

Minutes
STATE BOARD OF HEALTH
December 7, 2018
9:00 a.m.

Division of Public and Behavioral Health
4150 Technology Way, Room 303
Carson City, Nevada 89706

Grant Sawyer Building
555 E. Washington Ave.
Room 5100
Las Vegas, Nevada 89101

BOARD MEMBERS PRESENT:

Jon Pennell, DVM (Las Vegas)
Monica Ponce, DDS (Las Vegas)
Dipti Shah, M.D. (Las Vegas)
Judith Bittner (Carson City)

BOARD MEMBERS EXCUSED:

Jeffrey Murawsky, M.D.
Charles Smith

DIVISION OF PUBLIC & BEHAVIORAL HEALTH (DPBH) STAFF PRESENT:

Ihsan Azzam, Chief Medical Officer, Barrett Evans, Program Manager- EHS, Jason Lewis, Vital Records Program Officer, Margot Chappel, Deputy Administrator-Regulatory and Planning Services, Darcy Davis, Psychologist, Leticia Metherell, Health Program Manager-HCQC, Vickie Ives, Health Program Manager, Beth Handler, Deputy Administrator-Community Health Services, Steve Gerleman, Health Facilities Inspector-HCQC, John Gemar, Health Facilities Inspector- HCQC, Paul Shubert, Bureau Chief-HCQC, Kevin Kreitzman, Health/Human Services Professional Trainee-SNAMHS, Ana Lisa Dizon, Health/Human Services Professional Trainee-SNAMHS, Freddy Ramos, Health Facilities Inspector-SNAMHS

OTHERS PRESENT:

Linda Anderson, AG, Scott Weiss, THGG, Roselyn Javier, Maria Nutile, EMC, Steven Gleicher, PCAN, Joe Iser, SNHD, Jody Domineck, SEIU, Lanita Trayano, SEIU, Janie Rivera, SEIU, Gloria Madrid, SEIU, Veronica Ornelas, SEIU, Blanca Garcia Gomez, Kraft Sussman Financial Services, Yesenia Vasquez, SEIU, Sam Shaw, SEIU, Jen Valdecatos, SEIU, Henny Sonia, NNOC, Samantha Sato, Carrara NV, Ashley Cruz, Carr, Katie Ryan, Dignity Health, Darene Godfrey, SEIU, Randall Peters, SEIU, Tina Dortch, NV Office of Minority Health, Cathleen Hamel, UMC, Lynne McAllister, VHS, Emily Tuttle, Brittany Tolleson, Romina Lizaso, Jessica Lagor, Magdalena Alvarez, Cassia Lopez, Chase Brenfon, NVH, Gina Pierotti-Buthman, VHS, Mia Brucelango, SEIU, Rachael Peters, DCFS, Gretchen Batis, CQES, Steve Spentzakis, MMLV, Tom Waher, BCH, Liz Angel, KLAS, Hayley Jarolimek, DCFS, Eileen Kinzel, ComFor Care, Robert Colbert, Nevada HAND, Erin Leroux, Nevada HAND, Laura Henum, Dignity Health, Ellie McNutt, Elite Medical Center, Maria Caguiera, Jadelle Beacon Hope, Steve Sorensen, SEIU, Helen Foley, NALA, Trent Stephenson, American Addiction Centers, Josie P. Castillo, AHONN, Stephanie Robbins, NV Medicaid, Molly Ratfield, Cascades of the Sierra, Connie McMullen, PCAN, Molly Blanchette, DCFS, Marissa Brown, NHA, Chris Bosse,

Renown, Brian Reeder, Ferrari Public Affairs, Eloisa Ortega, AHONN, Warly Pizarro, AHONN, Bill Welch, NHA, Harrison Billia, Truckee Meadows, Greg Amundson, AHONN, Rikki Hensley-Ricker, Bristlecone Family Resources, Lisa Campell, NALA, Leo Molino, AHONN, Ramon Alano, AHONN, Jackie Taylor, AHONN, Vangie Molino, AHONN, Paige Barnes, Crowley & Ferrato Public Affairs, Jeanne Bishop-Parise, NALA, Crystal Wren, ADSD, Nicki Aaker, CCHHS, Rob Merrill, ADSD, Jesse Wadhams, NHA, Jose Castilla, AHONN

Chair Pennell opened the meeting at 9:00 a.m. Chair Pennell indicated the meeting agenda was posted in accordance with the Nevada Open Meeting Law.

Roll call was taken and it was determined that a quorum of the State Board of Health was present.

Approval of Minutes:

Chair Pennell asked if there were any additions or corrections to the minutes from the September 7, 2018 meeting. No recommendations were made.

A motion was made to approve the minutes by Dr. Shah, seconded by Dr. Ponce and carried to approve the minutes of September 7, 2018.

Consent Agenda:

Consideration and appointment of Andrea Gregg to the Nevada Office of Minority Health and Equity (NOMHE) Advisory Committee

Consideration and Approval of Variance #696, NAC 449.3154(2), Elite Medical Center

Consideration and Approval of Variance #697, NAC 449.0105.1(c), Boulder City Hospital

Consideration and Approval of Variance #698, NAC 444.7503, Bryan Burlison

Chair Pennell asked if there were any objections to the consent agenda. There were no objections.

CHAIR PENNELL ENTERTAINED A MOTION ON ITEM 3, CONSENT AGENDA. A MOTION BY DR. SHAH TO APPROVE THE CONSENT AGENDA WAS MADE AND SECONDED BY DR. PONCE; THE MOTION PASSED UNANIMOUSLY.

Consideration and Adoption of Proposed Regulation Amendments to NAC 449, Medical Facilities and Other Related Entities, LCB File No. R133-18 & Errata- Hospitals/Obstetric Centers. Leticia Metherell, Health Program Manager, Bureau of Health Care Quality and Compliance

Ms. Metherell provided an overview of the proposed regulation amendments. (Exhibit "A")

Public Comment:

Gina Pierotti-Buthman, Valley Health Systems- Ms. Pierotti-Buthman stated when the regulation came out, there was concern with the actual grassroots level of completing what was necessary to ensure the success of the purpose of the program. The reality of daily operation in an acute hospital and consideration of our employees was a bit disconcerting. The original document was 5 pages and at the time, there was not an electronic version. Ms. Pierotti-Buthman looks forward to further enhancements to the form to accomplish meeting the goals for these populations.

Laura Hennem, Dignity Health- Ms. Hennem commented all new hospitals establishing licensures and operations in the State should be CMS certified and follow regulations put forth under the Emergency Medical Treatment and Labor Act (EMTALA). Ms. Hennem stated it is critically important, emergency rooms continue to serve all patients regardless of the ability to pay and their insurance coverage is not key to them receiving treatment or related to the ability to make payments for emergency services rendered in a licensed hospital.

Joseph Iser, Southern Nevada Health District- Dr. Iser stated he fully agrees with the last comments.

Jesse Wadhams, Nevada Hospital Association- Mr. Wadhams stated they are in support of Sections 9-15 of the proposed regulation.

Ms. Anderson stated the last comments may not be addressed in this adoption. However, it is good for the Board to hear the requested changes for the future. Ms. Anderson stated the changes would not be incorporated in the current regulations before the Board today.

CHAIR PENNELL ENTERTAINED A MOTION ON ITEM 4, LCB FILE NO. R133-18 AND ERRATA. A MOTION BY DR. SHAH TO APPROVE THE PROPOSED REGULATION AND ERRATA WAS MADE AND SECONDED BY MS. BITTNER; THE MOTION PASSED UNANIMOUSLY.

Consideration and Adoption of Proposed Regulation Amendments to NAC 449, Medical and Other Related Entities, LCB File No. 109-18 & Errata- Employment Agencies. Leticia Metherell, Health Program Manager, Bureau of Health Care Quality and Compliance

Ms. Metherell provided an overview of the proposed regulation amendments. (Exhibit “B”)

Public Comment:

Gretchen Batis, Center for Quality Eldercare Services- Ms. Batis inquired on the training requirements relating to blood glucose and auto injection training to give to caregivers. Ms. Metherell replied the regulation outlines who can provide the training, it includes a physician, physician assistant, licensed nurse or employee of the facility that has received the required training, has one year of experience in providing training and has demonstrated competency in the tasks. Ms. Metherell informed if the errata is approved, it would also include a pharmacist.

If the employee is not one of the health care professionals listed, the tasks would have to be performed for a year as a caregiver and show competency before providing the training. Ms. Batis inquired if their Academic Director who is a nurse of 58 years could develop a program and teach the class. Ms. Metherell confirmed a licensed nurse could provide the training.

Connie McMullen, Personal Care Association of Nevada- Ms. McMullen stated they are in support of NRS 449.03005, NRS449.0304, and NRS 449.4309. It will help keep a lot of people safe in their homes. Ms. McMullen believes the changes for vital signs will help people and save money. They think it is great and appreciate the way the changes have been written.

Jeanne Bishop-Parise, Nevada Assisted Living Association- Ms. Bishop-Parise provided a written statement. (Exhibit "C") Ms. Bishop-Parise added she would like to bring to the Board's attention, the second revised proposed regulations of LCB File No. R109-18, the errata contains the pharmacy instructor yet omits page 5 recommendations of industry advisory in which monetary penalties should be commensurate with the pay rate suggested at 20%.

Jackie Taylor, Association of Homecare Owners of Northern Nevada- Ms. Taylor provided a written statement. (Exhibit "D")

Ms. Anderson asked Ms. Metherell to address some of the concerns raised. Ms. Anderson stated all comments are taken very seriously.

Ms. Metherell addressed the monetary fines. Although the regulations increase the monetary fines, the fines have not increased since 2002. The Division has mitigated the increases with section 17 which allows the facility to invest the money back to correct their deficiencies and improve their facility in lieu of payments thus reinvesting the money back into their facility for a first violation. Existing regulation, NAC 449.99904, allows the facility if they waive the right to a hearing, correct their deficiencies and pay the fine within 15 days, to receive a 25% reduction in the penalty.

Ms. Metherell provided an example of a severity level 4 violation fine.

Ms. Metherell stated while the changes to the fines established represent increases, the legislation driving these changes was generated by the Division during the 2017 legislative session and significantly reduced the maximum fines to a reasonable amount. The provision in SB71 which would have allowed to impose penalties of \$1,000 and up to \$10,000 per patient who was harmed or at risk, was omitted. Based on historical data, only 2% to 4% of facilities receive state sanctions relating to monetary penalties. There should be very few facilities impacted. Those impacted will have violated regulations resulting in serious harm to patients. Historically, the Bureau has not seen facilities go out of business based on fines. Data shows the amount of sanctions applied has decreased.

Mr. Shubert added the industry does not believe increased fines is the answer to issues relating to harm and things that occur in the facilities. The regulations go a step farther for the agency in relation to alternatives and that is what the Division did in section 17, to find ways for facilities to use the fines collected to improve their facilities. The Division felt it was necessary and believes it mitigates much of the concern. The regulations reflect compromise and mitigation while having the ability to issue a fine to encourage facilities to protect the people they are caring for.

CHAIR PENNELL ENTERTAINED A MOTION ON ITEM 5, LCB FILE NO. R109-18 AND ERRATA. A MOTION BY DR. SHAH TO APPROVE THE PROPOSED REGULATION AND ERRATA WAS MADE AND SECONDED BY DR. PONCE; THE MOTION PASSED UNANIMOUSLY.

Public comment was taken out of order.

Public Comment:

Lanita Trayano, SEIU- Ms. Trayano stated they were pleased when Nevada Legislature enacted SB482 in 2017, which they felt would strengthen safe staffing in facilities. In their opinion, the legislation has not been implemented as intended. In the first hearing on the proposed regulations, the definition of a unit was requested to be further clarified and defined. The proposed regulations being heard today do not address this important issue. The current definition has led to each hospital adapting very different interpretations of a unit. The intent of the legislation was to ensure the representatives of this committee have day to day knowledge of the challenges faced by nurses in these units. The facilities where the unit is defined over broadly creates a situation where it is impossible for the representative to know all the challenges faced as they would not have interactions with patients who have similar care or need similar care. The definition of a unit should be narrowed to ensure nurses and certified nursing assistants caring for similar types of patients with similar types of needs will be represented by a nurse and/or certified nursing assistant with responsibility of caring for those same types of patients. SEIU encourages the legislature to adopt regulations which reflect this reality.

Ms. Anderson requested a show of hands of those in support of the comments made so far.

Jody Domineck, SEIU- Ms. Domineck stated the current concern with the definition of a unit is the interpretation and it leaves specialized units with unique staffing for unique patient populations having to be represented by one person to represent very different care units. Ms. Domineck suggested further defining the areas to be able to provide the staffing requirements for the highly specialized patients.

Cathy Hamel, University Medical Center- Ms. Hamel recommended the standard and definition of a unit stand as written, giving the organization's an opportunity to make a committee operational.

Consideration and Adoption of Proposed Regulation Amendments to NAC 433, Administration of Mental Health and Intellectual and Developmental Disability Programs, LCB File No. R134-18- Community based living arrangement facilities. Amir Bringard, Health Facilities Inspection Manager, Bureau of Health Care Quality and Compliance

Mr. Bringard provided an overview of the proposed regulation amendments. (Exhibit “E”)

Public Comment:

Steve Spentzakis, Minds Matter LV- Mr. Spentzakis inquired if comments from the public workshop were addressed.

Mr. Bringard stated all the information from the public workshop was taken into consideration.

Lisa Campbell, Nevada Assisted Living Association- Ms. Campbell stated the Nevada Assisted Living Association would like to go on record and request CBLA’s fall under the same regulations as residential facilities for groups.

CHAIR PENNELL ENTERTAINED A MOTION ON ITEM 6, LCB FILE NO. R134-18 AND ERRATA. A MOTION BY DR. PONCE TO APPROVE THE PROPOSED REGULATION AND ERRATA WAS MADE AND SECONDED BY DR. SHAH; THE MOTION PASSED UNANIMOUSLY.

Consideration and Adoption of Proposed Regulation Amendments to NAC 440, LCB File No. R150-18- Vital Statistics. Jason Lewis, Program Officer, Office of Vital Records and Statistics

Mr. Lewis stated the proposed regulations to Nevada Administrative Code 440, relating to Vital Statistics, is to amend and modify existing language, to make regulations more clear, current and compatible with the intent and scope of the Office of Vital Records program. The proposed regulations are designed around current industry standards and practices. A summary of the changes was provided which includes to propose a new regulation for initiating death records within 24 hours and timely death reporting. Proposed revisions to existing language to provide clarity for the process of home births. Proposed revisions to existing language to provide clarity, update for new state laws and address common issues for corrections and amendments to birth and death records. Proposed revisions to existing language for adding omitted names to birth records to be more consistent with industry standards. Proposed revisions to existing language to facilitate and assist, to ensure accurate information is recorded on death records. Proposed revisions to existing language to list new certifiers for death records based on new state law. Proposed revisions to existing language regarding the issuance of birth and death record data.

Mr. Lewis informed the Division of Public and Behavioral Health has held several opportunities for the public, small businesses, and stakeholders to provide input and comments regarding the proposed regulations including the economic impact the regulations may have on a small

business and the public. Overall, small businesses appear to not be impacted by the proposed regulations.

Public Comment:

Harrison Billia, Truckee Meadows Cremation and Burial- Mr. Billia asked for clarification on starting a death record if the family has not chosen the funeral home's services.

Mr. Lewis stated the funeral home receiving the decedent starts the death record. If the family selects a different funeral home, the funeral home who started the record can change the funeral home.

CHAIR PENNELL ENTERTAINED A MOTION ON ITEM 7, LCB FILE NO. R150-18. A MOTION BY DR. SHAH TO APPROVE THE PROPOSED REGULATION WAS MADE AND SECONDED BY DR. PONCE; THE MOTION PASSED UNANIMOUSLY.

Chair Pennell informed Dr. Iser's report would be taken out of order.

Dr. Iser reported it is the time of year to worry about food safety in the home. Dr. Iser informed there are food safety recommendations on the Southern Nevada Health District's website. The influenza season has started and is a slow start to the season. The public health accreditation site visit is scheduled in January. The primary care model of care started in September and will be a slow rollout. Gun violence is on the rise throughout the nation.

Ms. Anderson acknowledged the mothers present in support of regulations previously adopted.

Approval of 2019 Board of Health Meeting Dates:

A motion was made to approve the meeting dates by Dr. Shah, seconded by Dr. Ponce and carried to approve the 2019 meeting dates.

Vital Records Presentation on 1 October 2017 Incident:

Mr. Lewis provided a presentation on the October 1st shooting in Las Vegas and how it pertained to Vital Records in the State of Nevada.

See presentation on 1 October 2017 Incident.

Reports:

Nicki Aaker, Director of Carson City Health and Human Services (CCHHS)- Ms. Aaker reported a Tobacco Prevention Coordinator has been hired. CCHHS continues to work with Carson City Parks and Recreation Department to create smoke-free parks and discuss possible ordinance in Carson City. A pilot is currently underway on a bi-directional interface between Carson City Health and Human Services' Electronic Health Record and Nevada WebIz. The Community Health Improvement Plan is in motion and subcommittees are working to accomplish the objectives and activities decided upon. Ms. Aaker brought to the Board's attention, food service

workers at two different food establishments were excluded in November due to being a household contact to a confirmed Salmonella Typhi (Typhoid Fever). The food handlers were excluded until each had two negative stool cultures. Ms. Aaker reported there is a slow start with the flu in the three counties monitored. The first CASPER (Community Assessment for Public Health Emergency Response) survey was conducted in September. A drive-thru flu Point of Distribution (POD) was conducted in October.

Dr. Ishan Azzam, Chief Medical Officer- Dr. Azzam reported the number of children with acute flaccid myelitis continues to grow. There are 134 confirmed cases in 33 states which includes one confirmed case in Nevada. The exact etiology of this polio-like paralysis is still unclear. There is no vaccine and no effective treatment yet. The influenza season officially started seven weeks ago and is expected to end week 20 of 2019. So far, it seems to be comparable to or milder to previous seasons. The Division of Public and Behavioral Health is producing an enhanced weekly flu report which covers the severity and burden of the current flu season. The activity of the flu transmission is increasing. The tendency for the flu activity to peak is during the holiday season and is expected to peak again in February.

Recommendations for future agenda items:

No recommendations were made.

Public Comment:

There was no public comment.

The meeting adjourned at 10:54 a.m.