



LEGAL SERVICES AND ADVANCE CARE PLANNING

Lisa Evans, Esq. Executive Director

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INTRODUCTION



Lisa Evans, Executive Director

- Lisa has represented Legal Aid clients in every substantive legal area served by Northern Nevada Legal Aid, including five years in our Child Advocacy & Guardianship programs.
- Over a decade in non-profit legal services
- Former Deputy Attorney General State of Nevada



Jennifer M. Richards, Directing Attorney

- Former Chief Elder and Disability Rights Attorney for Nevada
- Member, Supreme Court Access to Justice Commission
- Member, Supreme Court Permanent Guardianship Commission
- Represented persons in guardianship proceedings including appellate proceedings before the Nevada Court of Appeals and Supreme Court



AGENDA

- Nevada Laws/Regulations on Advance Care Planning
 - Existing Laws
 - New Legislation
 - Legal Strategies to minimize guardianship
- Legal Services and Advance Care Planning
 - 2017 Access to Justice Commission Civil Legal Needs Study
 - Current Offerings
 - Challenges
 - Opportunities
 - New Civil Legal Needs Study
 - Medical Legal Partnerships

EXISTING LAWS AND NEW LEGISLATION

Jennifer Richards, Esq.



DECISION-MAKING & DEMENTIA DIAGNOSIS

- Empirical literature demonstrates that persons with dementia prefer to be actively involved in decisions that affect their lives, but often are marginalized, ignored, or excluded from the decision-making process.
- This is true even in the early stages of dementia, when significant cognitive abilities remain and persons are capable of participating.
- Being prevented from making or participating in decisions has a negative impact on the wellbeing of persons with dementia who report feeling that they are not recognized as people, but instead are treated as objects.

TYPES OF ADVANCE CARE DIRECTIVES IN NEVADA

- ❖ Health Care Power of Attorney
 - ❖ Special Forms for Adults with Dementia or Intellectual/Developmental Disabilities
- ❖ Financial Power of Attorney
- ❖ Living Will (Declaration of Life Sustaining Treatment)
 - ❖ POLST/DNR
- ❖ Supported Decision-Making Agreements
- ❖ Psychiatric Advanced Care Directive

NEVADA'S SUPPORTED DECISION- MAKING ACT (2019)

- Recognizes the natural supports we all have
- Doesn't allow someone to be penalized for having a little help
- Helps people maintain the least restriction and greatest independence in their lives
- Is part of a variety of legal tools available to formalize and/or recognize supports from trusted friends or family

See NRS 162C, Dedicated Chapter

PSYCHIATRIC ADVANCE CARE DIRECTIVE

- Makes a declaration of instructions, information and preferences regarding his or her psychiatric care.
- 18 years or older, must be signed by the principal and attested by two witnesses
- Witnesses cannot be the attending physical or provider of health care, an employee of the attending physical or provider of health care, an owner/operator of a medical facility in which the principal is a patient or resident or an employer of such an owner or operator
- Or a person appointed as an attorney in fact by the advance directive
- The directive is effective upon execution and valid for 2 years unless revoked



GUARDIANSHIP AS A LAST RESORT

- Only pursue after all other avenues have been exhausted
- Must demonstrate that guardianship is both *necessary* and the individual meets the legal definition of *incapacitated*
- Guardianship may be the result of no planning

NEW LEGISLATION

- Long Term Care Legislation
 - [Nevada Lawyer Article](#)
 - SB 45 – Personal Needs Allowance
 - AB 202 – Esther's Law
- Powers of Attorney
 - AB 414





COMPARISON

- Old Law
 - Certificate of Competency in facilities
 - Placement Preferences
- New Law
 - Removes entirely
 - Involuntary admission language
 - Survey Language

LEGAL SERVICES AND ADVANCE CARE PLANNING



NEVADA SUPREME COURT



ACCESS TO JUSTICE
COMMISSION

LEGAL ASSISTANCE FOR NEVADA

ACCESS TO JUSTICE

- (a)** Assess current and future needs for civil legal services for persons of limited means in Nevada.
- (b)** Develop statewide policies designed to support and improve the delivery of legal services.
- (c)** Improve self-help services and opportunities for proper person litigants and increase pro bono activities.
- (d)** Develop programs to increase public awareness of the impact that limited access to justice has on other government services and on society.
- (e)** Investigate the availability of and pursue increased public and private financing to support legal services organizations and other efforts to provide legal services to persons of limited means.
- (f)** Recommend legislation or rules affecting access to justice to the supreme court

2017 CIVIL LEGAL NEEDS STUDY

- The “Justice Barrier” is high. Nevada’s poorest and most vulnerable residents have 147,000 legal problems per year. Legal aid is currently able to fully address only 24 percent of the total need; 76 percent of need goes unmet, and low-income Nevadans fighting to protect their families, homes, and jobs must face the consequences in court without legal help
- Legal aid is underfunded. Because of limited funding, Nevada has just 84 lawyers to serve 500,000 low-income Nevadans, equivalent to 1 lawyer for every 4,800 people below the poverty line. In contrast, the ratio of lawyers to Nevadans above that income level is 12 lawyers for every 4,800.
- Providing advance directives avoiding unwanted medical treatments and hospital stays resulted in \$18M Savings statewide according to Economic Impact of Study

CURRENT OFFERINGS

- NNLA 2023 Statistics
 - Community Outreach
 - Power of Attorney Clinics
 - Clients Served
 - Total 60+ All funding: 2059
 - Total 60+ OAA: 1157
- Guardianship Defense
 - Total 2023 Adult Guardianship Cases by Age
 - Ages 17-24 = 151
 - Ages 25-49 = 395
 - Ages 50-59 = 103
 - Ages 60+ = 617



CHALLENGES

- Funding
 - OAA funding at NNLA current supports roughly half of cases
- Workforce Pipeline
 - All legal aid providers continue to face staffing challenges
- Lack of collaboration with other aging services and healthcare providers

OPPORTUNITIES

- Updated Civil Legal Needs Study
- Increase Funding
- Workforce Pipeline
 - ADKT 0611 – Amends Supreme Court Rules of practice to allow limited supervised practice of law students for legal aid up to a year after graduation from an accredited law school.
- Lack of Collaboration
 - Legal Risk Detector Tool
 - Medical Legal Partnerships



QUESTIONS?