NRS, information contained in the report must be submitted to*
33 *the board which issued the license.*

34 Sec. 8. NRS 200.5096 is hereby amended to read as follows:

35 200.5096 Immunity from civil or criminal liability extends to every person
36 [participating] *who, pursuant to NRS 200.5091 to 200.5099, inclusive, and*
37 *sections 2, 3 and 4 of this act, in good faith :*

38 1. *Participates* in the making of a report [pursuant to NRS 200.5093 and
39 200.5094.] ;

40 2. *Causes or conducts an investigation of alleged abuse, neglect or*
41 *exploitation of an older person; or*

42 3. *Submits information contained in a report to a licensing board pursuant*
43 *to subsection 4 of NRS 200.5095.*

44 Sec. 9. NRS 200.5099 is hereby amended to read as follows:

45 200.5099 1. A person who knowingly and willfully violates *any of the*
46 *provisions of NRS [200.5092 to 200.5095, inclusive,] 200.5093 is guilty of a*
47 *misdemeanor.*

1 2. [An adult] *Except as otherwise provided in subsection 6, any person*
2 *who [willfully causes or permits] abuses an older person , causing the older*
3 *person to suffer unjustifiable physical pain or mental suffering [as a result of*
4 *abuse, neglect or exploitation, or who willfully causes or permits an] , is*
5 *guilty of a category B felony and shall be punished by imprisonment in the*
6 *state prison for a minimum term of not less than 1 year and a maximum term*
7 *of not more than 6 years, unless a more severe penalty is prescribed by law*
8 *for the act or omission which brings about the abuse.*

9 3. *Except as otherwise provided in subsection 7, any person who has*
10 *assumed responsibility, legally, voluntarily or pursuant to a contract, to care*
11 *for an older person and who:*

12 (a) *Neglects the older person, causing the older person to suffer physical*
13 *pain or mental suffering;*

14 (b) *Permits or allows the older person to suffer unjustifiable physical pain*
15 *or mental suffering; or*

16 (c) *Permits or allows the older person to be placed in a situation where the*
17 *older person may suffer [unjustifiable] physical pain or mental suffering as*
18 *the result of abuse [, neglect or exploitation,] or neglect,*
19 *is guilty of a gross misdemeanor unless a more severe penalty is prescribed*
20 *by law for the act or omission which brings about the abuse [, neglect, danger*
21 *or loss through exploitation.*

22 3.] *or neglect.*

23 4. *Except as otherwise provided in subsection 5, any person who exploits*
24 *an older person shall be punished, if the value of any money, assets and*
25 *property obtained or used:*

26 (a) *Is less than \$250, for a misdemeanor by imprisonment in the county jail*
27 *for not more than 1 year, or by a fine of not more than \$2,000, or by both fine*
28 *and imprisonment;*

29 (b) *Is at least \$250, but less than \$5,000, for a category B felony by*
30 *imprisonment in the state prison for a minimum term of not less than 1 year*
31 *and a maximum term of not more than 10 years, or by a fine of not more than*
32 *\$10,000, or by both fine and imprisonment; or*

33 (c) *Is \$5,000 or more, for a category B felony by imprisonment in the state*
34 *prison for a minimum term of not less than 1 year and a maximum term of not*
35 *more than 20 years, or by a fine of not more than \$25,000, or by both fine and*
36 *imprisonment; or*

37 *unless a more severe penalty is prescribed by law for the act which brought*
38 *about the exploitation. The monetary value of all of the money, assets and*
39 *property of the older person which have been obtained or used, or both, may*
40 *be combined for the purpose of imposing punishment for an offense charged*
41 *pursuant to this subsection.*

42 5. *If a person exploits an older person and the monetary value of any*
43 *money, assets and property obtained cannot be determined, the person shall*
44 *be punished for a gross misdemeanor by imprisonment in the county jail for*
45 *not more than 1 year, or by a fine of not more than \$2,000, or by both fine*
46 *and imprisonment.*

47 6. *A person who violates any provision of subsection 2, if substantial*
48 *bodily or mental harm or death results to the older person, is guilty of a*

1 category B felony and shall be punished by imprisonment in the state prison
2 for a minimum term of not less than 1 year and a maximum term of not more
3 than [6 years.

4 4.] 20 years, unless a more severe penalty is prescribed by law for the act
5 or omission which brings about the abuse.

6 7. A person who violates any provision of subsection 3, if substantial
7 bodily or mental harm or death results to the older person, shall be punished
8 for a category B felony by imprisonment in the state prison for a minimum
9 term of not less than 1 year and a maximum term of not more than 6 years,
10 unless a more severe penalty is prescribed by law for the act or omission
11 which brings about the abuse or neglect.

12 8. As used in this section [, "permit"] :

13 (a) "Allow" means to take no action to prevent or stop the abuse or
14 neglect of an older person if the person knows or has reason to know that the
15 older person is being abused or neglected.

16 (b) "Permit" means permission that a reasonable person would not grant
17 and which amounts to a neglect of responsibility attending the care and
18 custody of an older person.

19 Sec. 10. NRS 178.571 is hereby amended to read as follows:

20 178.571 1. In a case involving:

21 (a) A violation of NRS 200.366, 200.368 or 200.373, a battery with intent
22 to commit a sexual assault pursuant to NRS 200.400, a violation of any
23 provision of NRS 200.5091 to 200.5099, inclusive, a violation of NRS
24 201.180, 201.210, 201.220 or 201.230 or an attempt or a conspiracy to
25 commit any of these offenses; or

26 (b) An offense in which a minor is the prosecuting witness,
27 the prosecuting witness may designate an attendant who must be allowed to
28 attend the preliminary hearing and the trial during the [witness'] witness's
29 testimony to provide support. The attendant may be designated by a party as a
30 witness and, except as otherwise provided in this section, must not be
31 excluded from the proceedings. If a party designates the attendant as a
32 witness, the attendant must be examined and cross-examined before any other
33 witness testifies.

34 2. Except as otherwise provided in this subsection [,] and subsection 3,
35 the attendant must not be a reporter or editorial employee of any newspaper,
36 periodical or press association or an employee of any radio or television
37 station. The [parent, child, brother or sister of the prosecuting witness may
38 serve as the witness' attendant whether or not he is a person described in the
39 preceding sentence, but no attendant may make notes during the hearing or
40 trial.] provisions of this subsection do not apply to an attendant to a prosecut-
41 ing witness in a case involving a violation of any provision of NRS 200.5091
42 to 200.5099, inclusive.

43 3. The parent, child, brother or sister of the prosecuting witness may serve
44 as the witness's attendant whether or not he is a reporter or an editorial
45 employee of any newspaper, periodical or press association or an employee
46 of any radio or television station, but no such attendant may make notes
47 during the hearing or trial.

1 4. If the attendant influences or affects, or attempts to influence or affect,
2 in any manner the testimony of the prosecuting witness during the giving of
3 testimony, the court shall exclude that attendant and allow the witness to
4 designate another attendant.

5 [4.] 5. The defendant may move to exclude a particular attendant for good
6 cause, and the court shall hear the motion out of the presence of the jury, if
7 any. If the court grants the motion, the prosecuting witness may designate
8 another attendant.

9 **Sec. 11.** Section 10 of this act becomes effective at 12:01 a.m. on October
10 1, 1995.

③

Amendment adopted.

Bill ordered reprinted, re-engrossed and to third reading.

Assembly Bill No. 585.

Bill read third time.

Remarks by Senator Titus.

Roll call on Assembly Bill No. 585:

YEAS—21.

NAYS—None.

Assembly Bill No. 585 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 676.

Bill read third time.

Remarks by Senator James.

Roll call on Assembly Bill No. 676:

YEAS—21.

NAYS—None.

Assembly Bill No. 676 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 691.

Bill read third time.

Roll call on Assembly Bill No. 691:

YEAS—21.

NAYS—None.

Assembly Bill No. 691 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

SECOND READING AND AMENDMENT

Assembly Bill No. 228.

Bill read second time.

The following amendment was proposed by the Committee on Finance:
Amendment No. 1525.

Amend the bill as a whole by renumbering sec. 3 as sec. 5 and adding new sections designated sections 3 and 4, following sec. 2, to read as follows:

“Sec. 3. There is hereby appropriated from the state general fund to the office of the director of the state department of conservation and natural resources the following sums to employ the services of a state climatologist, as required by NRS 396.595:

For the fiscal year 1995-96..... \$25,147

For the fiscal year 1996-97..... \$25,261

Sec. 4. Any balance of the sums appropriated by section 3 of this act remaining at the end of the respective fiscal years must not be committed for expenditure after June 30 and reverts to the state general fund as soon as all payments of money committed have been made.”.

Assembly Bill No. 585—Committee on Judiciary

CHAPTER 607

AN ACT relating to older persons; revising the circumstances under which a report of the suspected abuse, neglect or exploitation of an older person must be made; revising the definition of exploitation; expanding the list of persons and agencies to which such reports may be disclosed; permitting the attendance of a person to support a prosecuting witness at the preliminary hearing and trial in a case involving the abuse, neglect or exploitation of an older person; authorizing the welfare division of the department of human resources and a county's office for protective services to petition for the removal of a guardian of an older person or for the modification or termination of that guardianship under certain circumstances; revising certain penalties related to the abuse, neglect or exploitation of older persons; and providing other matters properly relating thereto.

[Approved July 5, 1995]

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

Section 1. Chapter 200 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *The provisions of NRS 200.5091 to 200.5099, inclusive, do not prohibit an agency which is investigating a report of abuse, neglect or exploitation, or which provides protective services, from disclosing data or information concerning the reports and investigations of the abuse, neglect or exploitation of an older person to other federal, state or local agencies or the legal representatives of the older person on whose behalf the investigation is being conducted if:*

- 1. The agency making the disclosure determines that the disclosure is in the best interest of the older person; and*
- 2. Proper safeguards are taken to ensure the confidentiality of the information.*

Sec. 3. 1. *Notwithstanding any other statute to the contrary, the local office of the welfare division of the department of human resources and a county's office for protective services, if one exists in the county where a violation is alleged to have occurred, may for the purpose of investigating an alleged violation of NRS 200.5091 to 200.5099, inclusive, inspect all records pertaining to the older person on whose behalf the investigation is being conducted, including, but not limited to, that person's medical and financial records.*

2. Except as otherwise provided in this subsection, if a guardian has not been appointed for the older person, the welfare division or the county's office for protective services shall obtain the consent of the older person before inspecting those records. If the welfare division or the county's office for protective services determines that the older person is unable to consent to the inspection, the inspection may be conducted without his consent. Except as otherwise provided in this subsection, if a guardian has been appointed for the older person, the welfare division or the county's office for protective services shall obtain the consent of the guardian before inspecting those records. If the welfare division or the county's office for protective services has reason to believe that the guardian is abusing, neglecting or exploiting

the older person, the inspection may be conducted without the consent of the guardian, except that if the records to be inspected are in the personal possession of the guardian, the inspection must be approved by a court of competent jurisdiction.

Sec. 4. *The local office of the welfare division or the county's office for protective services may petition a court in accordance with NRS 159.185 or 159.1905 for the removal of the guardian of an older person, or the termination or modification of that guardianship, if, based on its investigation, the welfare division or the county's office of protective services has reason to believe that the guardian is abusing, neglecting or exploiting the older person in violation of NRS 200.5095 to 200.5099, inclusive.*

Sec. 5. NRS 200.5092 is hereby amended to read as follows:

200.5092 As used in NRS 200.5091 to 200.5099, inclusive, and sections 2, 3 and 4 of this act, unless the context otherwise requires:

1. "Abuse" means willful and unjustified:

(a) Infliction of pain, injury or mental anguish; or

(b) Deprivation of food, shelter, clothing or services which are necessary to maintain the physical or mental health of an older person.

2. "Exploitation" means [wrongful use of an older person or his money or property to the advantage of another.] *any act taken by a person who has the trust and confidence of an older person or any use of the power of attorney or guardianship of an older person to obtain control, through deception, intimidation or undue influence, over the older person's money, assets or property with the intention of permanently depriving the older person of the ownership, use, benefit or possession of his money, assets or property. As used in this subsection, "undue influence" does not include the normal influence that one member of a family has over another.*

3. "Neglect" means the failure of:

(a) A person who has assumed legal responsibility or a contractual obligation for caring for an older person or who has voluntarily assumed responsibility for his care to provide food, shelter, clothing or services which are necessary to maintain the physical or mental health of the older person; or

(b) An older person to provide for his own needs because of inability to do so.

4. "Older person" means a person who is 60 years of age or older.

5. "Protective services" means services the purpose of which is to prevent and remedy the abuse, exploitation and neglect of older persons. The services may include investigation, evaluation, counseling, arrangement and referral for other services and assistance.

Sec. 6. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. [If any of the persons listed in subsection 2 suspects an instance of abuse, neglect or exploitation of an older person, he shall] *Any person required to make a report pursuant to this section shall make the report immediately, but in no event later than 24 hours after there is reason to believe that an older person has been abused, neglected or exploited. [, report his suspicion] The report must be made to:*

(a) The local office of the welfare or aging services division of the department of human resources;

(b) Any police department or sheriff's office; or

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(c) The county's office for protective services, if one exists in the county where the suspected action occurred.

If the report of abuse, neglect or exploitation involves an act or omission of the welfare division, aging services division or a law enforcement agency, the report must be made to an agency other than the one alleged to have committed the act or omission. Each agency, after reducing the report to writing, shall forward a copy of the report to the aging services division of the department of human resources.

2. Reports must be made by *[:] the following persons who, in their professional or occupational capacities, know or have reason to believe that an older person is being or has been abused, neglected or exploited:*

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician's assistant, psychiatrist, psychologist, marriage and family therapist, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this state, who examines, attends or treats an older person who appears to have been abused, neglected or exploited.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect or exploitation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every clergyman, practitioner of Christian Science or religious healer, unless he acquired the knowledge of abuse, neglect or exploitation from the offender during a confession.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every attorney, unless he has acquired the knowledge of abuse, neglect or exploitation from a client who has been or may be accused of the abuse, neglect or exploitation.

(g) Any employee of the department of human resources.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

3. [Every physician who, as a member of the staff of a hospital or similar institution, has reason to believe that an older person has been abused, neglected or exploited shall notify the superintendent, manager or other person in charge of the institution. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

4.] A report may be filed by any other person.

[5.] 4. *Any person required to make a report pursuant to this section who has reasonable cause to believe that an older person has died as a result of abuse or neglect shall report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney and the aging services division of the department of human resources his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.*

5. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. *A copy of the final report of the investigation conducted by a division, office or department, other than the aging services division of the department of human resources, must be forwarded to the aging services division within 90 days after the completion of the report.*

6. If the investigation of the report results in the belief that the older person is abused, neglected or exploited, the welfare division of the department of human resources or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

Sec. 7. NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093 and 200.5094, and records and investigations relating to those reports, are confidential.

2. Any person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning the reports and investigation of the abuse, neglect or exploitation of older persons, except:

(a) Pursuant to a criminal prosecution ; [under the provisions of NRS 200.5092 to 200.5099, inclusive; and]

(b) Pursuant to section 2 of this act; or

(c) To persons or agencies enumerated in subsection 3 of this section, is guilty of a misdemeanor.

3. [Data] *Except as otherwise provided in subsection 2 and section 2 of this act, data or information concerning the reports and investigations of the abuse, neglect or exploitation of an older person is available only to:*

(a) A physician who [has in his care] *is providing care to* an older person who [he reasonably believes] may have been abused, neglected or exploited;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect or exploitation of the older person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person, if the identity of the person who was responsible for reporting the alleged abuse, neglect or exploitation to the public agency is protected, and the legal guardian of the older person is not the person suspected of the abuse, neglect or exploitation; [or]

(i) *If the older person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect or exploitation to the public agency is protected, and the executor or administrator is not the person suspected of the abuse, neglect or exploitation; or*

(j) The person named in the report as allegedly being abused, neglected or exploited, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected or exploited an older person is the holder of a license or certificate issued pursuant to chapters 449, 630 to [640, inclusive, or chapter 641 or 641A] *641B, inclusive, or 654 of NRS, information contained in the report must be submitted to the board which issued the license.*

Sec. 8. NRS 200.5096 is hereby amended to read as follows:

200.5096 Immunity from civil or criminal liability extends to every person [participating] *who, pursuant to NRS 200.5091 to 200.5099, inclusive, and sections 2, 3 and 4 of this act, in good faith :*

1. *Participates in the making of a report [pursuant to NRS 200.5093 and 200.5094.] ;*

2. *Causes or conducts an investigation of alleged abuse, neglect or exploitation of an older person; or*

3. *Submits information contained in a report to a licensing board pursuant to subsection 4 of NRS 200.5095.*

Sec. 9. NRS 200.5099 is hereby amended to read as follows:

200.5099 1. A person who knowingly and willfully violates *any of the provisions of NRS [200.5092 to 200.5095, inclusive,] 200.5093 is guilty of a misdemeanor.*

2. *[An adult] Except as otherwise provided in subsection 6, any person who [willfully causes or permits] abuses an older person , causing the older person to suffer unjustifiable physical pain or mental suffering [as a result of abuse, neglect or exploitation, or who willfully causes or permits an] , is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.*

3. *Except as otherwise provided in subsection 7, any person who has assumed responsibility, legally, voluntarily or pursuant to a contract, to care for an older person and who:*

(a) *Neglects the older person, causing the older person to suffer physical pain or mental suffering;*

(b) *Permits or allows the older person to suffer unjustifiable physical pain or mental suffering; or*

(c) *Permits or allows the older person to be placed in a situation where the older person may suffer [unjustifiable] physical pain or mental suffering as the result of abuse [, neglect or exploitation,] or neglect,*

is guilty of a gross misdemeanor unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse [, neglect, danger or loss through exploitation.

3.] or neglect.

4. Except as otherwise provided in subsection 5, any person who exploits an older person shall be punished, if the value of any money, assets and property obtained or used:

(a) Is less than \$250, for a misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,000, or by both fine and imprisonment;

(b) Is at least \$250, but less than \$5,000, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment; or

(c) Is \$5,000 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, or by a fine of not more than \$25,000, or by both fine and imprisonment; or

unless a more severe penalty is prescribed by law for the act which brought about the exploitation. The monetary value of all of the money, assets and property of the older person which have been obtained or used, or both, may be combined for the purpose of imposing punishment for an offense charged pursuant to this subsection.

5. If a person exploits an older person and the monetary value of any money, assets and property obtained cannot be determined, the person shall be punished for a gross misdemeanor by imprisonment in the county jail for not more than 1 year, or by a fine of not more than \$2,000, or by both fine and imprisonment.

6. A person who violates any provision of subsection 2, if substantial bodily or mental harm or death results to the older person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than [6 years.

4.] 20 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse.

7. A person who violates any provision of subsection 3, if substantial bodily or mental harm or death results to the older person, shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, unless a more severe penalty is prescribed by law for the act or omission which brings about the abuse or neglect.

8. As used in this section [, "permit"] :

(a) "Allow" means to take no action to prevent or stop the abuse or neglect of an older person if the person knows or has reason to know that the older person is being abused or neglected.

(b) "Permit" means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care and custody of an older person.

Sec. 10. NRS 178.571 is hereby amended to read as follows:

178.571 1. In a case involving:

(a) A violation of NRS 200.366, 200.368 or 200.373, a battery with intent to commit a sexual assault pursuant to NRS 200.400, *a violation of any provision of NRS 200.5091 to 200.5099, inclusive*, a violation of NRS 201.180, 201.210, 201.220 or 201.230 or an attempt or a conspiracy to commit any of these offenses; or

(b) An offense in which a minor is the prosecuting witness, the prosecuting witness may designate an attendant who must be allowed to attend the preliminary hearing and the trial during the [witness'] *witness's* testimony to provide support. The attendant may be designated by a party as a witness and, except as otherwise provided in this section, must not be excluded from the proceedings. If a party designates the attendant as a witness, the attendant must be examined and cross-examined before any other witness testifies.

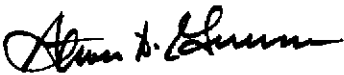
2. Except as otherwise provided in this subsection [,] *and subsection 3*, the attendant must not be a reporter or editorial employee of any newspaper, periodical or press association or an employee of any radio or television station. The [parent, child, brother or sister of the prosecuting witness may serve as the witness' attendant whether or not he is a person described in the preceding sentence, but no attendant may make notes during the hearing or trial.] *provisions of this subsection do not apply to an attendant to a prosecuting witness in a case involving a violation of any provision of NRS 200.5091 to 200.5099, inclusive.*

3. *The parent, child, brother or sister of the prosecuting witness may serve as the witness's attendant whether or not he is a reporter or an editorial employee of any newspaper, periodical or press association or an employee of any radio or television station, but no such attendant may make notes during the hearing or trial.*

4. If the attendant influences or affects, or attempts to influence or affect, in any manner the testimony of the prosecuting witness during the giving of testimony, the court shall exclude that attendant and allow the witness to designate another attendant.

[4.] 5. The defendant may move to exclude a particular attendant for good cause, and the court shall hear the motion out of the presence of the jury, if any. If the court grants the motion, the prosecuting witness may designate another attendant.

Sec. 11. Section 10 of this act becomes effective at 12:01 a.m. on October 1, 1995.


CLERK OF THE COURT

1 **OPP**
2 LEE A. DRIZIN, ESQ.
3 Nevada Bar No. 4971
4 **LEE A. DRIZIN, CHTD.**
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DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Guardianship of the
Person and Estate of

Case No.: **G-13-038228-A**
Dept. No.: **E**

RUTH BRASLOW,

an Adult Ward.

DATE OF HEARING: July 16, 2014
TIME OF HEARING: 9:00 a.m.

**GUARDIAN'S RESPONSE TO LARRY BRASLOW'S OBJECTION TO ACCOUNTING
AND REPORT OF GUARDIAN AND PETITION FOR REMOVAL AND COUNTER
PETITION FOR FEES**

COMES NOW, Guardian, APRIL L. PARKS, NCG, by and through her attorney, LEE A. DRIZIN, ESQ., of LEE A. DRIZIN, CHTD., and submits her response to the *Objection to Accounting and Petition for Removal* filed by Larry Braslow. In support of this Response, APRIL L. PARKS submits the attached Memorandum of Points and Authorities in addition to any oral argument the Court may permit at the time of the Hearing.

I. OVERVIEW

Temporary Letters of Guardianship were issued to APRIL L. PARKS as Temporary Guardian of the Person and Estate of RUTH BRASLOW, on January 29, 2013. Letters of General Guardianship were subsequently issued to APRIL L. PARKS (hereinafter, "April") on March 4, 2013. The Petition gave notice to all known relatives of the Ward within the second degree of consanguinity at the time of filing. The Petition also stated there are no known assets of the Ward. April did list the only known relative of the Ward, her son Alan. His address was unknown. Larry's existence was not known at the time.

Subsequently, April retained counsel to complete the guardianship. On March 4, 2013, April was appointed general guardian of the Person and Estate of the Ward. The

1 order was noticed to all known persons at the time: Alan Braslow, the Ward, and Red Rock
2 Behavioral Center. Thereafter, on May 20, 2013, April filed her inventory and mailed it to
3 all interested persons. In October 2013, nine months after his mother was placed in a
4 facility, Larry Braslow appeared. Initially, he inquired about his mother's status and the
5 nature of the guardianship. He met with April's counsel, and all his questions were
6 answered. Counsel mailed Larry a five page correspondence detailing the history of the
7 case and the guardianship process. (**Exhibit "1"**). Larry was informed that his mother
8 suffered significant cognitive deficits and needed twenty-four hour care. Larry was also
9 advised that his mother had been a victim of elder abuse as she gave her only vehicle to
10 someone she met at WalMart and subsequently lost her car. He also was provided a
11 detailed list of her assets and income. He inquired if he could visit her and was informed
12 the Ward stated she had no desire to meet with him.

13 Ruth made it clear to April on numerous occasions that she did not want to have any
14 contact with her two sons.¹ It appeared she had been estranged from them for an
15 extended period of time prior to the guardianship.² She was left alone and was the victim
16 of a theft. This incident led to a referral to Elder Protective Services. Due to suicidal
17 threats, a Legal 2000 hold was placed on the Ward. During this nine month period of time,
18 Larry made no effort to contact his mother or make any inquiry as to her well being. After
19 he met with April's counsel and learned of his mother's situation, he still made no further
20 inquiry as to her health or status.³ Nine additional months passed, and Larry still never
21 contacted April to inquire as to how his mother was doing.⁴ He then filed the instant motion
22 to remove April and object to her accounting.

23
24 _____
25 ¹ Discussions with both sons confirmed the Ward had made the same clear to them as well.

26 ² When Dr. Renee Ngo interviewed the Ward on January 17, 2013 and inquired whom she would prefer be
appointed as her guardian, she stated "I have no one."

27 ³ See Affidavit of Lee A. Drizin.

28 ⁴ See Affidavit of April L. Parks.

1 **II. ARGUMENT**

2 **A. The Ward was properly notified of her right to attend the Hearing and**
3 **her Treating Physician Properly Executed the Admonishment of Rights**
4 **Form.**

5 Larry Braslow (hereinafter, "Larry") petitions this Court to invalidate the guardianship
6 based on several "procedural defects". However, these assertions do not withstand close
7 scrutiny as they are factually inaccurate and/or in contravention with NRS 159.

8 Larry contends the Petition should not have been granted as Ruth did not appear
9 in person and the Petition did not assert that the Ward was given the ability to attend the
10 hearing via video conference. *Petition to Remove*, ¶¶ 16-18. However, the Admonishment
11 of Rights indicates the Ward did not want to attend the hearing in person or via
12 videoconference. Moreover, this is an inconsequential argument. There is no requirement
13 of a Ward to attend via videoconference if her doctor determines her attendance would be
14 detrimental. A video conference is not mandatory in any instance. The statute states that
15 a Ward "may" attend via videoconference, not "shall" attend. The requirement for a
16 videoconference may apply if the Ward's doctor concluded that the Ward *could* appear at
17 the hearing, but chose this alternate format of appearance. As the Ward's appearance
18 was "detrimental" to her, an appearance in person or by video is not required. The first and
19 foremost consideration in these matters is the best interest of the Ward. If the Ward's
20 physician executes documents stating the Ward is unable to attend, then the Court, much
21 less Larry, should not second guess the Ward's medical provider and compel her
22 attendance via videoconference.

23 Larry also argues that the Admonishment of Rights form executed by Renee Ngo,
24 M.D. is deficient in some manner. *Petition to Remove*, ¶¶ 20-22. Even a cursory review
25 of the Admonishment reveals it was properly administered and executed by the physician.

26 Larry claims that there is a requirement for the physician to sign each and every line by
27 all five admonishments. There is no such requirement. Even the form provided by Larry
28 contains lines that are too small to accommodate a separate signature or each admonition.
Most importantly, the statute does not require a doctor to sign the form five times in order

1 for it to be valid. Larry's argument that five signatures are required borders on the
2 ridiculous when the doctor signed the one page document. Further, each of the five
3 sections contains information the physician obtained based upon his discussion with the
4 Ward. Accordingly, it was clear that he had discussed the matter with the Ward and not
5 submitted an incomplete admonishment.

6 Larry's final argument in this regard is that the form signed by the doctor is invalid
7 as the section containing the date and time for the hearing is blank. *Petition to Remove*,
8 ¶24. Again, the statute does not require the doctor to inform the Ward of the date and time
9 of the hearing. The statute does require the Ward to be notified by being served in
10 accordance with the statute. The Notice of Hearing and Citation to Appear was served on
11 the Ward at her residence and also at Red Rock Behavioral Health. The doctor is not
12 required to inform the proposed Ward of the date and time of the hearing. As the date and
13 time of the hearing was not known at the time the doctor filled out the form, it was left
14 blank. More importantly, while the Ward indicated she did not wish to attend the hearing
15 or participate by videoconference, she was served a copy of the Citation and relevant
16 pleadings as required by NRS 159.

17 **B. The Petition for Removal should be dismissed outright.**

18 **1. Larry has not filed his petition timely.** NRCP 60(b) provides that
19 when a party is made aware of an order that they believe is subject to mistake, fraud,
20 surprise, neglect, etc., they have six months in which to apply to the Court to set aside the
21 order.⁵ Here, Larry maintains the Order appointing April as guardian is void and should be
22 set aside because he failed to receive proper notice. After Larry met with April's' counsel
23

24 ⁵ NRCP Rule 60

25 (b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc. On motion and
26 upon such terms as are just, the court may relieve a party or a party's legal representative from a final
27 judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable
28 neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to
move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic),
misrepresentation or other misconduct of an adverse party; (4) the judgment is void; or, (5) the judgment has
been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or
otherwise vacated, or it is no longer equitable that an injunction should have prospective application. The
motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after
the proceeding was taken or the date that written notice of entry of the judgment or order was served...

1 to review the guardianship matter, he waited in excess of nine months to request this Court
2 to set aside its order appointing the guardian.⁶ Assuming there was a procedural defect
3 (which is not admitted), then Larry is simply too late to complain at this time. Accordingly,
4 the order must stand.

5 **2. Larry waived his right related to any possible defect in notice.**

6 Larry argues that had he been properly noticed, he would have appeared and requested
7 to be appointed Ruth's guardian. *Petition to Remove*, ¶30. Since he had preference as a
8 relative, he maintains he would have been appointed guardian. However, his actions
9 dictate otherwise. Larry's existence was unknown to April at the time she petitioned for
10 temporary guardianship. Larry lives in New Mexico and would not have seen a publication
11 had one been done. What is most telling is that Larry failed to communicate, visit with, or
12 check on his mother's condition for nine months while the guardianship was in effect.
13 What is more telling, after Larry met with April's counsel and was informed in person of the
14 guardianship history, he chose to sit on his rights and wait another nine months to file his
15 petition.

16 **3. Any failure to publish notice was harmless error.** Larry's only
17 argument is that a publication was not effected to give him notice. However, Larry cannot
18 argue that had such publication been accomplished, he would have been aware of the
19 hearing. Larry lives in New Mexico. He cannot seriously argue that he would have been
20 scanning the legal directory in Las Vegas looking for any such notice. He did not even
21 check on his elderly mother's welfare for over a year. As a result, any failure to publish
22 notice did not have any impact upon the outcome of the appointment of April as guardian
23 and commencement of the guardianship.

24 **C. Larry is required to show cause why April should be removed as**
25 **Guardian.**

26 Even if the Commissioner is to consider the Petition, Larry would have to establish

27 ⁶ The Order appointing General Guardian was issued on March 4, 2013, while the meeting between Larry and
28 Lee A. Drizin occurred on October 2, 2013. *Affidavit of Lee A. Drizin, Esq.* It may be that Larry actually
became aware of the guardianship a substantial period of time before this meeting; however, his Petition does
not disclose when he first became aware of the proceeding.

1 misconduct by April in order to warrant her removal. Since Larry is unable to set aside the
2 Order appointment April as Guardian, he must show cause why she should be removed
3 pursuant to NRS 159.1853. His petition must state with particularity the reasons why
4 removal is appropriate. The only reason provided is that Larry did not receive notice. This,
5 in and of itself, is not sufficient to establish any wrongful conduct of the Guardian.
6 Moreover, the Petitioner does not allege, nor could he establish, the appointment of April
7 was not in the Ward's best interest. Contrary to Larry, April maintains a good relationship
8 with the Ward and ensures the consistent quality of care she is receiving. See *Affidavit of*
9 *April L. Parks*. Accordingly, he has not met the burden to establish removal is appropriate.

10 **D. Even assuming, *arguendo*, there was a defect in the notice, the order**
11 **appointing April is not void *ab initio*.**

12 Even if the Court finds that the lack of publication is a defect, then the remedy is not
13 to nullify the guardianship *ab initio* as Larry suggests. Rather, Larry would simply not be
14 subject to the higher standard for removal of the guardian for cause as mandated by NRS
15 159.1853. Instead, the Commissioner would treat the request by Larry as if it had been
16 brought prior to the establishment of a guardianship and the determination must be made
17 as to whether the appointment of Larry is in the best interests of the Ward. However, as
18 argued herein, Larry would be found unsuitable due to the Ward's strong preference
19 against him and his prior acts amounting to exploitation. Accordingly, the result would have
20 been the same.

21 **E. April Parks is the most suitable guardian and it would not be in the best**
22 **interests of the Ward to appoint Larry.**

23 Larry appears to argue that by virtue of his relationship to the Ward that he
24 is suitable. However, NRS 159.061 specifically indicates "the court shall give
25 consideration, among other factors" to the family relationship. In other words, this
26 relationship is merely one of many factors the Court may consider in deciding the
27 appointment of a guardian. It is clear that after consideration of all the relevant factors in
28 this matter, appointment of Larry as Guardian would not be in the Ward's best interest.

1 **1. Appointment of an estranged son with years of animosity**
2 **between himself and his mother is contrary to the Ward's expressed wishes and is**
3 **not in her best interest.** It is apparent the Ward was estranged from Larry and he fails
4 to address the matter in his petition. However, the level of animosity the Ward has towards
5 the Petitioner is clear. She informed the physician that "I have no one" in response to an
6 inquiry about a preference for guardian. She had also informed April on numerous
7 occasions that she did not desire to communicate with Larry and even refused to meet with
8 him after being informed that he had asked about visiting with her. *Affidavit of April L.*
9 *Parks.* The animosity with her sons appears to have been instilled years prior to the need
10 for guardianship as evidenced in her own writing. See (**Exhibit "2"**). Prior to the
11 appointment of a guardian, in 2006 the Ward wrote a long letter to a friend describing how
12 she was encouraged to go after Larry criminally for incurring debt in her name.⁷ Upon
13 information and belief, in 2003, the Ward filed for bankruptcy as a result of Larry's forgery
14 of her signature on approximately thirty credit cards and, thereafter, incurring charges for
15 his own purposes. (**Exhibit "3"**). NRS 159 also recognizes a preference for the
16 nomination by the Ward of a guardian. While Ruth did not execute any written nomination,
17 she has repeatedly expressed her wishes not to have Larry involved in her affairs.⁸ The
18 Ward further states in her letter, "[a]s far as I am concerned, I have no two older sons."
19 Larry offers no explanation as to his suitability other than his mere familial relation to the

20 _____
21 ⁷ For purposes of determining the best interests of the Ward, the veracity of these allegations is irrelevant.
22 The Ward apparently believes the claims to be accurate and, as a result, has expressed her desire not to have
Larry involved in her life.

23 ⁸ The Ward's letter (Exhibit "2") states among other things:

24 "It seems both my sons only care for themselves"; After requesting money she lent to her older son
25 to obtain dental work, he replied, "Sell your house and move into a low income project."

26 "I think I should have let them be locked away."

27 "They are both selfish men."

28 "Larry had been the first one to the bank and cleaned every account and security box out."

1 Ward; however, as the Ward is adamant she does not want either of her sons to be
2 guardian, April should remain.

3 **2. Larry's actions speak volumes.** The Court is permitted to look
4 beyond the fact that Larry is the Ward's son. In addition to the consideration of the Ward's
5 wishes, it should also consider the actions of the Petitioner. A guardianship was in place
6 for approximately nine months before he apparently made any effort to determine the
7 condition of his mother and he learned about the guardianship. Even since the discussions
8 with the Guardian and her counsel, nearly nine additional months have transpired and he
9 has never inquired as to his mother's condition. Despite his mother's indication that she
10 did not wish to visit with Larry, this does not explain his utter failure to, at a minimum,
11 maintain contact with the Guardian about her condition.

12 **3. The Ward's other son does not believe it would be in her best**
13 **interests for Larry to be appointed guardian and contends that April should remain.**

14 Alan Braslow, the Ward's other son, has been in contact with April at various times after
15 the commencement of the guardianship. He is estranged from both the Ward and
16 Petitioner; however, he does not believe it is in the Ward's best interest that Larry be
17 appointed as guardian.⁹ *Affidavit of Alan Braslow.*

18 **F. The Objection to the Account is without merit and should be denied.**

19 Larry makes no argument to this Court and appears to have no issues with the
20 quality of work performed by April in furtherance of her duties as Guardian. He has no
21 issues with the accounting itself. Yet, he objects. His sole objection is due to what he
22 perceives as a technicality that occurred in the appointment process more than a year prior
23 to the accounting. However, this argument is without merit.

24 **1. There is no basis to treat the failure to publish notice as**
25 **automatically rendering the Order appointing April as general guardian void.** Larry
26 argues the appointment of April was improper because of the failure to publish notice to
27 him. However, he offers no statutory or case law in support of this claim. In *Wells v.*

28

⁹ See Affidavit of Alan Braslow.

1 *Guardianship of Wells*, 737 N.E.2d 1047 (Ind.App.2000), the appellant argued that she had
2 not received notice of the guardianship hearing and, as a result, the Order appointing a
3 permanent guardian was void. The Court concluded noted that the "Intervenor offers no
4 authority for the proposition that the failure to comply with the notice requirements of IC §
5 29-3-6-1 [the notice statute] automatically invalidates an appointment of permanent
6 guardianship, and we find none." *Id.* Moreover, the Court found that "we are reluctant to
7 create such a rule, especially where the complaining party received sufficient notice to
8 enable him to retain counsel and appear at all proceedings relative to the permanent
9 guardianship." *Id.* Since the appointment of April and her knowledge of Larry's existence
10 and whereabouts, petitioner has received sufficient notice to appear at all proceedings
11 relative to the guardianship. Accordingly, the order appointing April is not automatically
12 void.

13 In addition, a similar notice issue was also recently addressed in Oklahoma in the
14 matter of *In Re Guardianship of Parker*, 189 P.3d 730 (2008). In the case before the
15 Oklahoma Appellate Court, the Ward's daughter filed a petition alleging that notice was not
16 made to the Ward's attorney *ad litem* among a plethora of other legitimate clerical errors.
17 *Id.* at 739. The Court held that so long as the errors amount to incidental matters and "do
18 not amount to a denial of the [Ward's] due process rights," then the errors are not sufficient
19 to invalidate a guardianship. *Id.* Here, the Ward was likewise not deprived of her due
20 process rights, and the error would be considered harmless to her since she is adamant
21 that Larry not serve as her guardian. Other Courts have followed suit in this regard. See
22 *In re Estate of David Steinfeld*, 158 Ill.2d 1, 630 N.E.2d 801, 196 Ill.Dec. 636 (1994). "*Trial*
23 *court which ruled on petition seeking adjudication of individual as disabled adult and*
24 *appointment of guardian had jurisdiction of subject matter and of parties, and thus, court's*
25 *guardianship order was not void merely because of procedural deficiencies in original*
26 *adjudication process.*" Here, Larry is trying to set aside a guardianship order based upon
27 a technicality. There is no dispute that a guardianship was necessary in the first instance.
28 Someone had to be appointed guardian. However, the Ward's due process rights were

1 not affected and there is no basis to rule the appointment of the guardian is *void ab initio*.

2 **2. Even if the order appointing April was void, she would be entitled**
3 **to compensation by virtue of a de facto guardianship.** Larry does not dispute the
4 appointment of a guardian for the Ward was necessary and appropriate. Even if the Order
5 appointing the guardian was void, she would be entitled to compensation by virtue of the
6 existence of a *de facto* guardianship. When a de facto guardian acts in good faith and
7 discharges the duties which would have rested upon him if he had been a legal guardian,
8 he is entitled to charge proper expenditures against the funds in his hands." *Kelly v. Kelly*
9 (1931) 89 Mont. 229, 297 P. 470, 473.

10 As addressed in detail above, April asserts that notice of her appointment was
11 proper. Moreover, Larry was made aware that April was appointed Guardian of the Ward
12 in October 2013. He then made no effort to put her on notice that he objected to her
13 serving as guardian. Rather, she continued to serve for another nine months and heard
14 nothing further from him until his recent filings.

15 His actions strongly communicated that he approved her role as guardian since he
16 filed no petition to set aside the order appointing guardian or communicate in any manner
17 that he was seeking April's removal. Moreover, Larry should not be permitted to sit back
18 and knowingly allow April to provide services as guardian, only to object approximately nine
19 months later asserting she should not have been guardian in the first instance. He had a
20 duty to present that petition in a reasonable time, and that reasonable time frame
21 according to NRCP 60 is six months and he failed to do so. The mistake, if any, was
22 merely technical that is easily cured by permitting Larry to proceed with his petition not
23 being subject to the removal standard. Accordingly, April is entitled to the fees incurred for
24 the performance of services by herself and her counsel since the commencement of the
25 guardianship and the Account should be approved.

26 **3. Larry's objection is also estopped due to the doctrine of laches.**
27 Laches is more than mere delay in seeking to enforce one's rights, it is delay that works
28 a disadvantage to another. *Home Sav. Ass'n v. Bigelow*, 105 Nev. 494, 779 P.2d 85

1 (1989). Here, had Larry timely objected to April as a guardian, she would have had notice
2 before she incurred personal costs and performed work on behalf of the Ward. Larry
3 cannot purposely wait knowing April is performing work, hoping to receive a windfall of free
4 guardianship services due to a perceived defect he discovered eight months earlier. As
5 Larry's purposeful delay has caused not only April but also her counsel to incur fees related
6 to guardianship services, his objection to the accounting must be rejected as it violates the
7 doctrine of laches.

8 **G. NRS 159.1853 calls for attorney fees when a petition is not brought in**
9 **good faith or in furtherance of the best interests of the Ward**

10 NRS 159.1853 (4) provides

11 If the court finds that the petitioner did not file a petition for
12 removal in good faith or in furtherance of the best interests of
13 the ward, the court may... (b) Impose sanctions on the
14 petitioner in an amount sufficient to reimburse the estate of the
15 ward for all or part of the expenses incurred by the estate of
16 the ward in responding to the petition and for any other
17 pecuniary losses which are associated with the petition."

18 Larry did not file his petition in good faith. His petition has caused the Ward to
19 spend a significant amount in attorney fees defending the petition for removal and
20 objection to her accounting. Larry cannot explain why he waited nine months to check on
21 his mother. What is more important is that he unequivocally learned of the guardianship
22 in October 2013 when he sat down with April's counsel. He then had a duty to file his
23 petition in a timely manner if he was going to challenge April as guardian based on a
24 procedural defect. He cannot sit back and knowingly allow April to continue her role as
25 guardian and incur fees in this regard only to challenge it eight months later.

26 ///

27 ///

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1 **III. CONCLUSION**

2 Larry's assertions that Dr. Ngo's admonitions are deficient border on the ridiculous.
3 He argues that a doctor must sign an admonishment form five times for it to be valid. His
4 argument that a videoconference for all Wards whose doctors state they are unable to
5 attend a hearing is likewise not in accordance with Nevada law. April followed the statutory
6 requirements for notice by informing all known parties to the guardianship matter who were
7 known to her. Larry's lack of notice is of his own making as he chose to stay away from
8 his mother for years. Only for this reason did Larry not know a guardianship existed.

9 DATED this 11 day of July, 2014.

10 LEE A. DRIZIN, CHTD.

11
12 By 

13 LEE A. DRIZIN, ESQ.
14 Nevada Bar No. 4971
15 2460 Professional Court, Suite 110
16 Las Vegas, NV 89128
17 Attorney for APRIL L. PARKS, NCG
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27
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EXHIBIT 1



October 7, 2013

Larry Braslow
P.O. Box 93804
Albuquerque, NV 87199-3804

Allen Braslow
6 Banner Road
Cherry Hill, NJ 08003

Re: Guardianship of Ruth Braslow

Dear Larry and Allen:

I have been authorized by April L. Parks, Guardian of the Person and Estate in the above-referenced matter, to provide you the following update regarding this matter:

1. *Events leading up to the filing of the Guardianship Petition.*

In 2012 a theft had occurred at the home of Ruth Braslow (the "Ward") and Elder Protective Services of the Aging and Disability Services Division was contacted. It is unknown who made this contact as their referral sources are confidential. Upon information and belief, an investigator went the Ward's residence to discuss the incident and during the course of their discussion the Ward talked about hurting herself. The Las Vegas Metropolitan Police Department were contacted and they conducted a "Legal 2000". Legal 2000 is the civil commitment process when it is believed someone is mentally ill and may injury herself. NRS 433A defines "mentally ill person" as any person whose capacity to exercise self-control, judgment and discretion in the conduct of his/her affairs and social relations or to care for personal needs is diminished as a result of mental illness to the extent that (s)he presents a clear and present danger of harm to self or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, dementia, delirium, brief periods of intoxication caused by alcohol or drugs or dependence upon or addiction to alcohol or drugs unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

In general, once the police make a determination that a person may meet this criteria, the person is transported to a hospital and a medical evaluation is conducted. If the person is medically stable, then a psychiatric examination is conducted. If the person meets certain criteria they can be held for up to 72 hours. At some point in time, Ruth was transferred to Red Rock Behavioral Health Hospital ("Red Rock"), an acute short-term hospital designed to diagnose and treat the complex mental health and substance abuse problems of people ages 50 and over.

While at Red Rock, the Ward was examined by Dr. Renee Ngo. Dr. Ngo has been licensed in the State of Nevada since April 21, 2004, and the Nevada State Board of Medical Examiners reports his license is active. Dr. Ngo practices as a geriatric psychiatrist. On or about January 17, 2013, Dr. Ngo completed a Certificate of Incapacity indicating the Ward had been diagnosed with "cognitive disorder" and was a danger to herself. Moreover, Dr. Ngo indicated she was unable to live independently and was at a substantial and immediate risk of physical harm and financial loss. During Dr. Ngo's discussion with the Ward, she was notified of a pending application for guardianship and was asked if there was anyone she would prefer to serve as her guardian. Her response was that she "has no one."

Red Rock, apparently unable to locate any family with the limited information they had at the time, contacted April L. Parks ("April"), a private professional guardian who has assisted families with wards in the State of Nevada for years. April was informed the Ward could not return to her home and live by herself and was in need of a guardian.

2. *Filing of the Guardianship Petition.*

On or about January 18, 2013, April filed a petition for the appointment of a temporary and general guardian of the person and estate of the Ward. April was appointed the Temporary Guardian and on February 7, 2013, the Temporary Guardianship was extended until March 7, 2013. A Hearing was conducted on February 28, 2013, and April was appointed at that time as the General Guardian of the Person and Estate and her Letters of Guardianship were filed on March 8, 2013. Ruth was not at the Hearing due to Dr. Ngo's indication that attending the hearing would be detrimental to her. Dr. Ngo completed an Admonishment of Rights which indicates that he discussed with the Ward her right to attend as well as to be represented by counsel. She indicated she did not desire to retain an attorney or appear at Court.

3. *Inventory.*

On May 20, 2013, an Inventory was filed. The Inventory reflected approximately

Larry Braslow
Allen Braslow
October 7, 2013
Page Three

\$124,000 in a Wells Fargo Bank Account, a vehicle valued at \$600.00, and real property located at 2941 Sean Darin Circle, Las Vegas, Nevada. The Inventory also listed the Ward's social security income in the amount of \$1,434.00 per month. The proceeds in the Wells Fargo Account are believed to be the remaining balance of a reverse mortgage that was obtained on the Ward's home. Upon information and belief, on or about January 1, 2012, the Ward obtained the reverse mortgage from Financial Freedom in the amount of \$218,589 (Loan No. 30000-██████). The balance owed as of May 2, 2013 was \$277,459.20. The residence was purchased by Ruth and Irving Braslow on December 29, 1987. On February 7, 2008, Ruth executed a quitclaim deed transferring the property to herself in her individual capacity after the death of her husband. The Clark County Assessor's records reveal the assessed value of the home is \$62,141 and the total taxable value of \$177,546. A Brokers Price Opinion was recently obtained which reflected the value of the home was slightly more than the amount owed. The intended disposition of the home is discussed further herein.

The Ward's vehicle was a 1999 Oldsmobile. Prior to the commencement of the guardianship, the vehicle has apparently been stolen by someone the Ward befriended while shopping at Walmart. The Guardian was subsequently notified the vehicle had been located and was at an impound lot. Ewing Brothers Auto Body was paid \$81.40 on or about March 12, 2013, to tow the vehicle to her home. It was determined that the had been stripped of the electrical and exhaust system as well as damage to the windows. At that time the car had 158,967 miles on the odometer. Rather than incur the extensive fees to repair the vehicle in order to sell it, it was sold for scrap for \$600.00.

The Ward's estate also consisted of personal property. Since it was clear the Ward would be unable to reside at her home independently and did not have the resources to afford 24 hour care, a decision was made to place her in a group care home. Caring Transitions was retained to assist with the sale of the personal property in the home. Caring Transitions is owned by Steve and Cindy Breck and is licensed to conduct business by the City of Las Vegas (License No. M18-05453). The contents of the home were placed for sale by Caring Transitions on two different days. A Settlement Letter from Caring Transitions as well as the supporting documentation reflects the net proceeds from the sale of items on March 29, 2013 and March 30, 2013 were \$12,840.65. An additional \$5,979.40 had been generated from the sale of silver and gold jewelry on March 28, 2013. I have attached these items for your review. I am also in possession of photographs of the contents that were emailed to my office. In the event either of you desire to view the photographs, please forward me your email address and I will send the same. There are certain other items of personal property that were not sold which are in storage and I have asked April to prepare a list of these items.

4. *Condition of the Ward.* The Ward has been residing at Joyful Senior Care at 5408 Topaz, Las Vegas, NV 89120, since her release from Red Rock. The facility is a licensed residential group care home which can accommodate 10 residents. This location specializes in dealing with residents with Alzheimer's disease. An annual State Licensure survey was conducted in the facility on October 15, 2013 pursuant NRS 449.150, Powers of the Health Division. Nine resident files were reviewed as well as five employee and the facility received a grade of "A." The Ward has indicated she does not wish contact with either of her sons and this will confirm that the Guardian has requested the family to respect the Ward's wishes.

Ruth is wheel-chair bound and shares a room with another resident. She is incontinent and requires assistance with showering/bathing as well as some assistance with feeding. As of September 13, 2013, the Ward is receiving a number of medications, including Namenda, Risperdal, Senna and Temazepam. Several of Ruth's former neighbors have visited her at the facility but have not maintained regular contact.

5. *Issues relating to former neighbors.*

At the time of the estate sale, which was conducted at the Ward's residence, there was an incident with two of the neighbors. It is not uncommon for Estate sales to generate a great number of visitors and the resulting inconvenience (cars parked up and down the street, additional noise and traffic) can be upsetting. Moreover, undoubtedly neighbors can become concerned when they suddenly see a stranger (in this case April Parks) who is selling off the furnishings of someone they believed to be fine. In this instance, one of the neighbors became very abusive toward persons coming into the neighborhood for the sale and was informed by Ms. Parks that he would not be permitted into the sale. Another neighbor sent her caregiver to speak with Ms. Parks about the sale and was informed that she could not share with her the private information about the Ward's condition.

There are times that the Guardian may deem it appropriate to restrict access to the Ward with regards to certain persons. This generally arises where either there is a concern of potential exploitation or the visits upset the Ward. In this matter, while the Ward has indicated she wants no visitation with her sons, she has not made any similar indication regarding her former neighbors nor have any such restrictions been imposed.

6. *Disposition of the Ward's Home.* While the Guardian is obligated to administer the guardianship in the least restrictive method, it is clear at this point that Ruth will be unable to return to her home without 24 hour care. According to the Genworth 2013 Cost of Care Survey, the cost of home health care in Las Vegas is a median of \$19.00 per hour.

Larry Braslow
Allen Braslow
October 7, 2013
Page Five

As a result, the costs of 24 hour home care would exceed \$150,000.00 which would utilized all of the Ward's assets in less than one year. Accordingly, her current income, as well as liquid assets, are being used to continue her residence at the current facility. Although a Broker Price Opinion had been obtained reflecting a value slightly more than the amount owed, it is less than clear whether the sale of the home will cover the outstanding balance of the mortgage. The value of the home is listed on Zillow at only \$245,000.00. As a result, short sale of the home may be pursued at this point. A "short sale" is the process of selling a home in which the sale proceeds do not exceed the outstanding balance of the debt owed to the Lender. The process involves requesting the Lender to waive this deficiency. In light of your mother's financial and medical hardships, we believe that a short sale could be successful.

Larry has indicated that he may be interested in purchasing the property. The problem is that a short sale must involve an arm's length transaction and, ordinarily, the Lender will not agree to a sale to a family member. Despite recent changes to the Home Affordable Foreclosure Alternatives Program, these types of sales appear to continue to be prohibited. Therefore, if Larry is interested in purchasing the Property he would likely be required to purchase the residence at a price equal to the remaining outstanding mortgage balance. A decision regarding the home should be made shortly. Therefore, if either child is interested in purchasing the home using this formula, please notify me at once. Otherwise, we intend to recommend to the Guardian to continue with a short sale of the home.

If you have any questions, please do not hesitate to contact me.

Very truly yours,


LEE A. DRIZIN/ESQ.

EXHIBIT 2

AA 0534

SUPP 0359

Ruth M. Braslow

From: Ruth M. Braslow [roochela@earthlink.net]
Sent: Tuesday, September 26, 2006 12:36 AM
To: 'Joseph M Papas Jr'
Subject: RE: Copu and Paste

Dear Joe, Thank you . I printed it out what you told me so that I won't forget. I appreciate when someone teaches me as I have only learned bits an pieces as I have gone along all this time. The past couple of weeks have been hectic as some one robbed some things from my garage. It seems they go around and keep pushing buttons till they dial into your garage door and they take only certain things but as the police said it had to be someone who knew exactly what I had and where it was. The took Irving's tool box that had been sitting on the work bench for 19years. It had screw drivers and plyers and wire cutters and some other things and it was kept locked but it was taken an one other thing from the cabinet but that was all and it had to be done around 4 am as I had put the garbage out at 3:30 am and every thing was fine then and I always stand inside the garage door till it is completely closed. They didn't touch my twp vacuums or my car or anything else that is in the pantry or the cabinets. So I had the combination changed and then the double door spring broke and had to have that fixed and the gardner quit because his wife had a baby and he got a job where they give him insurance so I had to get a new gardner then the hot water heater pipes on the top got rusty so that had to be fixed not the heater thank "God" then the faucet in the kitchen died and tonight that was replace. It was only 20years old. Turns out I was the only one on the block that lasted that long. But the plumber is a very nice man and he came over after he had his dinner and installed the new faucet that I had picked up at the wholesaler this morning and he was here from 8:30 pm till 10:10 pm and when I said how much do I owe you he said "Nothing" It's your New Year so enjoy it. He has done work for me and he is such a nice man but I had no idea he wasn't going to charge me. He did a great job and left the place clean as usual. He really surprised me because he took it apart on Thursday and it was a lot of work as the faucet was frozen and you couldn't screw it apart and when he finally got it out Thursday night he went with me to the Hardware stores and they had nothing that would fit so I had to go to the wholesale place Friday morning and I was there for hours as my sink needed a one hole faucet and they don't make very many of them so after looking in all the books we found a Delta but it had to be order and it came in this morning so it was a little hard but I used all paper and plastic to eat on over the weekend. I am very lucky as all my neighbors watch over me as if I were their Mother. The man down the street is like a son because his wife told him that I had an abscess in my left armpit and I have had it along time and I was afraid to go to the doctor so he came over and hollered at me and made me call the doctor and go the next morning and it was lanced and now it is healed and I feel better. I really was scared to go but when I got to the doctor he hollered at me too. I know this doctor over 18 years as he took care of Irving when he had skin problems and also Larry about the spider bite. He is a very good doctor but as I said I was chicken. Just like when I needed something fixed on my car and the Buick dealer (there is no more Olds dealers) saw an old lady so the price hit the sky two of my neighbors went with me and they let them have it and the price came down a lot. I couldn't live in a better block as they are all sooo wonderful. When I sold some things there was always someone in the house with me so that they watched over so that I wasn't cheated. When I needed money because my social security is very small another one loaned me money so that I could pay my bills till my nephew sent me more money. That's another wonderful person who watches over me. Recently he sent me in a new computer as he felt mine must be too slow and you know he is the one that gave the whole works and also pays for the phone it's on. He has the bill go straight to him. As for my older son Alan I found he owed his father and me quite a few dollars so when my face swelled up and I need to go to the dentist I wrote him that I found where his father had written him some long time ago asking for some of the money and since I need it for the dentist could he please send me some as the dentist is very expensive and I have no money so he wrote back "Sell your house and move into a low income project". It seems both my older sons care only for themselves and as all the relatives always kept telling me "You give them too much" The Judge at my bankruptcy wanted to get the FBI after Larry and have him and his girlfriend locked away but I said No because I knew they would make a canary out of him in Jail. But to be honest with you there are times that I haven't enough money for food or doctors etc. and I think maybe I should have let them be locked away. They are both selfish men and like Irving said before he died they took after his Mother and Brother. Shortly before he died he told Larry on the phone that he was going to get a special shot that would stop a lot of the pain he was in and that he was going to call the bank in Albq. To send the check as it cost \$3000.00 as it was something brand new. The next morning when he spoke to the bank they told him that Larry had been the first one through the door and cleaned every account and security box out. So we had to cancel the shot and Irving died in a lot of pain. Infact the doctors and nurses in the Hospice said they new about the fact that he was suppose to get that

9/26/2006

AA 0535

SUPP 0360

shot and they were shocked that his son could do that to him. You see his doctor told everyone because he also was in charge of Irving in the hospice. Alan was told that Irving was in hospice and that I was there with him by my nephew and when he called I was sitting right next to the bed and when Irving heard me say Alan he said I want to hear his voice so I told Alan that I was going to put the phone next to his father's ear so he could say hello to him so that idiot said "Don't put it next to him as I will hang up and if you are planning on a funeral I am not coming". All I know is as far as I am concerned I have no two older sons.

Well I guess I have talked your ear off so I apologize for that but when I tell people about my adopted children I tell them about you and Dale and the rest of my wonderful friends. As Irving said before he died he wished you were his child.

I wanted to tell you all this because I didn't want you to think that it was only Larry that was hateful but Alan and his wife and children are that way too. Once I couldn't send checks to them they didn't give a damn to even send a post card when their grandfather died or to ever call me to find out if I am living or dead. Infact I understand my granddaughter got married three years ago and no one from our side of the family was invited. See Money talks and that's the whole story. Infact those three children never in all the years ever said thank you only would tell you what they wanted. When I flew out for her 13 birthday and handed her a check for \$300.00 she put it in the flat of her hand and said "This is what you call a gift?"

"God" Bless You and Dale for being my friends. You are both in my prayers everynight. I Love You Both. Momma Ruth

From: Joseph M Papas Jr

Sent: Monday, September 25, 2006 10:35 PM

To: Ruth Braslow

Subject: Copu and Paste

Dear Ruth,

Just a quickie on how I copy and paste most of the messages I send.

Step1: Put your mouse cursor at the beginnig of whatever you want to copy.

Then, hold your left mouse button down and travel it to the end of whatyou want to copy. This should highlight the text.

Step 2: Hold down the control key and hit the letter C. This copies the information you just highlighted.

Step 3: Put your mouse cursor wherever you want the information you just copied to start.

Step 4: Hold down the control key and hit the letter V. This pastes the information you copied.

Hope this helps.

Love, Joe

Stay in the know. Pulse on the new Yahoo.com. [Check it out.](#)

9/26/2006

AA 0536

SUPP 0361

EXHIBIT 3

AA 0537

SUPP 0362

02-21581-rcj RUTH M. BRASLOW**Case type: bk Chapter: 7 Asset: No Vol: v Judge: ROBERT C. JONES****Date filed: 10/08/2002 Date of last filing: 03/06/2003 Date discharged: 01/30/2003****Date terminated: 03/06/2003**[Mobile Query](#)**Query**[Aliases](#)[Associated Cases](#)[Attorneys](#)[Case Summary](#)[Claims Register](#)[List of Creditors](#)[Creditors](#)[Deadlines/Hearings](#)[Docket Report ...](#)[Filers](#)[History/Documents](#)[Notice of Bankruptcy Case Filing](#)[Parties](#)[View Document](#)[Related Transactions](#)[Status](#)[Trustee](#)**AA 0538**

Label Matrix for local noticing
0978-2
Case 02-21561-rcj
District of Nevada
Las Vegas
Thu Jul 3 08:56:12 PDT 2014

Airtel
Collections Unlimited
11225 N. 28th Dr.
Suite C210
Phoenix, AZ 85029-5606

CORNELL UNIVERSITY
OFFICE OF UNIVERSITY COUNSEL
300 CCC BUILDING, GARDEN AVENUE
ITHACA, NY 14853

(p)CHASE CARD SERVICES
201 NORTH WALNUT STREET
ATTN MARK PASCALE
MAIL STOP DE1-1406
WILMINGTON DE 19801-2920

Credit Bureau Cntrl.
P.O. 29299
Las Vegas, NV 89126-3299

Discover
P.O. Box 5018
Sandy, UT
84091-5018

First USA Bank
P.O. Box 50882
Henderson, NV 89016

First USA/Visa
P.O. Box 50882
Henderson, NV
89016-0882

General Motors Accept.
8055 E. Tufts Ave.
Suite 300
Denver, CO 80237-2837

Loanworks
1 Nat'l City Pkwy.
Kalamazoo, MI 49009-8003

U.S. TRUSTEE - LV - 7 7
300 LAS VEGAS BOULEVARD, SO.
SUITE 4300
LAS VEGAS, NV 89101-5803

American Express
Suite 0002
Chicago, IL
60679-0002

Cambece Law Office
8 Bourbon St.
Peabody, MA 01960-7473

CitiBank USA/Visa
P.O. Box 9034
S. Hackensack, NJ
07606-8034

Creditors Interchange
P.O. Box 1335
Buffalo, NY 14240-1335

Estate Recoveries, Inc.
P.O. Box 24566
Baltimore, MD 21214-0466

First USA Bank
P.O. Box 999
Frederick, MD 21705

(p)WACHOVIA BANK NA
MAC X2303-01A
1 HOME CAMPUS
1ST FLOOR
DES MOINES IA 50328-3001

Household Bank NA
P.O. Box 98706
Las Vegas, NV 89193-8706

Lyles & Hawley
2060 E. Flamingo Rd.
Suite 106
Las Vegas, NV 89119-5153

United States Bankruptcy Court
300 Las Vegas Blvd., South
Las Vegas, NV 89101-5833

CACV, Inc.
Cambece Law Office
8 Bourbon Street
Peabody, MA 01960-7473

Capital One
P.O. Box 60000
Seattle, WA
98190-6000

Collections Unlimited
11225 N. 28th Dr. C210
Phoenix, AZ 85029-5606

(p)DISCOVER FINANCIAL SERVICES LLC
PO BOX 3825
NEW ALBANY OH 43054-3025

First USA
P.O. Box 50882
Henderson, NV 89016

First USA/AARP
P.O. Box 50882
Henderson, NV
89016-0882

Flower-Sprecher Vet.Lib.
Cornell University
Ithaca, NY 14853
89016-0882

Internal Med. Specialist
861 S. Rancho Drive
Suite C-1
Las Vegas, NV 89106-3858

MENA
P.O. Box 15137
Wilmington, DE
19866-5137

MBNA America
P.O. Box 15137
Wilmington, DE
19886-5137

MBNA America/Sprint
P.O. Box 15137
Wilmington, DE
19886-5137

MRS Associates, Inc.
6530 W. Campus Oval
New Albany, OH 43054-9726

MagnUS Recovery
Recovery Serv.Ctr.
P.O. Box 43730
Baltimore, MD
21236-0730

NCO Financial Systems
2725 E. Desert Inn Rd.
Suite 250
Las Vegas, NV 89121-3695

Nat'l Action Financial
P.O. Box 920789
Norcross, GA 30090-0789

Nevada Dept.of Tax
Revenue Division
Capitol Division
Carson City, NV
89710-0030

OSI Collection Services
P.O. Box 43050
Phoenix, AZ
85060-3050

Ofc.of the U.S.Trustee
600 Las Vegas Blvd.,S.
#430
Las Vegas, NV 89101-6637

Office/LaborCommissioner
State Mailroom Complex
Las Vegas, NV 89159

State of New Mexico
Taxation & Revenue
P.O. Box 25128
Santa Fe, NM 87504-5128

State of New Mexico
Taxation & Revenue Dept.
P.O. Box 25128
Santa Fe, NM 87504-5128

Travelers Group
Callister & Reynolds
823 Las Vegas Blvd. S
Las Vegas, NV 89101-6793

Triadvantage Credit
78801 Metro Pkwy. #100
Bloomington, MN 55425

Wells Fargo Home Mtg.
405 SW 5th Street
Des Moines, IA 50309-4600

ROTH M. BRASLOW
2941 SEAN DARIN CTR.
LAS VEGAS, NV 89146-6861

TROY A. BAKER
718 S. 5TH ST.
LAS VEGAS, NV 89101-7007

YVETTE WEINSTEIN
6450 SPRING MTN RD #14
LAS VEGAS, NV 89146-8036

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85072-2195

Discover
P.O. Box 3008
New Albany, OH
43054-3008

(d)Discover
P.O. Box 30395
Salt Lake City, UT
84130-0395

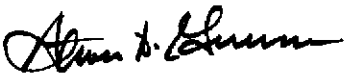
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Brunswick, GA
31521-2357

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| Mailable recipients | 47 |
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| Total | 49 |


CLERK OF THE COURT

RPLY
LEE A. DRIZIN, ESQ.
Nevada Bar No. 4971
LESTER A. BERMAN, ESQ.
Nevada Bar No. 0149
LEE A. DRIZIN, CHTD.
2460 Professional Court, Suite 110
Las Vegas, Nevada 89128
(702) 798-4955 FAX (702) 798-5955
lee@leedrizin.com
lesberman@leedrizin.com
Attorneys for Guardian

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Guardianship of the
Person and Estate of

Case No.: **G-13-038228-A**
Dept. No.: **G**

RUTH BRASLOW,

An Adult Ward.

**REPLY TO LARRY BRASLOW'S OBJECTION TO SECOND
ANNUAL ACCOUNT AND REPORT OF GUARDIAN**

COMES NOW, APRIL L. PARKS, Manager of A Private Professional Guardian,
LLC, and submits this *Reply to Larry Braslow's Objection to Second Annual Account and
Report of Guardian* by and through her attorney, LEE A. DRIZIN, ESQ. of the law firm of
LEE A. DRIZIN, CHTD. and represents as follows:

Background

A. Appointment of Guardian. Petitioner was appointed Temporary Guardian
of the Person and Estate of Ruth Braslow (the "Ward") on January 30, 2013. Letters of
General Guardianship were issued to her on March 4, 2014. The *First Annual Account*
was filed on June 18, 2014. The Ward has two sons - Larry Braslow and Alan Braslow.
Although the Guardian had been able to locate Alan, she could not reach Larry and his
brother did not know of his specific whereabouts until Larry contacted the Guardian almost
one year after the commencement of the guardianship on October 1, 2013. Several
conversations with Larry occurred over the course of the following month in which he was

1 inquiring about his mother's assets. He received detailed information about her care and
2 financial condition through written and verbal correspondence.

3 **B. Petition to Remove Guardian and Objection to First Annual Account.**

4 Approximately eight months after initially speaking with the Guardian's counsel, Larry
5 Braslow filed a *Motion to Remove April L. Parks* as guardian on June 23, 2014. He sought
6 to replace her with himself and a "friend of the Ward". The basis for the removal was the
7 claim that he did not receive notice and that there were deficiencies with the
8 admonishment provided to the Ward. Larry Braslow also filed an *Objection to First Annual*
9 *Account* on July 1, 2014. The Guardian filed a *Response* on July 14, 2014, which
10 indicated, among other things, that Ruth made it clear to the Guardian on numerous
11 occasions that she did not want to have any contact with her two sons.¹ It appeared she
12 had been estranged from them for an extended period of time prior to the guardianship.²
13 She was left alone and was the victim of a theft. During this period of time, Larry Braslow
14 made no effort to contact his mother or make any inquiry as to her well being. After he met
15 with April's counsel and learned of his mother's situation, he still made no further inquiry
16 as to her health or status. Eight additional months passed, and Larry still never contacted
17 the Guardian to inquire as to how his mother was doing. The Opposition to the request to
18 remove Guardian was supported by an affidavit of Alan Braslow.³

19 In response to the Objection to the First Annual Account, the Guardian noted that
20 "Larry makes no argument to this Court and appears to have no issues with the quality of
21 work performed by April in furtherance of her duties as Guardian. He has no issues with
22 the accounting itself. Yet, he objects. His sole objection is due to what he perceives as
23 a technicality that occurred in the appointment process more than a year prior to the
24 _____

25 ¹ Discussions with both sons confirmed the Ward had made the same clear to them as well.

26 ² When Dr. Renee Ngo interviewed the Ward on January 17, 2013 and inquired whom she would prefer be
27 appointed as her guardian, she stated "I have no one."

28 ³ Alan had been informed by the Ward that she blames Larry for forging her signature on credit cards which
were charged without her authorization and lead her to file bankruptcy. She complained that Larry demanded
money and threatened to kill her on two occasions. She also stated to Alan he called her a bitch when she
refused to provide him money.

1 accounting.”

2 **C. Approval of the First Annual Account and Denial of Motion to Remove.**

3 On July 23, 2014, the Guardianship Commissioner rejected Larry Braslow's arguments and
4 recommended the First Annual Account be approved in his Report on September 3, 2014.

5 The Commissioner also appointed Julie Arnold, Esq. and Carol Kingman, Esq. as the
6 Ward's counsel to investigate whether the Guardian should be removed. On September
7 3, 2014, the attorneys from the Senior Law Program were designated as the Guardian Ad
8 Litem ("GAL") since the Ward was unable to maintain an attorney-client relationship. The
9 GAL recommended that April L. Parks not be removed as guardian and this
10 recommendation was adopted by the Commissioner in his Report on September 8, 2014.

11 On October 1, 2014, the Court adopted both Reports and Recommendations after no
12 timely objections were made. A Notice of Entry of the Orders were filed on October 2,
13 2014.

14 **Argument**

15 **A. Improper use of media coverage.** The first eight (8) paragraphs of the
16 *Objection to the Second Annual Account and Report of Guardian* deals with statements
17 made in a KTNV television report regarding the actions of April L. Parks in another
18 guardianship case. Media reports are inadmissible hearsay under NRS 51.065 and are
19 also irrelevant under NRS 48.025. There are no circumstantial guarantees of
20 trustworthiness regarding these media reports and none of the statements contained within
21 those reports are more probative on the point for which it is offered than other evidence
22 which Larry Braslow can procure through reasonable efforts. See, *Parsons v. Honeywell,*
23 *Inc.*, 929 F.2d 901 (2d Cir. 1991). News accounts, unsupported by corroborating evidence
24 and offered to prove that certain statements were made, will usually lack the
25 "circumstantial guarantees of trustworthiness" that our rules of evidence require. See,
26 *Larez v. City of Los Angeles*, 946 F.2d 630 (9th Cir. 1991). Newspaper articles and
27 television media coverage are hearsay and can only be used in very exceptional
28 circumstances during litigation. See, *Southco, Inc. v. Fivetech Tech. Inc.*, 982 F.Supp. 2d

1 507 (E.D. Pa. 2013). See also *Campbell v. City of New Kensington*, Civ. No. 05-0467,
2 2009 WL 3166276 (W.D. Pa. Sept. 29, 2009) applying the same standard to motion for
3 summary judgment.

4 Using inflammatory statements contained in media coverage in an attempt to
5 influence the court in making its decision on whether to approve the Second Annual
6 Account and Report is clearly improper. The fact of the use of such statements which
7 clearly violate our rules of evidence suggests a violation of NRPC 3.4(c) as a knowing
8 disobedience of an obligation created by the rules of evidence. There is no place within
9 the four walls of a courtroom for a member of the bar to advocate that a decision be made
10 by a judge based upon known irrelevant and hearsay evidence and Counsel should be
11 cautioned by the court to not repeat this offense.

12 **B. No specific challenge has been made to the Second Annual Account.**

13 The Second Account filed by the Guardian is in total compliance with NRS 159.179.
14 Additionally, as an accommodation to counsel for Braslow, Parks filed a *Supplement to the*
15 *Second Annual Account and Report* which contained all of the appropriate billings to back
16 up the Schedule E expenses set forth in Exhibit 1 to the Second Account. No application
17 was made by counsel for Braslow under NRS 159.179(4) for the production of the receipts
18 or vouchers that support the account. Nevertheless, Parks, in an effort to provide complete
19 transparency, provided this supplement.

20 Larry Braslow provides no specific objection to any item contained in the Second
21 Account. The Supplement containing all the bills for the Schedule E expenses was served
22 on Larry Braslow on May 27, 2015. Four (4) weeks have now passed and there still is no
23 objection from which he claims any specific circumstance of the Guardian overcharging the
24 Ward for items and services. Furthermore, the Ward's other son, Alan Braslow, has
25 carefully reviewed the Second Annual Account, as well as the receipts, and maintains that
26 there is no concern over these items. See *Affidavit of Alan Braslow* attached hereto as
27
28

1 **Exhibit "1".⁴**

2 Finally, the Court should give no weight whatsoever to any of Larry Braslow's
3 allegations contained in Paragraphs 9 and 11 of his Objection as there is no evidence to
4 support such bold claims. His attempts at innuendo which again consist of allegations
5 pertaining to other cases or events publicized in the media should not be considered by the
6 court.

7 **C. There is no legal basis for re-examination of the First Annual Account**
8 **and Report.** The First Annual Account and Report of Parks was filed on June 18, 2014.
9 Braslow filed an *Objection to the First Annual Accounting Report* on June 30, 2014.
10 Interestingly, the objection was not based on any item contained in the Account but merely
11 claimed that Parks' appointment as guardian was improper. A *Reply to the Objection* was
12 filed on July 14, 2014 and a *Report and Recommendations* was executed by the
13 Guardianship Commissioner on September 5, 2014. This Report and Recommendations
14 found that the *First Annual Account and Report of the Guardian* is in all aspects true and
15 correct and was supported by evidence. The Guardianship Commissioner recommended
16 approving the First Annual Accounting Report and also recommended that the prepayment
17 of the fees and costs for Parks and her attorney be confirmed. (A copy of said Report and
18 Recommendations is attached hereto as **Exhibit "2"**). No objection to that Report and
19 Recommendation was filed by Larry Braslow and the Court entered an Order Approving
20 the Guardianship Commissioner's Report and Recommendations on October 1, 2014. (A
21 copy of said Order is attached hereto as **Exhibit "3"**). Notice of Entry of that Order was
22 sent to Larry Braslow on October 2, 2014. No motion was made to modify this Order nor
23 was any appeal taken from this Order.

24 NRS 159.181(3) provides:

25 "except as otherwise provided in this subsection, the order settling and
26 allowing the account is a final order and is conclusive against all persons
27 interested in the guardianship proceeding, including, without limitation, heirs
and assigns. The order is not final against a ward who requests an

28 ⁴ Alan Braslow maintains that his brother's objection to the Second Annual Account is merely another attempt
for Larry Braslow to attempt to obtain control over his mother's finances for his own benefit.

1 examination of any account after the ward's legal disability is removed."

2 Since there is nothing before the Court claiming that the Ward's legal disability has
3 been removed, the Order Approving the First Account is final and conclusive.

4 An order settling an account is a final order which is appealable under NRS
5 159.325(3). Similarly, an order authorizing payment of guardian's fees for attorney's fees
6 is also final and appealable under NRS 159.325(5). The appeal time on these types of
7 orders runs from the date of notice of entry of order and expires in thirty (30) days. The
8 time to appeal from the *Order Approving the First Account and Report* has expired.

9 Additionally, Braslow and his counsel could have sought relief under NRCP 60(b)
10 if grounds existed for relief from the Court's order based on mistake, inadvertence,
11 surprise, excusable neglect, newly discovered evidence or fraud. However, such a motion
12 would have to be brought within six (6) months from the date that written notice of entry of
13 the order was served. This prescribed period of time has also expired.

14 Therefore, the request of Braslow in his Objection to Re-Examine the First Annual
15 Accounting Report and to require that all prepaid fees and costs be repaid to the estate of
16 Ms. Braslow within thirty (30) days is untimely. The *Order Approving the First Account and*
17 *Report* is final. No appeal was taken from that final Order. No proof has been submitted
18 with the objection that the Ward's legal disability no longer exists.

19 Based on all of the above, Parks submits that the objection of Larry Braslow to her
20 *Second Annual Account and Report* be overruled and that said Second Annual Account
21 and Report be allowed and confirmed pursuant to NRS 159.181(2).

22 DATED this 7 day of July, 2015.

23 LEE A. DRIZIN, CHTD.

24
25 By: 

26 LEE A. DRIZIN, ESQ.
Nevada Bar No. 4971
27 LESTER A. BERMAN, ESQ.
Nevada Bar No. 0149
28 2460 Professional Court, Ste. 110
Las Vegas, NV 89128
Attorneys for Guardian

EXHIBIT 1

AA 0548

SUPP 0373

1 **AFF**
2 LEE A. DRIZIN, ESQ.
3 Nevada Bar No. 4971
4 **LEE A. DRIZIN, CHTD.**
5 2460 Professional Court, Suite 110
6 Las Vegas, Nevada 89128
7 (702) 798-4955 FAX (702) 798-5955
8 lee@leedrizin.com
9 Attorneys for Guardian

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

10 In the Matter of the Guardianship of the
11 Person and Estate of

Case No.: G-13-038228-A
Dept. No.: G

12 **RUTH BRASLOW,**

13 An Adult Ward.

AFFIDAVIT OF ALAN BRASLOW

14 STATE OF NEW JERSEY)
15) cc
16 COUNTY OF CAMDEN)

17 ALAN BRASLOW, being first duly sworn, deposes and states:

18 1. I am the son of the Ward, Ruth Braslow, and currently reside at 6 Banner
19 Road, Cherry Hill, New Jersey 08003.

20 2. I have received copies of the Petition for Appointment of General Guardian
21 filed by April L. Parks of A Private Professional Guardian as well as the Petition to Approve
22 First Annual Account, Petition to Approve Second Annual Account and Supplement to the
23 Second Annual Account.

24 3. I am also in receipt of the Opposition to the Second Annual Account filed by
25 my brother, Larry Braslow.

26 4. I had no objection to the appointment of Ms. Parks as my mother's guardian.
27 I also have had no objections in the past to the expenses incurred to care for my mother
28 or the fees requested by Ms. Parks and her counsel.

5. I had previously spoken with the Guardian Ad Litem appointed in this matter
and advised them regarding my concerns about the efforts of my brother, Larry Braslow,

1 to remove Ms. Parks and serve as guardian for my mother. Attached hereto as Exhibit "1"
2 is a copy of my prior affidavit filed in Opposition to my brother's attempts to take control of
3 my mother's guardianship estate.

4 6. I have no objection to the Second Annual Account. Moreover, I do not
5 believe that the Opposition of Larry Braslow is being filed in good faith and is merely an
6 attempt by Larry Braslow to gain control over my mother's finances and I am strongly
7 opposed to that occurring.

8 Further your Affiant sayeth naught.

9 
10 ALAN BRASLOW

11 SUBSCRIBED AND SWORN to before
12 me this 12 day of June, 2015.

13 
14 Notary Public

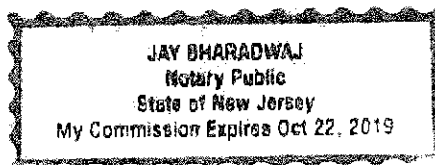


EXHIBIT 2

AA 0551

SUPP 0376



CLERK OF THE COURT

1 RPT
2 LEE A. DRIZIN, ESQ.
3 Nevada Bar No.: 4971
4 LEE A. DRIZIN, CHTD.
5 2460 Professional Court, Suite 110
6 Las Vegas, Nevada 89128
7 (702) 798-4955 FAX (702) 798-5955
8 lee@leedrizin.com
9 Attorneys for Guardian, APRIL L. PARKS

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Guardianship of
the Person and Estate of

Case No.: G-13-038228-A
Dept. No.: E

RUTH BRASLOW,

DATE OF HEARING: September 3, 2014
TIME OF HEARING: 9:00 a.m.

an Adult Ward.

REPORT AND RECOMMENDATIONS

THE ABOVE-ENTITLED MATTER having come before this Court on the above referenced date and time pursuant to the *Petition to Remove April L. Parks as Guardian for Ruth Braslow and For Appointment of Larry Braslow and Harry Konwin as Co-Guardians*; APRIL PARKS, Manager, A Private Professional Guardian, LLC, appearing in person and by and through her attorney, LEE A. DRIZIN, ESQ. of the law firm of LEE A. DRIZIN, CHTD.; JULIE ARNOLD and CAROL KINGMAN of the Senior Law Project appearing as counsel for Ruth Braslow, and, neither LARRY BRASLOW, HARRY KONWIN nor their attorney JUSTIN JONES, ESQ., of WOLF, RIFKIN, SHAPIRO, SCHULMAN, & RABKIN, LLP, having appeared; the Court, having determined that Notice was provided in accordance with statutory requirements, finds as follows:

FINDINGS

Notice

1. Due and legal notice of all persons interested was given in the manner and for the time required by law.

2. The matter was previously heard on July 23, 2014. At that time, the Guardianship Commissioner appointed Julie Arnold ("Arnold") and Carol Kingman

GUARDIANSHIP

SEP 04 2014

RECEIVED

1 ("Kingman") of the Senior Law Project to serve as counsel for the Ward and directed they
2 conduct an investigation and provide their client's wishes to the Court.

3 3. All parties were informed the matter was continued until September 3, 2014
4 at 10:00 a.m. The matter was called by the Commissioner shortly after 10:00 a.m and
5 neither Larry Braslow, Harry Konwin nor Justin Jones, Esq. were present. The matter was
6 trailed until approximately 10:30 a.m. when it was recalled and proceeded without the
7 presence of Braslow or Konwin.

8 **Appointment of the Guardian Ad Litem**

9 4. Arnold reported she met with Ruth Braslow at her group home on August 22,
10 2014, and determined the Ward was unable to maintain an attorney-client relationship.
11 Accordingly, Arnold requested that she and Kingman be appointed as guardian ad litem.

12 5. The Guardianship Commissioner previously determined it would be in the
13 best interests of the Ward to appoint Arnold and Kingman as guardian ad litem for the
14 Ward if Ruth Braslow was unable to maintain an attorney-client relationship.

15 **Investigation and Report of Guardian Ad Litem**

16 6. Arnold and Kingman (hereinafter collectively referred to as the "GAL") spoke
17 with April L. Parks on August 13, 2014; Joe Davenport on August 22, 2014; Ruth Braslow
18 on August 22, 2014; Larry Braslow on August 27, 2014; Justin Jones, Esq. on August 27,
19 2014; Sheila Braslow on August 27, 2014; and, Alan Braslow on September 2, 2014.

20 7. The GAL also reviewed numerous pleadings and an email from Debra
21 Bookout to Violeta Hernandez, including an email from Larry Braslow dated February 2014.

22 8. The GAL reported that the Ward had been estranged from her children for
23 many years. According to April L. Parks, the Ward indicated she did not want to see or talk
24 to either of her sons and refused having a boyhood portrait of them hung in her room.

25 9. The Ward is wheelchair bound, incontinent and requires assistance with
26 showering and bathing. The Ward does not seem to realize she has a guardian or is living
27 in a group home. She is unable to give direction to an attorney or maintain an attorney-
28 client relationship. In addition, the Ward no longer recognizes her friends and neighbors
when they come to visit.

1 10. Alan Braslow indicated that he believes April L. Parks is doing a good job and
2 desires her to continue as Guardian rather than his brother. Moreover, he indicated
3 concerns about Larry Braslow's questionable involvement in his parent's financial affairs
4 which resulted in the Ward filing for bankruptcy.

5 11. Larry Braslow indicated to the GAL, among other things, that the Ward is
6 being overmedicated and could live on her own in Albuquerque, New Mexico where he
7 could visit her. The GAL does not believe that Larry Braslow appreciates the magnitude
8 of the Ward's deficits and would, therefore, not provide sufficient care.

9 12. In consideration of the extended period of estrangement between the Ward
10 and both her sons, the endorsement of April L. Parks by Alan Braslow, the concerns about
11 Larry Braslow's involvement with his parent's financial affairs, and Alan Braslow's
12 reticence to agree to his brother's involvement with anything to do with the Ward's financial
13 affairs, the GAL recommended April L. Parks continue to serve as guardian of the person
14 and estate.

15 **RECOMMENDATIONS OF GUARDIANSHIP COMMISSIONER**

16 1. **IT IS HEREBY RECOMMENDED** that Julie Arnold and Carol Kingman be
17 appointed as the guardian ad litem for the Adult Ward; and,


18 2. **IT IS FURTHER RECOMMENDED** that the report and recommendations of
19 the GAL be adopted and that the Petition to Remove and Appoint Larry Braslow and Harry
20 Konwin be denied with prejudice.

21 DATED this 5 day of September, 2014.

22
23 
24 GUARDIANSHIP COMMISSIONER

25 Respectfully submitted by:

26 LEE A. DRIZIN, CHTD.

27 
28 LEE A. DRIZIN, ESQ.
Nevada Bar No. 4971
2460 Professional Court, Ste. 110
Las Vegas, Nevada 89128
Attorneys for Guardian

1 **NOTICE**

2 Pursuant to NRCP 53, you are hereby notified that you have ten (10) days from the
3 date you receive this document within which to file written objections.

4 *[The Commissioner's Report is deemed received when signed and dated by*
5 *a party, his attorney or his attorney's employee, or three (3) days after*
6 *mailing to a party or his attorney, or three (3) days after the Clerk of Courts*
7 *deposits a copy of the Report in a folder of a party's lawyer in the Clerk's*
8 *office.]*

9 A copy of the foregoing Commissioner's Report was served by mailing a true and
10 correct copy to the following individuals:

11 Ruth Braslow
12 Joyful Senior Care
13 5408 Topaz Street
14 Las Vegas, Nevada 89120
15 Ward

16 Alan Braslow
17 6 Banner Road
18 Cherry Hill, New Jersey 08003
19 Son of Ward

20 April L. Parks
21 1022 Nevada Highway, #110
22 Boulder City, Nevada 89005
23 Guardian

24 I FURTHER CERTIFY that a copy of the foregoing was filed electronically. Service
25 of this filing will be made on the following parties via WIZNET, the Court's electronic filing
26 system. Parties may access this filing through the Court's system. (See NEFCR 9)

27 Justin Jones, Esq.
28 jjones@wrslawyers.com
Attorney for Larry Braslow and Harry Konwin

DATED this 8th day of September, 2014.

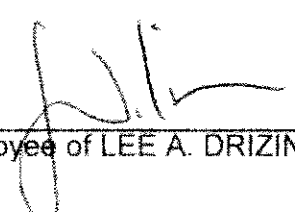
21 
22 _____
23 An employee of LEE A. DRIZIN, CHTD.
24
25
26
27
28

EXHIBIT 3

AA 0556

SUPP 0381



CLERK OF THE COURT

1 **ORDR**
2 LEE A. DRIZIN, ESQ.
3 Nevada Bar No. 4971
4 **LEE A. DRIZIN, CHTD.**
5 2460 Professional Court, Suite 110
6 Las Vegas, Nevada 89128
7 (702) 798-4955 FAX (702) 798-5955
8 lee@leedrizin.com
9 Attorney for Guardian

6
7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Guardianship of the
11 Person and Estate of

Case No.: **G-13-038228-A**
Dept. No.: **E**

12 **RUTH BRASLOW,**
13 an Adult Ward.

14 **ORDER APPROVING GUARDIANSHIP COMMISSIONER'S**
15 **REPORT AND RECOMMENDATIONS**

16 The Court, having reviewed the Report and Recommendations prepared by the
17 Guardianship Commissioner and filed on the 8th day of September, 2014, and:

18 _____ The parties having waived the right to object thereto.

19 ☒ No timely objections having been filed thereto

20 _____ Having received the objections thereto and the written arguments in support of said
21 objections, and good cause appearing,

22 ☒ IT IS HEREBY ORDERED that the Commissioner's Report and Recommendations
23 are affirmed and adopted, a copy of which are attached hereto as **Exhibit "1."**

24 _____ IT IS HEREBY ORDERED that the Commissioner's Report and Recommendations
25 are affirmed and adopted as modified in the following manner (attached hereto).

26 ///

27 ///

28 ///

///

///

RECEIVED
SEP 24 2014
GUARDIANSHIP

LAW OFFICES OF
LEE A. DRIZIN, CHTD.
2460 Professional Court, Ste. 110
Las Vegas, NV 89128
(702) 798-4955 FAX (702) 798-5955

1 IT IS HEREBY ORDERED that the hearing on the Commissioner's Report
2 is set for hearing on the _____ day of _____, 2014, at _____ m.

3 DATED this 30 day of September, 2014.

4

5

6

7

8

Submitted by:

9

LEE A. DRIZIN, CHTD.

10

11

By



12

LEE A. DRIZIN, ESQ.

13

Nevada Bar No. 4971

14

2460 Professional Court, Ste. 110

15

16

17

18

19

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21

22

23

24

25

26

X:\GUARDIAN\BIBAS\LOWPLEADINGS\ORDER re R&R of 9-3-14.wpd

27

28


DISTRICT COURT JUDGE

EXHIBIT 1



CLERK OF THE COURT

1 RPT
2 LEE A. DRIZIN, ESQ.
3 Nevada Bar No.: 4971
4 LEE A. DRIZIN, CHTD.
5 2460 Professional Court, Suite 110
6 Las Vegas, Nevada 89128
7 (702) 798-4955 FAX (702) 798-5955
8 lee@leedrizin.com
9 Attorneys for Guardian, APRIL L. PARKS

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

In the Matter of the Guardianship of
the Person and Estate of

Case No.: G-13-038228-A
Dept. No.: E

RUTH BRASLOW,

DATE OF HEARING: September 3, 2014
TIME OF HEARING: 9:00 a.m.

an Adult Ward.

REPORT AND RECOMMENDATIONS

THE ABOVE-ENTITLED MATTER having come before this Court on the above referenced date and time pursuant to the *Petition to Remove April L. Parks as Guardian for Ruth Braslow and For Appointment of Larry Braslow and Harry Konwin as Co-Guardians*; APRIL PARKS, Manager, A Private Professional Guardian, LLC, appearing in person and by and through her attorney, LEE A. DRIZIN, ESQ. of the law firm of LEE A. DRIZIN, CHTD.; JULIE ARNOLD and CAROL KINGMAN of the Senior Law Project appearing as counsel for Ruth Braslow, and, neither LARRY BRASLOW, HARRY KONWIN nor their attorney JUSTIN JONES, ESQ., of WOLF, RIFKIN, SHAPIRO, SCHULMAN, & RABKIN, LLP, having appeared; the Court, having determined that Notice was provided in accordance with statutory requirements, finds as follows:

FINDINGS

Notice

1. Due and legal notice of all persons interested was given in the manner and for the time required by law.

2. The matter was previously heard on July 23, 2014. At that time, the Guardianship Commissioner appointed Julie Arnold ("Arnold") and Carol Kingman

GUARDIANSHIP

SEP 04 2014

RECEIVED

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11 Accordingly, Arnold requested that she and Kingman be appointed as guardian ad litem.

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14 Ward if Ruth Braslow was unable to maintain an attorney-client relationship.

15 **Investigation and Report of Guardian Ad Litem**

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23 many years. According to April L. Parks, the Ward indicated she did not want to see or talk
24 to either of her sons and refused having a boyhood portrait of them hung in her room.

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26 showering and bathing. The Ward does not seem to realize she has a guardian or is living
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12. In consideration of the extended period of estrangement between the Ward and both her sons, the endorsement of April L. Parks by Alan Braslow, the concerns about Larry Braslow's involvement with his parent's financial affairs, and Alan Braslow's reticence to agree to his brother's involvement with anything to do with the Ward's financial affairs, the GAL recommended April L. Parks continue to serve as guardian of the person and estate.

RECOMMENDATIONS OF GUARDIANSHIP COMMISSIONER

1. **IT IS HEREBY RECOMMENDED** that Julie Arnold and Carol Kingman be appointed as the guardian ad litem for the Adult Ward; and,

2. **IT IS FURTHER RECOMMENDED** that the report and recommendations of the GAL be adopted and that the Petition to Remove and Appoint Larry Braslow and Harry Konwin be denied with prejudice.

DATED this 4 day of September, 2014

~~GUARDIANSHIP COMMISSIONER~~

Respectfully submitted by:

LEE A. DRIZIN, CHID

LEE A. DRIZIN, ESQ.
Nevada Bar No. 4971
2460 Professional Court, Ste. 110
Las Vegas, Nevada 89128
Attorneys for Guardian

1 **NOTICE**

2 Pursuant to NRCP 53, you are hereby notified that you have ten (10) days from the
3 date you receive this document within which to file written objections.

4 *[The Commissioner's Report is deemed received when signed and dated by*
5 *a party, his attorney or his attorney's employee, or three (3) days after*
6 *mailing to a party or his attorney, or three (3) days after the Clerk of Courts*
7 *deposits a copy of the Report in a folder of a party's lawyer in the Clerk's*
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9 A copy of the foregoing Commissioner's Report was served by mailing a true and
10 correct copy to the following individuals:

11 Ruth Braslow
12 Joyful Senior Care
13 5408 Topaz Street
14 Las Vegas, Nevada 89120
15 Ward

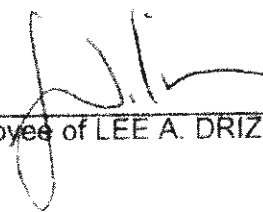
16 Alan Braslow
17 6 Banner Road
18 Cherry Hill, New Jersey 08003
19 Son of Ward

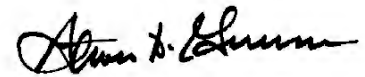
20 April L. Parks
21 1022 Nevada Highway, #110
22 Boulder City, Nevada 89005
23 Guardian

24 I FURTHER CERTIFY that a copy of the foregoing was filed electronically. Service
25 of this filing will be made on the following parties via WIZNET, the Court's electronic filing
26 system. Parties may access this filing through the Court's system. (See NEFCR 9)

27 Justin Jones, Esq.
28 jjones@wrslawyers.com
Attorney for Larry Braslow and Harry Konwin

DATED this 8th day of September, 2014.

21 
22 _____
23 An employee of LEE A. DRIZIN, CHTD.



CLERK OF THE COURT

PET
NOEL PALMER SIMPSON, ESQ.
Nevada Bar No. 9642
PALMER LAW GROUP, PLLC
5532 S. Fort Apache Rd., Ste. 120
Las Vegas, NV 89148
(702) 776-7680 (702) 776-7684 Fax
noel@plgelderlaw.com
Attorney for Petitioner

DISTRICT COURT

CLARK COUNTY, NEVADA

| | | |
|-----------------------------------|---|------------------------------|
| In the Matter of the Guardianship |) | CASE NO. G - 11 - 036374 - A |
| of the Person and Estate of: |) | DEPT. NO. E |
| |) | |
| MARIA COOPER |) | |
| |) | |
| |) | Date of Hearing: 9/21/11 |
| Adult Ward. |) | Time of Hearing: 10:00a.m. |
| |) | |

**PETITION FOR APPOINTMENT OF TEMPORARY
AND GENERAL GUARDIAN OF THE PERSON AND ESTATE**

COMES NOW, the Petitioner, APRIL L. PARKS, by and through her Attorney, NOEL PALMER SIMPSON, ESQ., of the law firm PALMER LAW GROUP, PLLC, in accordance with Chapter 159 of the Nevada Revised Statutes, whose petition respectfully represents the following to this Honorable Court:

1. That Petitioner, APRIL L. PARKS, a Certified Guardian, would like to be appointed as Temporary and General Guardian of the Person and Estate of MARIA COOPER, an Adult Ward.

2. That Petitioner's mailing address is 1022 Nevada Hwy., Ste. 110, Boulder City, Nevada, 89005.

3. That Petitioner's date of birth is [REDACTED] 1965.

4. That Petitioner has not been judicially determined to have committed abuse, neglect or exploitation of child, spouse, parent or other person. That Petitioner has never been convicted of a felony, nor suspended for misconduct or disbarred from the practice of law, the

1 practice of accounting or any other profession which involves the management or sale of money,
2 investments, securities or real property and requires licensure in Nevada or any other state.

3 5. That Petitioner is competent and capable of acting as Guardian of the Person and
4 Estate of the Proposed Ward, and hereby consents to act in this capacity.

5 6. That the Proposed Ward, MARIA COOPER, was born on [REDACTED] 1927, and is
6 Eighty-four (84) years of age. She is a resident of the State of Nevada.

7 7. That the Proposed Ward is currently a resident at Atria Assisted Living Facility,
8 3425 East Russell, #225, Las Vegas, NV 89120, and is expected to reside there indefinitely due
9 to her medical condition.

10 10. That an emergency exists that requires a temporary Guardianship: The Proposed
11 Ward suffers from physical impairments including vertigo, IBS (irritable bowel syndrome),
12 impaired hearing, and stage three chronic kidney disease. Although she has been diagnosed with
13 dementia, Maria Cooper has consented to the appointment of April L. Parks as her Guardian and
14 has requested that her appointment be expedited. However, A written consent has not been
15 attached to this Petition in light of the Proposed Ward's diagnosis.

16 11. The Proposed Ward has been the victim of exploitation by both strangers and
17 family members in the recent past, and there is reasonable cause to believe the Proposed Ward is
18 unable to respond to a substantial and immediate risk of financial loss or physical harm, and
19 could not respond to any immediate need to prevent financial exploitation. See Physician's
20 Certificate, Exhibit "3."

21 13. Given the history of exploitation and the inability of the Proposed Ward to
22 account for her remaining assets, it is imperative that a Temporary Guardian be appointed to
23 locate and protect the balance of her estate before further depletion results. Petitioner is informed
24 and believes that the Proposed Ward does not have valid advanced directives or a financial
25 power of attorney, or family member in the United State that can assist her with the present
26 emergency, and is in need of a Temporary Guardian. Therefore, the necessary medical and
27 financial needs of the Proposed Ward cannot be met without the authority granted by this Court
28 to APRIL L. PARKS. It is imperative that Petitioner be allowed to act as Guardian to the

1 Proposed Ward so that immediate action may be taken to ensure that her expenses relative to her
2 care are paid for by the existing long term care insurance policy.

3 14. Without the assistance of APRIL L. PARKS, the Proposed Ward will not be able
4 to continue with the care, supervision or continued assistance of others, and she will be unable to
5 satisfy the need for nourishment, personal or medical care, shelter, self-protection or safety.
6 Based upon her medical conditions, there exists a reasonable probability that death, serious
7 bodily injury or physical debilitation will occur unless the Proposed Ward remains in an
8 appropriate health care facility so that she receives adequate treatment and care.

9 15. MARIA COOPER is unable to adequately manage her affairs at this time, apply
10 for assistance from state and federal agencies if necessary, or respond to an immediate risk of
11 financial exploitation.

12 16. That the Proposed Ward does receive money from the Department of Veterans
13 Affairs as outlined in Exhibit "1", and by reference made a part hereof.

14 17. That the Guardianship is not sought for the purpose of initiating litigation, nor is
15 the Proposed Ward is not a party to any pending criminal or civil litigation.

16 18. That the Proposed Ward has assets and a description of the character and value of
17 the Proposed Ward's estate, so far as is known to Petitioner, is attached to this petition as Exhibit
18 "1".

19 19. Petitioner has actually notified, or in good faith has tried to notify, those persons
20 entitled to notice pursuant to NRS 159.047, or that notice to those persons is not feasible under
21 the circumstances.

22 20. The names and last known addresses of the Proposed Ward and relatives of the
23 Proposed Ward are attached hereto as Exhibit "2".

24 21. The Petitioner requests that all existing powers of attorney, if any, executed by the
25 Proposed Ward be revoked, and that no bond be in effect.

26 22. To enable the Petitioner to carry out the function of General Guardian of the
27 Person and Estate of MARIA COOPER, Petitioner requests that all the powers set forth in NRS
28 159.077 through 159.305 be vested in the General Guardian.

1 21. That pursuant to NRS 159.105 and 183, the Proposed Guardian requests that she
2 be allowed reasonable compensation for her services as Guardian and shall be allowed the
3 necessary and reasonable expenses incurred in exercising her authority and performing her duties
4 as Guardian.

5 22. That pursuant to NRS 159.105 and 183, the Proposed Guardian requests the
6 authority to retain an attorney to represent her, with said attorney allowed necessary
7 compensation and reasonable expenses for services rendered on behalf of the Guardian under
8 NRS 159.105, 107, and 183.

9 23. That the Petitioners will file an Inventory of Guardianship assets within sixty (60)
10 days of their appointment as Guardians in accordance with NRS 159.085. **Exhibit "2"** contains
11 the available information regarding the Proposed Ward's estate, however, the Guardianship
12 estate is appropriate for summary administration, and meets the statutory exception to the
13 payment of a Court filing fee. Petitioners request that said fee be waived.

14
15 24. That Petitioner seeks an immediate Order of this Court appointing APRIL L.
16 PARKS, as Temporary and General Guardian of the Person and Estate of MARIA COOPER,
17 and that same is in the best interests of the Proposed Ward.

18 25. An extension of the Temporary Guardianship is sought until such time as this
19 Court may hold a hearing on the General Guardianship. Said extension is required because the
20 Proposed Ward's medical and mental condition renders her unable to care for herself medically
21 or financially, until a General Guardian is appointed.

22 WHEREFORE, Petitioner prays for an Order of this Court as follows:

23 1. That the Court appoint APRIL L. PARKS, as Temporary Guardian of the Person
24 and Estate of MARIA COOPER.

25 2. The Court order the Clerk of the Court to issue Letters of Temporary
26 Guardianship to APRIL L. PARKS, upon her taking the oath required by law, without bond, and
27 without proof of blocked accounts being required upon issuance.

28 3. That the Temporary Guardian of the Person and Estate of MARIA COOPER shall
be authorized to secure medical assistance for the Proposed Ward, including treatment and/or

1 placement in appropriate surroundings to provide for that care. That the Court grant the
2 Guardianship estate summary administration as the Proposed Ward will be applying for
3 Medicaid benefits.

4 4. That APRIL L. PARKS be appointed as Temporary and General Guardian of the
5 Person and Estate of MARIA COOPER and authorized to obtain confidential medical and
6 financial information and secure the funds of the Proposed Ward, if any, wherever located. This
7 authority includes, but is not limited to, closing accounts in the Proposed Ward's name, opening
8 of a guardianship account, and placing said funds into a said accounts for the payment of the
9 expenses of the Proposed Ward.

10 5. That a one-time release of \$10,000.00 to the Temporary Guardian from the
11 Proposed Ward's financial accounts be authorized for the payment of the Proposed Ward's
12 expenses, whether said accounts or records reflect the name of the Proposed Ward individually,
13 or with one or more persons or trust. Any blocked accounts shall remain blocked account until
14 further Order of the Court. The financial institutions subject to this Court Order include, but are
15 not limited to, Bank of America, Wells Fargo, Nevada State Bank, Nevada Federal Credit Union,
16 Citibank, Clark County Credit Union, Silver State Credit Unit, Chase, or any other financial
17 institution or successor in interest thereto.

18 6. That pursuant to NRS 159.105 and 183, the Temporary and General Guardian
19 shall be allowed reasonable compensation for her services as Temporary Guardian and shall be
20 allowed the necessary and reasonable expenses incurred in exercising her authority and
21 performing her duties as Temporary Guardian.

22 7. That the Temporary and General Guardian may hire an attorney to represent her
23 with said attorney allowed necessary compensation and reasonable expenses for services
24 rendered on behalf of the Temporary Guardian under NRS 159.105, 107, and 183.

25 8. That all existing powers of attorney executed by the Proposed Ward shall be
26 revoked and no bond is necessary.

27 9. That the Temporary and General Guardian shall have full access to any and all
28 medical records and information concerning the past and present condition and historical

1 treatment of the Proposed Ward, which are or may be lodged with any persons, family members
2 and friends, along with any and all medical providers, physicians, hospitals, care facilities and/or
3 institutions.

4 10. That the Temporary and General Guardian shall have full access to all historical
5 and current financial information for the Proposed Ward. Such information shall include, but not
6 be limited to, statements, cancelled checks, withdrawal authorizations and other information
7 from banks, financial institutions, brokerage or mutual fund firms, the United States Social
8 Security Administration and other persons and agencies which have engaged in transactions
9 concerning the financial affairs of the Proposed Ward, whether said accounts or records reflect
10 the name of the Proposed Ward individually, or with one or more persons or trust and shall
11 specifically include information as to the Proposed Ward's account(s) with Bank of America,
12 Wells Fargo, Nevada State Bank, Nevada Federal Credit Union, Citibank, Silver State Credit
13 Unit, Clark County Credit Union, Chase, or any other institution, or successor in interest thereto.

14 11. That the Temporary and General Guardian shall be authorized to request and
15 receive information from any other person or agency which is currently or has previously been
16 involved in the Proposed Ward's welfare, including but not limited to caregivers, doctors (past
17 and present) friends and family.

18 12. Petitioner requests authorization to use the assistance of the Henderson Police
19 Department, Las Vegas Metropolitan Police Department, or any other law enforcement agency,
20 fire department, ambulance service, and/or medical personnel, to assist in securing the Proposed
21 Ward, and her estate, and removing, or preventing access to same, by persons alleged to be
22 exploiting the Proposed Ward.


23 13. An extension of the Temporary and General Guardianship is sought until such
24 time as this Court may hold a hearing on the appointment of APRIL L. PARKS as General
25 Guardian of the Person and Estate of MARIA COOPER. Said extension is required because the
26 Proposed Ward's medical condition renders her unable to care for herself medically or
27 financially, until a General Guardian is appointed.

1 14. That in the unlikely event the instant Petition be denied, that the Court issue an
2 Order to Shorten Time allowing the General Guardianship hearing to be held no later than
3 _____, 2011, on the Petition for General Guardianship.

4 15. For such other further relief as the Court may deem proper and just.

5 DATED this 23rd day of August, 2011.

6
7 PALMER LAW GROUP, PLLC

8
9 By: 
10 NOEL PALMER SIMPSON, ESQ.
11 Nevada Bar No. 9642
12 2460 Professional Court, Suite #110
13 Las Vegas, NV 89128
14 Attorney for Petitioner
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EXHIBIT "1"

ASSETS AND/OR INCOME

ASSETS

Real property

None

Vehicle

None

Financial Assets

| | |
|----------------------------------|-------------|
| Bank of America Checking Account | \$ 3,090.00 |
|----------------------------------|-------------|

| | |
|------------------------|-------------|
| TOTAL FINANCIAL ASSETS | \$ 3,090.00 |
|------------------------|-------------|

MONTHLY INCOME

| | |
|----------------------------|-------------------|
| Dept. Of Veteran's Affairs | \$ unknown |
| Social Security income | <u>\$1,225.00</u> |

| | |
|--------------|------------|
| TOTAL INCOME | \$1,225.00 |
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EXHIBIT "2"

NAMES, ADDRESS, AND RELATIVES OF PROPOSED WARD
AND OTHER ENTITLED TO NOTICE

MARIA COOPER

Atria Assisted Living Facility

3250 S. Fort Apache Road

Las Vegas, Nevada 89117

Proposed Ward

April L. Parks

1022 Boulder Hwy. #101

Boulder City, Nevada 89005

Certified Guardian and Proposed Guardian

Veterans Administration

c/o Fiduciary Activity

4800 Alpine Place, Ste. 12

Las Vegas, NV 89107

There are no other living relatives entitled to Notice under pursuant to NRS 159.047

VERIFICATION


STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

APRIL L. PARKS, being first duly sworn, under penalty of perjury, deposes and says:

I am the Petitioner in the above-entitled action; I have read the foregoing PETITION FOR TEMPORARY GUARDIANSHIP OF THE PERSON AND ESTATE; and I know the contents thereof; the same is true of my own knowledge, except for those matters therein contained stated upon information and belief, and as to those matters I believe them to be true.


APRIL L. PARKS

SUBSCRIBED and SWORN to before
me this 19th day of August, 2011.


NOTARY PUBLIC in and for said
County and State

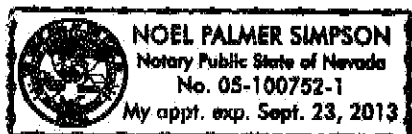


EXHIBIT “3”

Aug 18 2011 4:03PM

WIKLER FAMILY PRACTICE

7024332743

PAGE 02

08/17/2011 14:51 6296200

APPGNV

PHYSICIAN'S CERTIFICATE

Please print clearly or type

**PLEASE NOTE THAT THIS CERTIFICATE HAS BEEN UPDATED TO COMPLY WITH
THE REQUIREMENTS OF NRS 159.044 EFFECTIVE OCTOBER 1, 2009**I, David Wikler, D.O. am a physician licensed to practice in the State of Nevada.I examined Maria Cooper an adult, on 7/25/11
Name of Patient Date of examThis adult patient suffers from (Diagnosis): Vertigo, IBS, CKD III, Poor
hearingwhich is a ☒ Permanent ☐ Temporary condition.

1. I certify that this adult patient is unable to respond without assistance (check all that apply; at least one must be provided):

- ☐ To a substantial and immediate risk of physical harm
☐ To an immediate need for medical attention
☒ To a substantial and immediate risk of financial loss or exploitation

2. The Proposed Ward ☐ does OR ☒ does not present a danger to himself or others.3. Attendance at a court hearing ☐ would OR ☒ would not be detrimental to the health of the Proposed Ward. Please note that traveling to and from Court, in addition to waiting time and public conditions at the Courthouse, should be considered.4. The Proposed Ward ☒ would OR ☐ would not comprehend the reason for a hearing
and
☒ would OR ☐ would not contribute to the proceeding.5. The Proposed Ward ☐ is OR ☒ is not capable of living independently.

Please provide an assessment of the needs of the Proposed Ward:

Needs someone to live with her + take care of
problems that arise

Please identify the limitations of capacity of the Proposed Ward and describe how these limitations affect the ability of the Proposed Ward to maintain his/her safety and basic needs:

Pt very hard of hearing. She wakes up in
the night + panics

PHYSICIAN'S CERTIFICATE

PAGE 2 of 2

Patient: Maria Cooper

Attached hereto is (check all that apply, at least one must be provided):

1. ☐ A copy of my report of the above exam which includes my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
2. ☒ A copy of the patient's chart notes which support and/or detail my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
3. ☐ A letter, signed by me, detailing my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.

It is my opinion that this patient needs a guardian of:

☒ Person and Estate ☐ Estate only

It is my opinion that this patient is able to attend the guardianship hearing: ☒ (Check Here if yes); OR

1. ☐ Able to attend. However, attendance at a court hearing would be detrimental to the health of the Proposed Ward because: _____

(Please specify reason patient cannot/should not attend due to health concerns.)

OR

2. ☐ Unable to attend the guardianship court hearing because: _____

(Please specify reason patient cannot/should not attend due to health concerns.)

Date: 8/18/11

[Signature]
Signature

Address: 8985 S. Pecos Rd. Ste. 4A
Henrieville, AZ 89074

*Please note that if you are not comfortable completing this portion of the form, you may complete the rest of the form and leave this provision blank, or strike a line through it. Another individual may advise the Proposed Ward of the right to be represented, and that Certificate filed with the Court separately.

TO BE COMPLETED ONLY IF THE PATIENT IS UNABLE TO ATTEND THE HEARING:

- ☐ I have advised the patient of his/her right to counsel and the Proposed Ward ☐ does OR ☐ does not wish to be represented by counsel in the guardianship proceeding. OR ☐ is unable to respond to my advising him/her of the right to have an attorney.

Physician's Initials: _____

Maria. Cooper

L

(10)

5/1/21
(84)

JUN 20 2011

Time in:

Time out:

pt presents for @ ear leakage

Clear after flush. - for DX: cerumen impaction

Next Appointment no next appt

JUL 25 2011

Time in:

Time out:

Wt: 141

P: 92

R: 10

T: 98.4

wakes up @ 1 AM most notes & drowsiness
+ nausea. Relieved & Librium. Panics +
wants to call 911

126/80

HR

LL

Mud O

A.S. BERO - Omeprazole 20 #30 3 RE
1) 135 - 1 Librium to 610 #120 2 RE
2) Memory loss
P Keep 10/14 OV

L

David Wikler, D.O.

SLUMS EXAMINATION

Name: Maria Cooper Date: 8/11/11

Age: 84 Level of Education: No HS education

- 3 {
1. What day of the week is it? (1 point) Thursday
 2. What is the year? (1 point) 2011
 3. What state are we in? (1 point) Did not understand question, but stated she lived in Las Vegas
 4. Please remember these five objects. I will ask you what they are later. Read objects to client
Apple Pen Tie House Car

- 0
5. You have \$100.00 and you go to the store and buy a dozen apples for \$3.00 and a tricycle for \$20.00 Repeated question x2
How much did you spend? (1 point) \$10.00
How much do you have left? (1 point) \$80.00

- 0
6. Please name as many animals as you can in one minute.
0-4 animals (0 point) 5-9 animals (1 point) 1111
10-14 animals (2 points) 15+ animals (3 points) COULD name no more than 4. COULD not name any in her native tongue.

- 0
7. What were the 5 objects I asked you to remember (1 point for each one correct) 0
COULD NOT recall any of the items.

- 0
8. I am going to give you a series of numbers and would like you to give them to me backwards. For example, if I say 42, you would say 24.
87 (0 points) 649 (1 point) 964 8537 (1 point) 7385

- 0
9. This is a clock face (give client clock paper). Please put in the hour marker and the time at ten minutes after eleven.
Hour markers okay (1 point) 0
Time correct (1 point) 0

- 2
10. Please place an X in the triangle (Give client shapes paper) (1 point) |
Which figure is the largest (1 point) |

- 2
11. I am going to tell you a story. Please listen carefully because afterwards, I am going to ask you some questions.
Jill was a very successful stockbroker. She made a lot of money on the stock market. She then met Jack, a devastatingly handsome man. She married him and had three children. They lived in Chicago. She then stopped work and stayed at home to bring up her children. When they were teenagers, she went back to work. She and Jack lived happily ever after.

Said that I never mentioned her name.

What was the female's name? (2 points) 0 What work did she do? (2 points) 0
When did she go back to work? (2 points) 0 What city did she live in? (2 points) 2

Total Score: 7

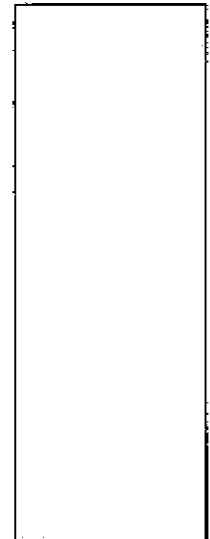
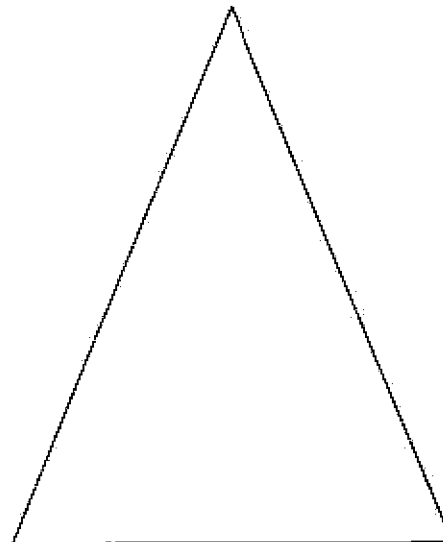
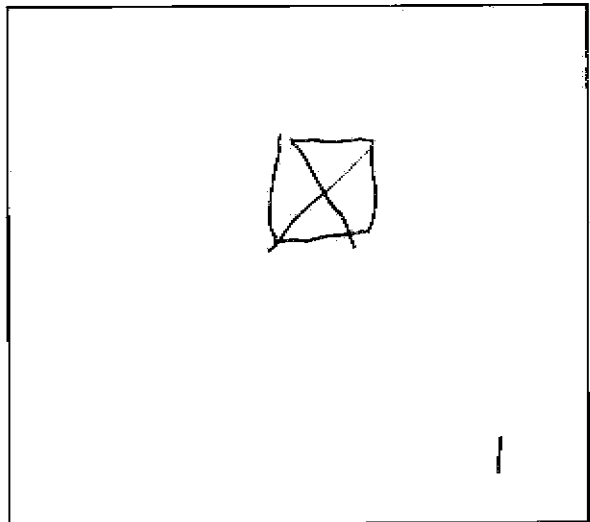
Test administered by: Maria RA Date: 8/11/11

| HS Education | | No HS Education |
|--------------|---------------------------|-----------------|
| 27-30 | Normal | 25-30 |
| 21-26 | Mild Cognitive Impairment | 20-24 |
| 1-20 | Dementia | 1-19 |

Add 1 point to question 5 & 6 points to question 11 score is 14

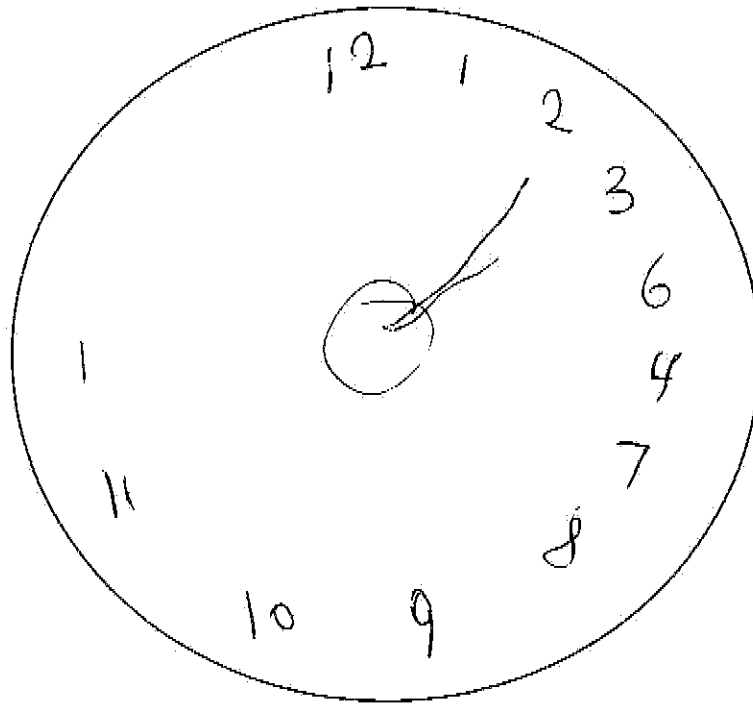
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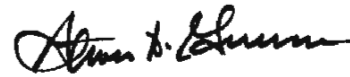
Please place an X in the triangle.



*Said she did not know what a triangle was.
I asked her to place an X in the square.*

This is a clock face. Please put in the hour markers and the time at ten minutes after eleven.





CLERK OF THE COURT

RAR
NOEL PALMER SIMPSON, ESQ.
Nevada Bar No. 9642
PALMER LAW GROUP, PLLC.
5532 S. Fort Apache Road, Ste.120
Las Vegas, NV 89148
(702) 776-7680 FAX (702) 776-7684
Attorney for Petitioner APRIL L. PARKS

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the General Guardianship of
the Person and Estate of

Case No.: **G-11-036374-A**
Dept. No.: **E**

MARIA COOPER,

HEARING DATE: 11/30/11
HEARING TIME: 10:00am

an Adult Ward.

REPORT AND RECOMMENDATION OF GUARDIANSHIP COMMISSIONER ON
PETITION FOR APPOINTMENT OF GENERAL GUARDIAN OF PERSON AND
ESTATE

APPEARANCES: Noel Palmer Simpson, Esq., of Palmer Law Group, PLLC., Counsel
for April L. Parks.

Jonathan W. Barlow, Esq., of Barlow Flake, LLP, Counsel for
Noreen Malutic.

Carol Kingman, Esq., and Julie Arnold, Esq., of The Senior
Citizen's Law Project

THIS MATTER having come before the Court on the 30th day of November, 2011,
regarding APRIL L. PARKS, Temporary Guardian of the Person and Estate of MARIA COOPER,
Proposed Ward, having filed herein their Petition For Appointment of Temporary and General
Guardianship of Person and Estate, in the above-entitled matter by and through her attorney,
NOEL PALMER SIMPSON, ESQ., of the Law Office of PALMER LAW GROUP, PLLC., and
NOREEN MALUTIC, neighbor of MARIA COOPER, having filed herein her Petition to
Terminate Temporary Guardianship, Or In the Alternative, for Appointment of General Guardian,
in the above-entitled matter by and through her attorney, Jonathan W. Barlow ESQ., of Barlow
Flake, LLP, and CAROL KINGMAN, ESQ., and JULIE ARNOLD, ESQ., of the SENIOR
CITIZEN'S LAW PROJECT having been appointed by the Court as Guardian Ad Litem for

GUARDIANSHIP
MAR 02 2012
RECEIVED

AA 0581

SUPP 0406

1 MARIA COOPER, for the purposes of making a report and recommendation to the Court
2 regarding the Proposed Ward's best interests, and DR. GREGORY BROWN and DR. JILL
3 MARGOLIS, having been appointed by the Court as independent medical evaluators for the
4 purpose of determining contractual and testamentary capacity of the Proposed Ward, and said
5 Petitions and Objections coming on regularly to be heard the 30th day of November, 2011, with
6 the medical reports having been submitted to the Court and all parties, and the Guardian Ad Litem
7 having made their verbal report and recommendation before the Court, and the Guardianship
8 Commissioner having reviewed all pleadings, papers, reports and having heard oral argument in
9 this mater, and good cause appearing therefor, finds and recommends as follows:

10 I.

11 FINDINGS

12 1. Notice of the time and place of said hearings have been given in the manner
13 required by law;

14 **PETITION TO TERMINATE TEMPORARY GUARDIANSHIP, OR IN THE**
15 **ALTERNATIVE, FOR A PPOINTMENT OF GENERAL GUARDIAN.**

16 2. The Court finds that it is not in the Ward's best interests to remove APRIL L.
17 PARKS as Guardian, and replace with NOREEN MALUTIC, for the following reasons:

18 a. Based upon the investigation of the Court Appointed Guardian Ad Litem,
19 the Proposed Ward, MARIA COOPER, is in need a Guardian of the Person and Estate, and
20 has expressed a preference that April L. Parks be appointed as General Guardian. The
21 Guardian Ad Litem recommends that this request be honored by the Court based upon the
22 reasons given by the Proposed Ward, and finds that, given that MARIA COOPER is
23 relatively high functioning, significant weight should be accorded her wishes.

24 b. MARIA has verbally rescinded her nomination of Noreen Malutic as
25 Guardian, and has told the Guardian Ad Litem that she does not want Josif Salaj, a
26 proposed beneficiary in estate planning documents executed on June 8, 2011, to receive
27 anything from her estate,
28

c. Based upon the reports submitted by Dr. Brown and Dr. Margolis, as well as the observations and report of the Guardian Ad Litem, MARIA COOPER does not possess the contractual capacity required to execute a Revocable Living Trust, Power of Attorney, or enter into a contract for services. Given the proximity of this determination to the execution of estate planning documents which included these items on June 8, 2011, it is recommended by the Guardian Ad Litem that the Court should take jurisdiction of MARIA COOPER'S Revocable Living Trust of that date, and that it is prudent to also make April L. Parks the Successor Trustee of the Trust.

3. Based on the above, the Court finds that it is in the best interests of the Proposed Ward, MARIA COOPER, that the Petition to Terminate Temporary Guardianship, Or in the Alternative, For Appointment of General Guardian filed by NOREEN MALUTIC, be denied.

4. The Court also finds that it is in the best interests of the Proposed Ward that the Petition for Appointment of General Guardian of the Person and Estate of MARIA COOPER, as filed by APRIL L. PARKS should be granted.

5. That it is in the best interests of the Proposed Ward that the Court take jurisdiction of the Maria Cooper Revocable Trust, dated June 8, 2011, and that APRIL L. PARKS, be appointed as the Successor Trustee.

6. That Court further finds that the Proposed Ward currently possesses testamentary capacity, and may therefore execute a new Last Will and Testament if she so chooses, with the advice of independent legal counsel.

II.

RECOMMENDATIONS

Based on the above findings, IT IS HEREBY RECOMMENDED that the Petition for General Guardianship of Person and Estate of MARIA COOPER, by Petitioner APRIL L. PARKS be granted, and that a separate Order Appointing General Guardian of Person and Estate be filed upon this Recommendation becoming an Order.

1 IT IS FURTHER RECOMMENDED that the Petition To Terminate Temporary
2 Guardianship, Or in the Alternative, For Appointment of General Guardian filed by NOREEN
3 MALUTIC, be denied.

4 IT IS FURTHER RECOMMENDED That the Court take jurisdiction of the Maria Cooper
5 Revocable Trust dated June 8, 2011, and that APRIL L. PARKS appointed as the Successor
6 Trustee. With the exception of the Last Will and Testament executed on that date, all other estate
7 planning documents are revoked.

8 IT IS FURTHER RECOMMENDED that the Ward, MARIA COOPER, be given the
9 opportunity to execute a new Last Will and Testament if she so chooses to do so, with separate
10 legal counsel to advise and represent her.

11 DATED this 9 day of ^{March}~~February~~, 2012.

12
13
14 COMMISSIONER

15 Respectfully submitted by:

16 PALMER LAW GROUP, PLLC.

17 By: **Noel Palmer Simpson**

18 NOEL PALMER SIMPSON, ESQ.

19 Nevada Bar No. 9642

5532 S. Fort Apache Road, Ste. 120

Las Vegas, Nevada 89148

Attorney for Petitioner APRIL L. PARKS

20
21 Read and approved by:

22 BARLOW FLAKE, LLP

23 By: 

24 Jonathan W. Barlow, ESQ.

25 Nevada Bar No. 9964

701 N. Green Valley Pkwy., Ste. 200.

26 Las Vegas, Nevada 89074

27 Attorney for NOREEN MALUTIC

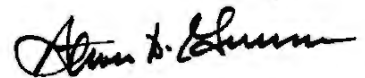
PAG

A Private Professional Guardian, LLC

1022 Nevada Highway #110
Boulder City, NV 89005

702-629-6200

In Proper Person



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Guardianship the
person and the estate of:

KATHY GODFREY

an Adult.

CASE NO. G-14-040812-A
DEPT. NO. E

PETITION FOR APPOINTMENT OF GUARDIAN

COMES NOW, Petitioner, APRIL L. PARKS, NCG for A Private Professional Guardian, LLC in accordance with Chapter 159 of the Nevada Revised Statutes, whose petition respectfully represents the following to this Honorable Court:

Information Regarding the Petitioner

1. That Petitioner, APRIL L. PARKS, NCG of A Private Professional Guardian, LLC would like to be appointed the general guardian over Person of KATHY GODFREY .
2. That Petitioner's full legal name is APRIL L. PARKS, NCG for A Private Professional Guardian, LLC.
3. That Petitioner currently resides at: 1022 Nevada Highway #110 Boulder City, NV 89005
4. That Petitioner's mailing or post office address is the same as above.

1 5. The Petitioner's date of birth is [REDACTED] 1965.

2 6. That Petitioner has not been judicially determined to have
3 committed abuse, neglect or exploitation of a child, spouse, parent or other person.

4 7. That the Petitioner has never been convicted of a felony.

5 8. That Petitioner has not been suspended for misconduct or disbarred from the practice
6 of law, the practice of accounting or any other profession which involves the management or sale
7 of money, investments, securities or real property and requires licensure in Nevada or any other
8 state. The Petitioner has not filed for bankruptcy in the last 7 years. The Petitioner is not a party
9 to any pending criminal or civil litigation.

10 10. That the Petitioner is a private professional guardian with documents proving the
11 Petitioner meets the requirements filed with the court and of no relation to the proposed ward.

12 **Information Regarding the Proposed Ward**

13 11. That the proposed ward, KATHY GODFREY, 65, was born on [REDACTED] 1949

14 12. That the proposed ward's current address is: 2170 East Harmon Las Vegas,
15 NV 89119 and they have resided at this location for: > 2 months

16 13. There has not been another care provider that has control or responsibility of the
17 proposed ward.

18 14. The proposed ward is a resident of the state of Nevada.

19 15. That the proposed ward has not executed a Revocable/Living Trust, A Durable
20 Power of Attorney for Health or Finances or a written nomination for guardian.

21 16. The proposed ward is not party to pending criminal or civil litigation.

22 17. That the guardianship is not sought for the purpose of initiating litigation.

23 18. That documentation demonstrating the need for a guardianship will be filed with
24 this petition.

25 19. A copy of identification will be filed for both the Petitioner and the proposed ward
26 in a separate document.

20. The names and addresses of the following relatives of the ward are:

| Relative's Name | Relationship to Ward | Address (street address/city/state/zip code) |
|-----------------|----------------------|--|
| Daniel Godfrey | Son | 3644 S. Fort Apache Rd #2118-31 Las Vegas, NV 89147 |
| Matthew Godfrey | Son | 3644 S Fort Apache Rd #2118-31 Las Vegas, NV 89147 |
| Jack Godfrey | Ex-husband | 11249 Golden Chestnut Place Las Vegas, NV 89135 |
| | | |
| | | |
| | | |
| | | |
| | | |

21. That a general guardianship for the proposed ward is needed because: Proposed ward suffers from effects of chronic alcoholism.

The proposed ward has family, but they are unable to care for her.

The proposed ward will need assistance in handling her finances, finding appropriate placement and in making health care decisions.

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22. The Petitioner has been unable to locate any assets or income. To the best of the
 ner's knowledge and to the best of the ward's knowledge they are not receiving
 n's benefits.

22. NRS 159.132 and NRS 159.127 provide that a guardian may sell personal property of the estate with prior approval of the Court. The Guardian has determined that the Proposed Sale will benefit from the sale of personal property and therefore asks this Court for authority to sell the personal property of the estate by public auction or by offering the items for sale on the internet through EBAY or other similar internet websites. Notice will be published according to the requirements of NRS 159.1535.

3. That Petitioner has not been appointed as guardian over the
 ward in a state other than Nevada. If Petitioner has been appointed Guardian over the
 ward in another state, Petitioner will file an exemplified copy of the guardianship order
 with this Court.

REFORE, Petitioner prays that this general guardianship be granted and for such other
 further relief as the court may deem just and proper.

D this 27 day of August, 2014.

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VERIFICATION

STATE OF NEVADA)

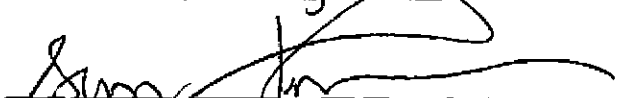
County of Clark) ss:

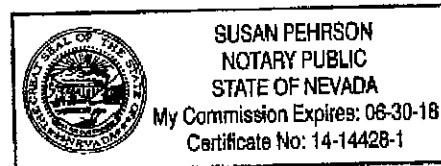
I, APRIL L. PARKS, NCG, for A Private Professional Guardian, LLC being first duly sworn under penalty of perjury, hereby depose and say:

That I am the Petitioner in the within action; that I have read the foregoing Petition for Appointment of Guardian and know the contents thereof; that the same is true of my knowledge except as to those matters therein state upon information and belief and as to those matters, I believe them to be true;


Petitioner

SIGNED and SWORN to before me on the
27th day of August 2014

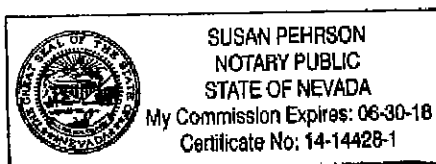

NOTARY PUBLIC



ACKNOWLEDGEMENT

STATE OF NEVADA)
COUNTY OF CLARK) ss.

On this 27th day of August, 2014, before me, the undersigned Notary Public in and for the said County and State, personally appeared APRIL L. PARKS, NCG of A Private Professional Guardian, LLC known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that she did so freely and voluntarily and for the uses and purpose therein mentioned. Witness my hand and official seal.



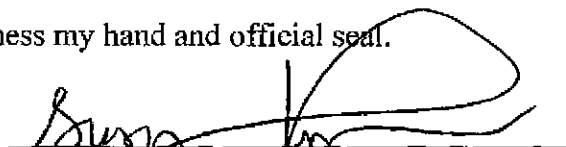

NOTARY PUBLIC

Exhibit 1

CERTIFICATE OF INCAPACITY AND REGARDING THE NEED FOR GUARDIANSHIP

In accordance with NRS 159.044(2)(j):

I, RICHARD PAGLIA (your name), am:

- ☒ A physician licensed to practice in the State of Nevada
☐ A physician employed by the Department of Veterans Affairs
☐ Employed by _____ (name of agency),
 A governmental agency in the State of Nevada who conducts investigations.
☐ Employed by _____ (name of agency).
 The title of my position is _____ and I qualify
 to execute this Certificate for the following reasons: _____

It is my opinion that the adult patient, Kathy Godfrey, suffers from a
 diagnosis of: encephalopathy 2° chronic alcohol effects
(WERNICKE'S ENCEPHALOPATHY)

It is my opinion that this patient ☒ is or ☐ is not a danger to himself/herself or to others.

It is my opinion that (check all that apply):

- ☐ The patient is able to attend the guardianship Court hearing
☒ The patient would not comprehend the reason for the Court hearing or be able to
 contribute to the proceeding
☐ Attending the Court hearing would be detrimental to the patient

It is my opinion that this patient:

- ☐ is or ☒ is not capable of living independently;
☒ with or ☐ without assistance. If patient requires assistance, please explain:

INCREASING FALLS - SHE HAS SEVERE INCONTINENCE
WOULD ONE TO FALL

In accordance with NRS 159-052 (1)(a):

It is my opinion that this patient is unable to respond (check all that apply):

- ☐ To a substantial and immediate risk of physical harm
- ☐ To an immediate need for medical attention
- ☐ To a substantial and immediate risk of financial loss
- ☒ None of the above

It is my opinion that this patient:


- ☐ Is or has been subject to abuse, neglect or exploitation
- ☒ Has not been subject to abuse, neglect or exploitation

In accordance with NRS 159.044:

It is my opinion that this patient needs a guardian of:

- ☐ Person (only)
- ☐ Estate (only)
- ☒ Person and Estate

Dated this 21st day of July, 2014.


(Physician's Signature)

Virginia M. Munn NV11719
(Printed Name)

EVENTS & ORDERS OF THE COURT

11/13/2014 | **Citation - HM** (1:30 PM) (Magistrate Norheim, Jon)
Citation to Appear and Show Cause

Minutes

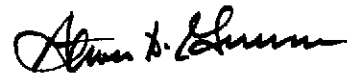
11/13/2014 1:30 PM

- CITATION TO APPEAR AND SHOW CAUSE

Petitioner and Ward were present. Ward's son, Matthew Godfrey, was present and seated in the gallery. The Guardianship Commissioner was sitting under direction and in lieu of the Guardianship Judge. The Court and Ward discussed the second doctor's evaluation. The Court noted that the doctor expressed necessity for the guardianship; however, the ward argued against the guardianship. The Court stated that the ward may obtain a neurologist or psychologist's opinion to refute the second doctor's opinion. The ward ultimately capitulated to the guardianship. The Court and Ward then discussed her assets and income. COMMISSIONER RECOMMENDED: Petition for Appointment of Guardian is hereby GRANTED.

Parties Present

[Return to Register of Actions](#)



CLERK OF THE COURT

1 **ACCT**
2 LEE A. DRIZIN, ESQ.
3 Nevada Bar No. 4971
4 **LEE A. DRIZIN, CHTD.**
5 2460 Professional Court, Suite 110
6 Las Vegas, Nevada 89128
7 (702) 798-4955 FAX (702) 798-5955
8 lee@leedrizin.com
9 Attorneys for Successor Trustee

6
7 **DISTRICT COURT**
8 **FAMILY DIVISION**
9 **CLARK COUNTY, NEVADA**

10 In the Matter of the Guardianship of the
11 Person and Estate of

Case No.: **G-10-035162-A**
Dept. No.: **G**

12 **WILLIAM BRADY,**

13 an Adult Ward.

14 **FIRST ANNUAL ACCOUNT OF SUCCESSOR TRUSTEE**

15 COMES NOW, APRIL L. PARKS, Manager of A Private Professional Guardian,
16 LLC, Successor Trustee of the William L. Brady Revocable Trust, by and through her
17 attorney, LEE A. DRIZIN, ESQ. of the law firm LEE A. DRIZIN, CHTD., and presents to this
18 Honorable Court the *First Annual Account of Successor Trustee*, and alleges as follows:

19 1. The Successor Trustee was nominated by Josephine Eugenio, the first
20 Trustee after Ms. Eugenio resigned. April L. Parks was appointed as Successor Trustee
21 on January 19, 2011.

22 2. Attached hereto as **Exhibit "1"** is an account setting forth the estate
23 transactions covering the period October 14, 2010 through June 22, 2015.

24 3. LEE A. DRIZIN, ESQ. has consulted with the Successor Trustee and has,
25 among other things, prepared this Account. The Successor Trustee alleges that the sum
26 of \$1,309.80 is a reasonable fee to compensate the law firm of LEE A. DRIZIN, CHTD. for
27 their services, together with any costs incurred in noticing this proceeding, and requests
28 that this Court confirm payment of the amounts prepaid and further direct the Guardian to
pay the outstanding balance of fees. **Exhibit "2."**

LAW OFFICES OF
LEE A. DRIZIN, CHTD.
2460 Professional Court, Ste. 110
Las Vegas, Nevada 89128
(702) 798-4955 FAX (702) 798-5955

4. The Successor Trustee also requests that the Court allow the reasonable and necessary expenses for payment of attorney's fees associated with further administration of the Trust.

WHEREFORE, the undersigned respectfully requests:

a. The foregoing First Annual Account of Successor Trustee be approved, and all actions taken by the Successor Trustee as set forth herein be ratified and approved;

b. This Honorable Court direct the Successor Trustee to pay from funds at hand in the estate the outstanding balance of fees and costs in the amounts requested herein; and,

c. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 20 day of October, 2015.

LEE A. DRIZIN, CHTD.

By

LEE A. DRIZIN, ESQ.
Nevada Bar No. 4971
2460 Professional Court, Ste. 110
Las Vegas, Nevada 89128
Attorneys for Guardian

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VERIFICATION

STATE OF NEVADA }
COUNTY OF CLARK } ss:

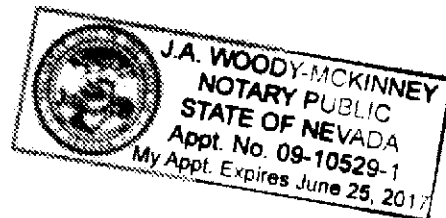
I, APRIL L. PARKS, Manager of A Private Professional Guardian, LLC, being first duly sworn, under penalty of perjury, hereby depose and say:

That I am the Successor Trustee of the William L. Brady Trust in the within action; that I have read the foregoing *First Annual Account of Successor Trustee* and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated upon information and belief, and as to those matters I believe them to be true.


APRIL L. PARKS, Manager
A Private Professional Guardian, LLC

SUBSCRIBED and SWORN to before me this 27th day of October, 2015.


NOTARY PUBLIC in and for said
COUNTY and STATE



Submitted by:

LEE A. DRIZIN, CHTD.

By: 

LEE A. DRIZIN, ESQ.
Nevada Bar No. 4971
2460 Professional Court, Ste. 110
Las Vegas, Nevada 89128
Attorneys for Guardian

X:\GUARDIAN\B\BRADY\PLEADINGS\FIRST - PRIVATE (1)\First Annual - Trust.wpd

EXHIBIT 1

AA 0597

SUPP 0422

In the Matter of the Guardianship of the
Person and Estate of WILLIAM L. BRADY (TRUST ACCOUNTING)

Accounting from 10/14/2010 to 6/22/2015

BEGINNING ASSETS

| | |
|---|----------------------|
| CitiBank Checking Account No. xxxx4880 | \$ 3,346.17 |
| CitiBank Savings Account No. xxxx4880 | 85.57 |
| CitiBank CD Account No. xxxx4880 | 44,163.62 |
| Bank of the West CD Account No. xxxx6656 | 98,196.07 |
| Property on Hand, Beginning 10/14/2010 | \$ 145,791.43 |

RECEIPTS

| | |
|---|---------------------|
| Social Security | \$ 64,038.27 |
| Interest Income | 494.83 |
| Prescription Refund | 14.26 |
| Funds from sale of vehicle in Guardianship Estate | 368.00 |
| TOTAL RECEIPTS | \$ 64,915.41 |

DISBURSEMENTS

| | |
|----------------------------|----------------------|
| Room & Board | \$ 122,800.00 |
| Medical Expenses | 9,633.15 |
| Prescriptions | 1,505.53 |
| Guardian Fees | 33,033.30 |
| Attorney Fees | 7,177.20 |
| Personal Care Items | 486.69 |
| Miscellaneous Expenses | 27.00 |
| TOTAL DISBURSEMENTS | \$ 174,622.87 |

ENDING ASSETS

| | |
|---|---------------------|
| CitiBank Checking Account No. xxxx4880 | \$ 36,043.97 |
| Property on Hand, Ending 6/22/2015¹ | \$ 36,043.97 |

¹ The discrepancy of \$40.00 is considered nominal.

EXHIBIT 2

AA 0599

SUPP 0424

Lee A. Drizin, Chartered

2460 Professional Court

Suite 110

Las Vegas, NV 89128

Ph:702-798-4955

Fax:702-798-5955

April Parks
1022 Nevada Highway
Suite 110
Boulder City, NV 89005

October 5, 2015

Attention: April

File #: 3030-002

Inv #: 13369

RE: Brady, William - Trust Administration

| DATE | DESCRIPTION | HOURS | AMOUNT | LAWYER |
|-----------|---|-------|------------|--------|
| Jul-10-15 | Prepare Trust Inventory (.50); prepare Certificate of Mailing re: same (.20); prepare First Annual Trust Account (1.0); prepare Summary of Account (.50); prepare Order (.40); prepare Notice of Entry of Order (.30); prepare Certificate of Mailing (.20); prepare Notice of Hearing (.20). | 3.30 | 1,155.00 | LAD |
| Oct-05-15 | Revise Trust Accounting Petition and Order. | 0.40 | 140.00 | LAD |
| | Totals | 3.70 | \$1,295.00 | |

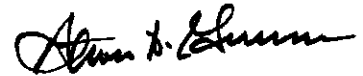
DISBURSEMENTS

| | | |
|-----------|-------------|---------|
| | Photocopies | 7.80 |
| Jul-10-15 | Efile INVY | 3.50 |
| Aug-14-15 | Efile CERT | 3.50 |
| | Totals | \$14.80 |

Total Fee & Disbursements **\$1,309.80**

Balance Now Due **\$1,309.80**

PAG
April L. Parks, NCG
1022 Nevada Highway #110
Boulder City, NV 89005
702-629-6200
In Proper Person



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Guardianship the
person and the estate of:

KATHY MESLOH

an Adult.

CASE NO. G-13-039263-A
DEPT. NO. E

PETITION FOR APPOINTMENT OF TEMPORARY GUARDIAN

COMES NOW, Petitioner, APRIL L. PARKS, NCG, in accordance with Chapter 159
of the Nevada Revised Statutes, whose petition respectfully represents the following to this
Honorable Court:

Information Regarding the Petitioner

1. That Petitioner, APRIL L. PARKS, NCG would
like to be appointed the general guardian over KATHY MESLOH .
2. That Petitioner's full legal name is APRIL L. PARKS, NCG.
3. That Petitioner currently resides at 1022 Nevada Highway #110
Boulder City, NV 89005.
4. That Petitioner's mailing or post office address is the same as above.

- 1 5. The Petitioner's date of birth is [REDACTED] 1965.
- 2 6. That Petitioner has not been judicially determined to have
- 3 committed abuse, neglect or exploitation of a child, spouse, parent or other person.
- 4 7. That the Petitioner has never been convicted of a felony.
- 5 8. That Petitioner has not been suspended for misconduct or disbarred from the practice
- 6 of law, the practice of accounting or any other profession which involves the management or sale
- 7 of money, investments, securities or real property and requires licensure in Nevada or any other
- 8 state. The Petitioner has not filed for bankruptcy in the last 7 years.
- 9 9. That Petitioner is of no relation to the proposed ward.
- 10 10. That the Petitioner is a private professional guardian with documents proving the
- 11 Petitioner meets the requirements filed with the court.

12 **Information Regarding the Proposed Ward**

- 13 11. That the proposed ward, KATHY MESLOH, 67, was born on [REDACTED] 1946
- 14 12. That the proposed ward's current address is: 6040 Draft Horse Dr, North Las Vegas
- 15 NV 89081 and they have resided at this location for: > 2 years
- 16 13. There has not been another care provider that has control or responsibility of the
- 17 proposed ward.
- 18 14. The proposed ward is a resident of the state of Nevada.
- 19 15. That the proposed ward has not executed a Revocable/Living Trust, A Durable
- 20 Power of Attorney for Health or Finance or a written nomination for guardian.
- 21 16. The proposed ward is not party to pending criminal or civil litigation.
- 22 17. That the guardianship is not sought for the purpose of initiating litigation.
- 23 18. That documentation demonstrating the need for a guardianship will be filed with
- 24 this petition.
- 25 19. A copy of identification will be filed for both the Petitioner and the proposed ward
- 26 in a separate document.

20. The names and addresses of the following relatives of the ward are:

| Relative's Name | Relationship to Ward | Address (street address/city/state/zip code) |
|-----------------|----------------------|--|
| Herman Mesloh | Husband | 6040 Draft Horse Drive North Las Vegas, NV 89081 |
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21. That a Temporary guardianship for the proposed ward is needed because:

The proposed ward has Alzheimer's disease and other medical issues. She is currently living alone and is in need of medical attention and unable to respond to financial loss. Her husband is currently hospitalized and undergoing hip surgery. He is legally blind, no longer able to care for his wife and will not be able to return home. The proposed ward needs immediate placement and support with ADLs and medication management.

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4 22. The proposed guardian has not yet notified the persons entitled to notice in accordance
5 with NRS. 159.047. The persons entitled to notice will be notified within 48 hours after the appoint-
6 ment of the Temporary Guardianship in accordance with NRS 159.052(4) & NRS 159.0525 (4).

7 23. The proposed guardian acknowledges that proper notification must be given in good
8 faith to all persons entitled to notice of the hearing that will be held within 10 days of Appointment
9 of the Temporary Guardian in order to determine the need to extend the Temporary Guardianship
10 in accordance with NRS 159.052(3) & NRS 159.0525(3) or the court may terminate the Temporary
11 Guardianship.

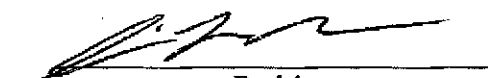
12 **INFORMATION REGARDING THE PROPOSED WARD'S ESTATE**

13 24. The Petitioner has been unable to locate any assets or income. To the best of the
14 petitioner's knowledge and to the best of the ward's knowledge they are not receiving nor due
15 any veteran's benefits. Any funds located will be protected by being placed in a blocked account.

16 25. The Petitioner has not been appointed as a guardian over the proposed ward in a state
17 other than Nevada. If Petitioner has been appointed Guardian over the proposed ward in another
18 state, Petitioner will file an exemplified copy of the guardianship order with this Court.

19
20 WHEREFORE, Petitioner prays that this Temporary Guardianship be granted and for
21 such other and further relief as the court may deem just and proper.
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23 DATED this 19 day of September, 2013.
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25 
26 Petitioner


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VERIFICATION

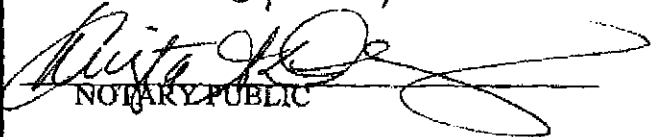
STATE OF NEVADA)
) ss:
County of Clark

I, APRIL L. PARKS, NCG, being first duly sworn under penalty of perjury, hereby depose and say:

That I am the Petitioner in the within action; that I have read the foregoing Petition For Appointment of Guardian and know the contents thereof; that the same is true of my knowledge except as to those matters therein state upon information and belief and as to those matters, I believe them to be true;


Petitioner

SIGNED and SWORN to before me on the
19th day of September, 2013


NOTARY PUBLIC



ACKNOWLEDGEMENT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK

On this 19th day of September, 2013, before me, the undersigned Notary Public in and for the said County and State, personally appeared APRIL L. PARKS known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that she did so freely and voluntarily and for the uses and purposes therein mentioned.

Witness my hand and official seal.


NOTARY PUBLIC

Exhibit 1

PHYSICIAN'S CERTIFICATE

Please print clearly or type

PLEASE NOTE THAT THIS CERTIFICATE HAS BEEN UPDATED TO COMPLY WITH
 THE REQUIREMENTS OF NRS 169.044 EFFECTIVE OCTOBER 1, 2009

I, Robert Chiacioris, am a physician licensed to practice in the State of Nevada.

I examined Kathy Mesloh an adult, on 5/14/13
 Name of Patient Date of exam

This adult patient suffers from (Diagnosis): Hypertension, Asthma, Depression,
Anxiety, Osteoarthritis, Memory Loss, Alz. Dementia

which is a ☒ Permanent ☐ Temporary condition.

I certify that this adult patient is unable to respond (check all that apply; at least one must be provided):

- ☒ To a substantial and immediate risk of physical harm
- ☒ To an immediate need for medical attention
- ☒ To a substantial and immediate risk of financial loss

The Proposed Ward ☐ does ☒ does not present a danger to himself or others.

Attendance at a court hearing ☐ would ☒ would not be detrimental to the health of the Proposed Ward.

The Proposed Ward ☒ would ☐ would not comprehend the reason for a hearing and ☒ would ☐ would not contribute to the proceeding.

The Proposed Ward ☐ is ☒ is not capable of living independently, ☐ with or ☒ without assistance.

Provide an assessment of the needs of the Proposed Ward: Assist with bathing, cooking
Bathing, grooming,

Identify the limitations of capacity of the Proposed Ward and describe how these limitations affect the ability of the Proposed Ward to maintain his/her safety and basic needs: Chronic pain, unable to take meds properly,

Attached hereto is (check all that apply; at least one must be provided):

- ☐ A copy of my report of the above exam which includes my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
- ☐ A copy of the patient's chart notes which support and/or detail my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
- ☒ A letter, signed by me, detailing my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.

Sep. 5. 2013 4:22PM

RECEIVED 09/05/2013 16:24
6296200
APPGNV

6296200
APPGNV

APPGNV
No. 4454 P. 1/1 03

PHYSICIAN'S CERTIFICATE

PAGE 2 of 2

Patient: _____

It is my opinion that this patient needs a guardian of:

☒ Person and Estate ☐ Estate only

It is my opinion that this patient is:

- ☒ Able to attend the guardianship court hearing.
☐ Unable to attend the guardianship court hearing. (Written documentation specifying reason patient cannot attend must accompany this Physician's Certificate.)

TO BE COMPLETED ONLY IF THE PATIENT IS UNABLE TO ATTEND THE HEARING:

- ☐ I have advised the patient of his/her right to counsel and the Proposed Ward ☐ does ☐ does not wish to be represented by counsel in the guardianship proceeding, or ☐ is unable to respond.

Date: 9/5/13

Neil Chisima M.D.
Signature

Address: BOX CANYON PRIMARY CARE
2647 Box Canyon Drive
Las Vegas, NV 89128

Box Canyon Primary Care
2647 Box Canyon Drive
Las Vegas, Nevada 89128

Tel# 702.363.5575
Fax# 702.646.1727

ROBERT S. ROTH, M.D.
ELENA B. GARCIA, M.D.
THOMAS L. MILLER, P.A.C.

HECTOR M. CALIXTO, M.D.
ROBERT P. CHIASCIONE, M.D.
KRISTAL M. NESSA, MS, P.A.C.

FAX COVER SHEET

Today's Date: 09-05-13

Sending to:

Fax #:

Sent from:

RE:

PATIENT NAME:

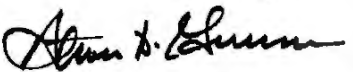
PATIENT ID#:

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 3

MESSAGE:

| | |
|---|--|
|  <p>BOX CANYON PRIMARY CARE 2647 Box Canyon Drive Las Vegas, NV 89128 Ph: (702) 363-5575 Fax: (702) 646-1727</p> | <p>Robert S. Roth, M.D. Hector M. Calixto, M.D. Robert P. Chiascione, M.D. Elena B. Garcia, M.D. Thomas L. Miller, P.A.C. <input type="checkbox"/> Kristal Nessa, MS P.A.C., MN1225146</p> |
|---|--|

| | | | | | |
|--|--|-----|---------|------|--------|
| NAME | Kathy Mesloh | DOB | 3/27/46 | DATE | 9/5/13 |
| ADDRESS | To Thomas M. Cundick, The above patient has Hypertension, Asthma, Depression, Anxiety and Alzheimer's Dementia. She will require full time assistance with her daily living and requires full time supervision. Thank-You | | | | |
| Warni privile indivi intensi distri you h imme | | | | | |
| Pleas callin | | | | | |
| REFILL | DISPENSE ONLY AS WRITTEN | | | | |
| TIME | DEA# | | | | |


CLERK OF THE COURT

PAG
April L. Parks, NCG
1022 Nevada Highway #110
Boulder City, NV 89005
702-629-6200
In Proper Person

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Guardianship the
person and the estate of:

CASE NO. G - 13 - 038438 - A
DEPT. NO. E

NORBERT WILKENING

an Adult.

PETITION FOR APPOINTMENT OF GUARDIAN

COMES NOW, Petitioner, APRIL L. PARKS, NCG, in accordance with Chapter 159
of the Nevada Revised Statutes, whose petition respectfully represents the following to this
Honorable Court:

Information Regarding the Petitioner

1. That Petitioner, APRIL L. PARKS, NCG would
like to be appointed the general guardian over NORBERT WILKENING.
2. That Petitioner's full legal name is APRIL L. PARKS, NCG.
3. That Petitioner currently resides at 1022 Nevada Highway #110
Boulder City, NV 89005.
4. That Petitioner's mailing or post office address is the same as above.

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20. The names and addresses of the following relatives of the ward are:

| Relative's Name | Relationship to Ward | Address (street address/city/state/zip code) |
|-------------------|----------------------|--|
| Barbara Wilkening | Wife | 2170 East Harmon Ave Las Vegas, NV 89119 |
| Amy Wilkening | Daughter | [REDACTED] |
| | | |
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21. That a general guardianship for the proposed ward is needed because: Proposed ward has dementia and is not capable of caring for himself. His daughter is not capable of caring for him and is aware of the guardianship. Proposed ward's wife also suffers from dementia and is unable to care for her. Proposed ward will need assistance with proper placement and continuing medical care.

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DATED this 8 day of March, 2013.


Petitioner

VERIFICATION

STATE OF NEVADA)
County of Clark) ss:

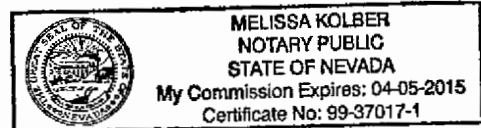
I, APRIL L. PARKS, NCG, being first duly sworn under penalty of perjury, hereby depose and say:

That I am the Petitioner in the within action; that I have read the foregoing Petition For Appointment of Guardian and know the contents thereof; that the same is true of my knowledge except as to those matters therein state upon information and belief and as to those matters, I believe them to be true;


Petitioner

SIGNED and SWORN to before me on the
9th day of March, 2013


NOTARY PUBLIC



ACKNOWLEDGEMENT

STATE OF NEVADA)
COUNTY OF CLARK) ss.

On this 9th day of March, 2013, before me, the undersigned Notary Public in and for the said County and State, personally appeared APRIL L. PARKS known to me to be the person described in and who executed the foregoing instrument, and who acknowledged to me that she did so freely and voluntarily and for the uses and purposes therein mentioned.

Witness my hand and official seal.


NOTARY REPUBLIC

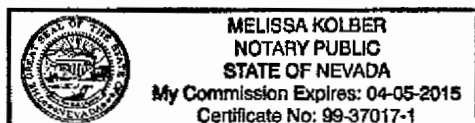


Exhibit 1

PHYSICIAN'S CERTIFICATE

Please print clearly or type

PLEASE NOTE THAT THIS CERTIFICATE HAS BEEN UPDATED TO COMPLY WITH
THE REQUIREMENTS OF NRS 159.044 EFFECTIVE OCTOBER 1, 2009

I, RALPH C. AQUINO, NP-C ^{NURSE PRACTITIONER} am a ~~physician~~ licensed to practice in the State of Nevada.
I examined Norbert Wilkening, an adult, on MARCH 11, 2013
Name of Patient Date of exam

This adult patient suffers from (Diagnosis): DEMENTIA, Unspecified

which is a ☒ Permanent ☐ Temporary condition.

1. I certify that this adult patient is unable to respond without assistance (check all that apply; at least one must be provided):

☒ To a substantial and immediate risk of physical harm
☒ To an immediate need for medical attention
☒ To a substantial and immediate risk of financial loss or exploitation

2. The Proposed Ward ☒ does OR ☐ does not present a danger to himself or others.
3. Attendance at a court hearing ☒ would OR ☐ would not be detrimental to the health of the Proposed Ward. Please note that traveling to and from Court, in addition to waiting time and public conditions at the Courthouse, should be considered.
4. The Proposed Ward ☐ would OR ☒ would not comprehend the reason for a hearing and
☐ would OR ☒ would not contribute to the proceeding.
5. The Proposed Ward ☐ is OR ☒ is not capable of living independently.

Please provide an assessment of the needs of the Proposed Ward: Assistance with activities of
Daily Living and Instrumental ADL's (medication mgmt, food/prep, personal preparation,
housekeeping, managing financial matters, and for transportation)

Please identify the limitations of capacity of the Proposed Ward and describe how these limitations affect the ability of the Proposed Ward to maintain his/her safety and basic needs:

Diminished and impaired cognitive functioning directly affects
ability to perform ADL's and IADL's

PHYSICIAN'S CERTIFICATE

PAGE 2 of 2

Patient: NORBERT WILKENING

Attached hereto is (check all that apply; at least one must be provided):

1. ☒ A copy of my report of the above exam which includes my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
2. ☐ A copy of the patient's chart notes which support and/or detail my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.
3. ☐ A letter, signed by me, detailing my findings, opinion and diagnosis regarding the patient and his/her mental condition and/or capacity.

It is my opinion that this patient needs a guardian of:

☒ Person and Estate ☐ Estate only

It is my opinion that this patient is able to attend the guardianship hearing: _____ (Check Here if yes); OR

1. ☐ Able to attend, However, attendance at a court hearing would be detrimental to the health of the Proposed Ward because:

(Please specify reason patient cannot/should not attend due to health concerns.)

OR

2. ☒ Unable to attend the guardianship court hearing because: of decreased cognition

(Please specify reason patient cannot/should not attend due to health concerns.)

Date: MARCH 11, 2013Signature: Address: 2700 E. SUNSET RD, #360
LAS VEGAS, NV 89120

*Please note that if you are not comfortable completing this portion of the form, you may complete the rest of the form and leave this provision blank, or strike a line through it. Another individual may advise the Proposed Ward of the right to be represented, and that Certificate filed with the Court separately.

TO BE COMPLETED ONLY IF THE PATIENT IS UNABLE TO ATTEND THE HEARING:

- ☐ I have advised the patient of his/her right to counsel and the Proposed Ward ☐ does OR ☐ does not wish to be represented by counsel in the guardianship proceeding, OR ☐ is unable to respond to my advising him/her of the right to have an attorney.

Physician's Initials _____



~~MEDICAL DIRECTOR, H.M. Center, Inc.~~

Patient: WILKINSON, NUBERT Date: 3/11/13 MR#: _____

Primary Physician: RALPH AQUINO, NP-C Consulting Physician: _____

Hospitalizations: NO Recent Hospitalization

| | |
|--|----------------------------|
| Active Problems: <u>Decreased Hearing</u> | Chronic/Inactive Problems: |
|--|----------------------------|

History: HYPERTENSION, HYPOTHYROIDISM, GASTROESOPHAGEAL REFLUX

Cc:

Medications:

ENALAPRIL 20mg 1 tablet daily
OMEPRAZOLE 20mg 1 capsule daily
NIFEDIPINE XL 90mg 1 capsule daily
LEVOTHYROXINE 75mcg 1 tablet daily

Review of Systems:

(✓ done/normal, circle abnormal)

| | |
|---|---|
| <input type="checkbox"/> GENERAL - appetite, spirits, <u>sense of well being</u> | <input checked="" type="checkbox"/> MUSCLE - pain, weakness |
| <input checked="" type="checkbox"/> EYES - poor vision, pain | <input checked="" type="checkbox"/> SKIN/BREAST - rash, pain, discharge, mass, ulcer or sore |
| <input type="checkbox"/> ENT - sore throat, pain, runny nose, dysphagia, <u>decreased hearing, hearing aide</u> <u>Deaf</u> | <input checked="" type="checkbox"/> NEURO - weakness, paralysis, memory, insomnia, focal pain, numbness, radicular pain |
| <input checked="" type="checkbox"/> CV - pain, palpitations, hypo/hypertension, PND, orthopnea | <input type="checkbox"/> PSYCH - fatigue, insomnia, mood, depression, crying, blue, low energy, <u>confusion</u> |
| <input checked="" type="checkbox"/> RESP - dyspnea, cough, wheeze, DOE | <input checked="" type="checkbox"/> ENDOCRINE - hot flashes, polyuria, polydipsia, weight loss |
| <input checked="" type="checkbox"/> GI - pain, nausea, vomiting, diarrhea, constipation | <input checked="" type="checkbox"/> HEM/LYMPH - fevers, chills, night sweats |
| <input checked="" type="checkbox"/> GU - pain, bleeding, incontinent, nocturia x, frequency, difficulty emptying bladder | <input checked="" type="checkbox"/> GAIT & BALANCE - falls, LOB assistive device, transfers |
| <input checked="" type="checkbox"/> ALLERGY - rash, swelling, hay fever | |

Family History:

Patient: WILKINSON, ROBERT Date: 3/11/13 MR#: _____Social History: Patient lives by himself at this time. Wife currently admitted at the hospital.

Exam:

| AREAS | ELEMENTS (✓ = normal) | RESULTS (abnormal findings) |
|-----------------|--|--|
| CONSTITUTIONAL* | <input type="checkbox"/> BP; Pulse; Resp., Temp., Hgt., Wgt <input checked="" type="checkbox"/> General | Ht: 5'8 Wgt: 160 lbs alert and not many lesions |
| EYES | <input checked="" type="checkbox"/> Conjunctivae, lids, pupils and irises | |
| ENT* | <input type="checkbox"/> Ears and nose, external canals and TM <input checked="" type="checkbox"/> Nasal mucosa, septum and turbinate <input checked="" type="checkbox"/> Lips, gums, teeth <input checked="" type="checkbox"/> Oropharynx, oral mucosa, salivary glands <input type="checkbox"/> Hard and soft palates, tongue, tonsils and posterior pharynx | throat pain throat discharge |
| NECK | <input type="checkbox"/> Thyroid <input type="checkbox"/> Neck | |
| RESPIRATORY* | <input checked="" type="checkbox"/> Resp effort <input checked="" type="checkbox"/> Percussion and auscultation of lung | |
| CARDIOVASCULAR* | <input type="checkbox"/> Rhythm <input type="checkbox"/> Rate <input type="checkbox"/> Murmur <input checked="" type="checkbox"/> S3 S4 <input checked="" type="checkbox"/> EJVP <input checked="" type="checkbox"/> Carotid arteries <input type="checkbox"/> Abd aorta <input type="checkbox"/> Fem arteries <input checked="" type="checkbox"/> Pedal pulses <input checked="" type="checkbox"/> Extremities: edema and/or varicosities | edema |
| BREAST | <input type="checkbox"/> Masses and axillae nodes | |
| GI* | <input type="checkbox"/> Abdomen - masses or tenderness <input checked="" type="checkbox"/> Liver and spleen <input type="checkbox"/> Anus, perineum, rectum, including sphincter tone, presence of hemorrhoids, rectal masses | |
| GU | <input type="checkbox"/> Scrotal contents <input type="checkbox"/> Penis <input type="checkbox"/> CVAT | |
| LYMPHATIC/SKIN | <input checked="" type="checkbox"/> Lymph nodes <input checked="" type="checkbox"/> Palpate skin and SQ tissue | |
| MUSCULOSKELETAL | <input type="checkbox"/> Gait and station <input checked="" type="checkbox"/> Transfers <input type="checkbox"/> Digits, nails <input checked="" type="checkbox"/> Joints, bones, muscles <input type="checkbox"/> ROM, Stability <input checked="" type="checkbox"/> Muscle strength and tone | 5/5, 5/5 5/5, 5/5 |
| NEURO/PSYCH. | <input checked="" type="checkbox"/> Cranial nerves <input checked="" type="checkbox"/> DTRs <input type="checkbox"/> Sensation <input type="checkbox"/> Judgement and insight <input type="checkbox"/> Orientation to time, place, person <input type="checkbox"/> Memory: 3 words at 3 minutes <input type="checkbox"/> Mood and affect | poor memory + judgement flat affect oriented x 2 |



~~MEDICAL DIRECTOR ADMISSION NOTE~~

Patient: WILKENING, NORBERT Date: 3/11/13 MR#: _____

Beliefs about illness:

Values:

Preferences for Resuscitation:

Preferences for Other Interventions:

Goals for Care:

Tests Reviewed

☐ CBC ☐ Chemistry ☐ BNP ☐ Echocardiogram - EF _____ %
☐ Pathology ☐ CT Scans ☐ MRI ☐ Chest X-Ray ☐ Other _____

Management Options

☒ Approach to Care ☒ Food/Fluids ☒ Caregiver Intervention: ☒ Psych:
☐ Pain Meds ☐ CPR: Attempt/Do Not Attempt
☐ Dyspnea Meds ☐ POLST Completed ☒ Spiritual: ☐ Other:
☐ Bowel Meds ☐ O2 _____



MEDICAL DIRECTOR ADMISSION NOTE

Patient: WILKENING, NORBERTDate: 3/11/13

MR#: _____

| Assessments | Plan |
|---------------------------------------|---|
| 1. DEMENTIA, UNSPEC. | 1. NEED FOR PUBLIC GUARDIANSHIP DEMENTIA MANAGEMENT STRATEGIES |
| 2. HYPERTENSION, HYPOTHYROIDISM, GERD | 2. CONTINUE MEDS |
| 3. NON-COMPLIANCE TO MEDICATIONS | 3. MEDICATION MANAGEMENT |
| 4. | 4. |
| 5. | 5. |
| 6. | 6. |

Signature: Rachel Quinn, MSN, APNDate: 03/11/2013

Time In/Out: _____

SLUMS EXAMINATION

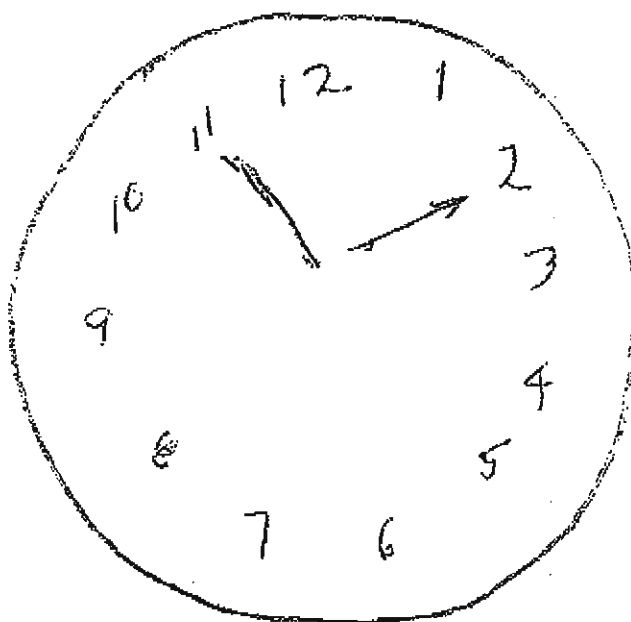
Name: Norbert Wilkening Date: 3/11/13Age: 81 Level of Education: High School

- 0 1. What day of the week is it? (1 point) Wednesday
- 0 2. What is the year? (1 point) 20 something
- 1 3. What state are we in? (1 point) Nevada
4. Please remember these five objects. I will ask you what they are later. Read objects to client
 Apple Pen Tie House Car x2
5. You have \$100.00 and you go to the store and buy a dozen apples for \$3.00 and a tricycle for \$20.00
- 2 How much did you spend? (1 point) \$23.00
 How much do you have left? (1 point) \$77.00
6. Please name as many animals as you can in one minute.
 0-4 animals (0 point) 5-9 animals (1 point) 174 1
 10-14 animals (2 points) 15+ animals (3 points)
- 0 7. What were the 5 objects I asked you to remember (1 point for each one correct) none
8. I am going to give you a series of numbers and would like you to give them to me backwards. For example, if I say 42, you would say 24.
 1 87 (0 points) 946 (1 point) 8537 (1 point) 3876 ...
9. This is a clock face (give client clock paper). Please put in the hour marker and the time at ten minutes after eleven.
 2 Hour markers okay (1 point) 1
 Time correct (1 point) 1
10. Please place an X in the triangle (Give client shapes paper) (1 point)
 2 Which figure is the largest (1 point) NOT AVAILABLE
11. I am going to tell you a story. Please listen carefully because afterwards, I am going to ask you some questions.
 b Jill was a very successful stockbroker. She made a lot of money on the stock market. She then met Jack, a devastatingly handsome man. She married him and had three children. They lived in Chicago. She then stopped work and stayed at home to bring up her children. When they were teenagers, she went back to work. She and Jack lived happily ever after.

What was the female's name? (2 points) 2 What work did she do? (2 points) 2
 When did she go back to work? (2 points) 0 What city did she live in? (2 points) 2

Total Score: 15Test administered by: [Signature] Date: 3/11/13

| HS Education | | No HS Education |
|--------------|---------------------------|-----------------|
| 27-30 | Normal | 25-30 |
| 21-26 | Mild Cognitive Impairment | 20-24 |
| 1-20 | Dementia | 1-19 |



02/03/2015 9:29 AM FAX 7024834320
02/02/2015 10:10 702-658-9842

A PRIVATE PROFESSIONAL GUARDIAN
STEVE BRECK POOLS

0002/0003
PAGE 01/02



Cindy Breck, Owner
8550 W. Desert Inn Rd. #102-492 • Las Vegas, NV 89117

Office 702-410-7961 • Fax 702-658-9842
2000575.571

ADVISEMENT LETTER

January 30, 2015

April Parks
A Private Professional Guardian

Ward: Wilkening

Dear April:

I am writing this letter to address the situation as we found it at 3487 Twilight Star Drive, Las Vegas, NV. As you know, the house and the contents were not found suitable for an estate sale. The reasons for this are as follows:

The contents of the house had little if any value. Most of the furniture was damaged in some way, or old and stained, or dirty, or soiled with human waste and or human waste by-products. There were only a few items that had any "value", like a bakers rack and a few coffee tables, but that was really about all. And by "value", I mean less than \$100 for everything (in my opinion).

When I look at a house to determine whether or not it's suitable for an Estate Sale, I look for items that have enough value to warrant spending time and money in staging, pricing, advertising, and hosting the sale. In my opinion those conditions were not met. There was far more "trash" that had to be literally taken out and put in a dumpster than anything - which is what we did. We "trashed" out the contents. That coupled with the unsafe condition of the master bedroom deemed the entire condo unsuitable for an Estate Sale.

The pantry was full of expired food and beer, the completely trashed office with its broken furniture and old magazines was completely discarded, the second bedroom was likewise full of damaged furniture and soiled mattresses which went into the trash, the garage with boxes and boxes of useless items also went into the trash and so forth. The kitchen had old dishes and glasses, pots and pans, etc. which were thrown away as they were incomplete or in poor condition. The upstairs bedroom had human feces on the carpet and bed linens (all of which and including the mattresses had to be thrown away) as it was a health hazard to work around. We had to wear masks and gloves to even be in that area.

02/03/2015 9:29 AM FAX 702-658-9842
02/02/2015 10:10 702-658-9842

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STELE BRECK POOLS

0003/0003
PAGE 02/02



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2000575.571

Due to the condition of the master bedroom and the fact that it was a hazardous area, all of the clothing and any other fabric materials had to be thrown away. Those dangerous spores get into everything so it's not a healthy or safe situation.

We never found any of the following:
Family pictures
Silver of any kind

Though it is difficult to accept, this house was dirty and the items in it were in damaged and unusable condition. Our task was to empty it out so that it could be cleaned and sold.

Respectfully submitted,

Cindy Breck

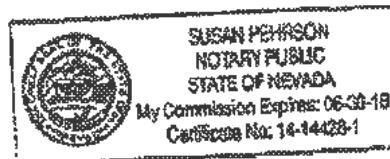
Cindy Breck, Owner
Caring Transitions

State of Nevada
Clark County

Subscribed and Sworn to before
me this 3RD day of February, 2015

Susan Peterson
NOTARY
2/3/15

Susan Peterson



1022 Nevada Highway #110
Boulder City, NV 89005
Phone: 702-629-6200
Fax: 702-483-4320

*A Private Professional
Guardian, LLC*

When the world doesn't fit the picture

Fax

To: Aileen Cohen From: April Parks
Fax: 702-947-4784 Pages: (including coversheet)
Phone: _____ Date: 2/3/15
Re: Wilkening cc: _____
Urgent For Review ☐ Please Comment Please Reply ☐ Please Recycle

IN THE SUPREME COURT OF THE STATE OF NEVADA

APRIL PARKS,

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

Supreme Court Case No. 82876

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was filed electronically
with the Nevada Supreme Court on the 7th day of September, 2021.

Electronic Service of the foregoing document shall be made in accordance
with the Master Service List as follows:

Steven B. Wolfson, Clark County District Attorneys Office

Aaron Ford, Nevada Attorney General

Jamie J. Resch, Resch Law, PLLC d/b/a Conviction Solutions

By: 
Employee, Resch Law, PLLC d/b/a Conviction Solutions