

DPBH COMMISSION ON BEHAVIORAL HEALTH
MINUTES
November 17, 2017

MEETING LOCATIONS:

Division of Public and Behavioral Health
4150 Technology Way, Room 303
Carson City, NV
Northern Nevada Adult Mental Health Services
480 Galletti Way, Bldg. 22, Sparks, NV
Southern Nevada Health District
280 S. Decatur Blvd., Las Vegas, NV

COMMISSIONERS PRESENT:

Pamela Johnson, RN- Carson City, Barbara Jackson, Sparks, Valerie Kinnikin, Chair, Las Vegas, Lisa Durette, Las Vegas, Asma Tahir, Las Vegas, Noelle Lefforge, Ph.D., Vice Chair-Las Vegas, Tabitha Johnson, Las Vegas, Lisa Ruiz-Lee, Las Vegas

Carson City:

Eddie Ableser, DPBH, Julie Slabaugh, DAG, Robin Williams, RRC, Sandra Lowery, Social Work Board, Paula Berkley, Social Work Board, Debi Reynolds, DPBH, Kyle Devine, DPBH, Tina Gerber-Winn, Rural Clinics, Kate McCloskey, ADSD, Lea Cartwright, NV Psychiatric Association, Neena Laxalt, NV Board of Psychology

Sparks:

Christina Brooks, NNAMHS, Julian Montoya, SRC, Agata Gawronski, BoE ADGC, Tom Durante, LCC, Joelle Gutman, Regional Behavioral Health Coordinator, Betsy Neighbors, Jake Wiskerchen, BoE MFT-CPC

Las Vegas:

Joanne Malay, SNAMHS, Leon Ravin, M.D., SNAMHS, Susanne Sliwa, DAG, Marina Valerio, DRC

Phone:

Mark Disselkoen, Sharon Dollarhide, Michelle

Chair Kinnikin called the meeting to order at 8:36 am. Roll call is reflected above. It was determined that a quorum was present. Introductions were made at all three locations.

PUBLIC COMMENT:

There was no public comment.

Approval of the Minutes September 15, 2017

Action: A motion was made by Dr. Lefforge, seconded by Dr. Durette and passed to accept the minutes of September 15, 2017.

Approval of Agency Directors' Reports

Action: A motion was made by Dr. Lefforge, seconded by Ms. T. Johnson and passed to accept the Agency Directors' reports as submitted.

Division Criteria for Certified Treatment Programs

Mr. Disselkoen acknowledged Barry Lovgren, who passed away recently. Mr. Lovgren worked with him for over 20 years and a lot of the Division Criteria processes were a big part of what he was interested in and he provided a great deal of support.

The Division Criteria presented today was approved by the SAPTA Advisory Board on October 11, 2017 per Nevada Administrative Code 458.118. The next step in the process is to review for possible approval from the Commission on Behavioral Health. Mr. Disselkoen acknowledged SAPTA, HCQC, and Medicaid in helping with the development of the Criteria.

Item #1- Division Criteria for Certified Treatment Programs Treatment Episode Data Set (TEDS): Certified treatment programs, private, public or funded are required to report Treatment Episode Data Set (TEDS) to SAPTA on a monthly basis in a format determined by the Division.

Dr. Durette asked what a Treatment Episode Data Set includes. Mr. Disselkoen replied there is a unique client ID. Funded programs currently report diagnosis, 30day use for substances, outcomes related to treatment such as stable employment, and if they successfully completed treatment. There are more. They are SAMSHA required data pieces that relate to the Block Grant and are looking to expand it to any certified treatment program in the State.

Item #2- Division Criteria for Certified Treatment Programs, Treatment of Clients with an Opioid-Use Disorder: Certified treatment programs, private, public or funded cannot deny treatment services to clients that are on stable medication maintenance for the treatment of an opioid use disorder including FDA approved medications.

Item #3- Division Criteria for the Certification of Medication-Assisted Treatment Centers: This Criteria was developed in response to the federal funding related to the opioid epidemic in America. There are two options for certification under this designation. Option 1 is for currently licensed Opioid Treatment Programs. Option 2 is for programs that are not licensed by HCQC or SAMSHA, or certified. For Option 2, providers must provide at least two of the approved FDA medications for opioid use disorders and coordinate care for individuals with an Opioid Treatment Program that utilizes Methadone.

Dr. Durette commended Mr. Disselkoen and his team. Dr. Durette inquired on option 2, if there is a requirement that facilities who are not the methadone dispensing facilities have a dispensing pharmacy or are they allowed to continue with treatment as usual in the community as using prescriptions for Suboxone. Mr. Disselkoen replied if there is a program that is not a licensed Opioid Treatment Program that dispenses Methadone, they are requiring them to have a prescriber who has an FDA waiver for Suboxone. There are no additional requirements for Naltrexone.

Chair Kinnikin inquired if there would be no waiting list since it states patient must be admitted within 48 hours. Mr. Disselkoen replied the goal is to not have a waiting list. If there is a waiting list, federal guidelines will be addressed. Currently, Opioid Treatment Programs do not have waiting lists. There are mechanisms in place to ensure patients get in, in a timely manner.

Action: A motion was made by Dr. Lefforge to approve, seconded by Dr. Durette and passed to approve the Division Criteria.

Discussion and Recommendations from Licensing Boards on AB457

Dr. Ableser informed at the last meeting it was suggested to have the licensing boards provide statistical information regarding their applications, denials, renewals, disciplinary hearings, and regulations. The Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors will not be presenting today. However, they have reported their numbers are significantly low. The numbers the Board of Psychological Examiners submitted were low.

Ms. Lowery reported for the Board of Examiners for Social Work. In the last 2 ¾ years, there have been a total of 1284 applications received; of those applications, 58 required additional review from the board, and 5 were denied due to lack of educational requirement. It is suggestive the number of denials the Commission will receive will be low. There has been a total of 66 disciplinary cases received in the last 2 ¾ years. Only one case went to settlement/hearing. The number of appeals for disciplinary, that will come before the Commission will be low.

Ms. Berkley, lobbyist for the Social Work Board, provided an overview of the development of AB 457. Ms. Berkley reported the three main concerns identified are workforce development, the boards preventing people from getting licensed and complaints to the Governor and legislators.

Ms. Lowery commented on the Commission's appeals investigation responsibility. It is being recommended there be a subcommittee to review appeal investigations. The subcommittee will include a licensee from a pool of licensed practitioners, the list of which would be developed by DPBH and the relevant board. For the Social Work Board, it is challenging and would require developing a list of specialties the Commission could use to solicit the appropriate licensed specialists. The Social Work Board is suggesting the third person not be a current licensee within a specialty group, rather they also be a Behavioral Health Commission member. The commission members have basic familiarity with the reading, understanding, and interpreting of statute and law. The Social Work Board has also identified

there is no process by which the licensing board and DAGs may present information regarding the appeal at the commission meeting before a decision is rendered. They are hoping that will be addressed.

Ms. Laxalt, lobbyist for the Psychology Board, reported for the Psychology Board. Ms. Laxalt informed they are happy to work with the Commission, make sure both are on the same page so there is not any discrepancy on how the processes work. The board does not have any concerns as to specifics on any process that is being initiated.

Ms. Slabaugh clarified to the Commission, any consideration of appeals or regulations would not be limited to meetings with DPBH. It could also be on the agendas for meetings with DCFS. By statute, the Commission meets at least six times a year and as many as twelve times a year. If necessary, more meetings could be called.

Dr. Durette asked the Psychology and Social Work Boards, where they are in the process of accepting state to state reciprocity for licensure and what the timeframe is between submission and approval of an application. Ms. Laxalt asked factors to be requested that may play into the application process such as applications not being filled out correctly or the background checks have a halt of no fault of the board. Ms. Laxalt asked for it to be determined as well. Ms. Lowery responded the Social Work Board processes endorsement applications within 30 days, provided the applicant gives all the requested information. Ms. Gawronski replied regarding the reciprocity for the Alcohol, Drug, and Gambling Counselors. For their board, it is nearly impossible due to having higher educational standards than the rest of the country.

Dr. Lefforge stated the Commission did not testify on behalf of this bill and they are simply trying to respond, according to what the law now states and do so in a responsible way. Dr. Lefforge does not think it is helpful to revisit what the law should have stated or could have stated, the law is written and they are now tasked with following that law and want to do so in a way that it does not hold up the board's processes. She is concerned with the MFT Board not being present today and not providing the requested information.

Dr. Ableser reported the Division has worked closely with all four boards.

Dr. Lefforge commended the boards that were present and able to share their concerns.

Chair Kinnikin does not want it to be adversarial. The Commission is there for the boards to make Nevada better standing and any way they can help facilitate is the goal.

Discussion, Review and Commission to Approve Process of Practice for AB 457

Dr. Ableser informed the Commission, they will decide on the direction of how they want to proceed with aspects of appeals and regulations. Two options were presented. The first option, the Commission

would receive everything as a whole. The second option, the Commission establishes subcommittees to process investigations and regulations. Dr. Ableser provided an overview of the process for Rules of Practice and appeal investigations. (Exhibit "A")

Dr. Lefforge stated she is in favor of the subcommittee option. It is more likely to move these along quicker if it is tasked to a subcommittee and can rely on the expertise of the professions on the Commission to lead the investigations.

Ms. Ruiz-Lee expressed concern with the subcommittee option. Ms. Ruiz-Lee inquired if it would raise conflict for the licensed commission members that report to the licensing boards if they overturned a decision made by their licensing board.

Dr. Durette inquired if it was possible to initially process as a whole and based upon the volume, later decide as to whether or not to appoint a subcommittee. Ms. Slabaugh informed the process is wide open for the Commission to decide how to handle it. The process can be revisited in the future, if needed. Ms. Ruiz-Lee liked the idea of initially processing as a whole. Ms. Ruiz-Lee inquired if an interim process would need to be established if the subcommittee option was selected due to it requiring regulations to be established for the process. Ms. Slabaugh stated the more complex the review becomes and how the Commission intends to review them, the need for regulations arises. The Rules of Practice are for procedures that an agency sets forth that are public.

Dr. Lefforge commented it would be beneficial if someone receives the appeal and able to call a meeting if needed. Ms. Ruiz-Lee inquired if the process could be coordinated through Dr. Ableser and his team. Dr. Ableser replied the Division can be available to administratively assist.

Ms. Slabaugh clarified the Commission will receive the notice from the appellant from the licensee, who was denied a license/renewal or who was disciplined and is appealing the discipline within 3 days from the Division. The board will then have a certain number of days to put documents together to submit to the Division to be disbursed to the Commission. The notification of an appeal being filed will not tell the Commission whether to call a special meeting. The volume of what is being received will not be known until it is received from the board. The process is still governed by the Open Meeting Law.

Ms. Ruiz-Lee made a recommendation for the motion to be, Division staff will notify the appellant regarding the receipt within 3 days and the notification of the board. The Commission would adopt the timeframe of 90 days for the appeal to be completed by the Commission. Once the information is returned from the licensing board to Division staff, Division staff would review the material to make a determination on whether or not the next meeting falls within the 90-day timeline. If it does not, they would make a recommendation to the Chair to schedule a meeting and the Chair would call that meeting. Chair Kinnikin interjected 30 days for the licensing board to respond. Ms. Ruiz-Lee stated the motion would include the Division's ability to request information and response within 30 days.

Dr. Ableser clarified the presented motion to be, the website forms go to the Division. The Division processes and notifies the appellant, licensing board, and the Commission within 3 days. The licensing boards have 30 days to submit the information back to the Division. The Division notifies the Commission. The Commission decides whether or not to have an emergency meeting or wait until the next meeting to satisfy the 90-day requirement of making a decision on the investigation.

Action: The motion was seconded by Dr. Lefforge and passed to approve the Rules of Practice for appeals, as presented by Dr. Ableser.

Dr. Ableser presented the Commission's review of board's regulations. The responsibility of the Commission is to review the regulations and if they chose to, submit recommendations back to the board. There are two options. The first option is, the Commission as whole, respond to the individual regulations submitted by the licensing board. The second option is the Commission may appoint a sub-committee to review regulations.

Chair Kinnikin inquired if the process was different than when policies are received from the Division for approval. Chair Kinnikin asked if it would be a non-action item unless a recommendation is made.

Ms. Slabaugh replied it would be an action item. The statute states the Commission shall review the regulation and make recommendations back to the licensing board. The licensing boards do not have to act on the Commission's recommendations. The Commission needs to decide how they want to handle reviewing the regulations and approving the recommendations back to the licensing board.

Dr. Lefforge stated it would be more of a challenging timeline and would frequently fall outside of standing meeting times. Dr. Ableser commented, all four boards requested an expedited return from the Commission so it does not delay their own regulations processes.

Chair Kinnikin stated there is concern with the review of regulations having to meet the Open Meeting Law. Ms. Slabaugh informed if the Commission decides to process as a whole or subcommittee it would have to be under the Open Meeting Law. If the Commission decides to delegate it to one member and give them the authority to review it, and submit the recommendations back to the board, that would not be subject to the Open Meeting Law.

Dr. Durette made a recommendation to make it a Commission decision versus a single individual decision.

Dr. Lefforge suggested assigning one Commission member to take the lead on the review, attend the public workshop, and report back to the Commission at the next meeting. Dr. Durette stated it was an excellent suggestion however expressed concern it would be a difficult burden to place on one person. Dr. Lefforge suggested the assignment of the Commission member could be on rotation.

Dr. Durette inquired if as a Commission, they could have more than 21 days to review and submit recommendations to the board, to align with meetings. Ms. Slabaugh informed the statute states, on the date the board gives notice pursuant to NRS 233B.060, of its intent to adopt, amend, or repeal a regulation, the board shall submit the regulation to the Commission on Behavioral Health for review. The Commission shall review the regulation and make recommendations to the board concerning the advisability of adopting, amending, or repealing the regulation and any changes the Commission deems advisable. There is no specific timeframe in the statute.

Ms. Ruiz-Lee recommended changing the 21-day timeframe to 30 days.

Dr. Lefforge suggested changing the timeline to 35 days.

Dr. Ableser commented the boards feel comfortable with 30 days, in receiving recommendations. Commission will need to decide where they want to be influential in the process of changes to the regulations. Beyond 30 days, the recommendations may not have an impact.

Dr. Lefforge reiterated to only have one individual review and decide on the regulations with reporting to the Commission.

Ms. Ruiz-Lee made a recommendation for the motion to be, notice of intent will come from the licensing board to the Division, who will review the timelines for potential public hearing, review the documentation and Commission meeting schedule to make a determination of whether or not the review can occur within the 30-day timeframe at a regularly scheduled meeting. If it can occur within a regularly scheduled meeting, it will be calendared similar to other agenda items. If it cannot, they will make a recommendation to the Chair to call a special meeting of the Commission to review individual regulation changes or additions, so the Commission has the ability to respond within the 30-day timeline. In a subsequent meeting after February, the Commission will create an agenda item to review the regulation process to make a more informed decision on whether or not a single individual or series of individuals can be assigned to review the regulations on a rotational basis.

Action: The motion was seconded by Dr. Durette, and passed to approve the review of the board's regulations, as presented by Ms. Ruiz-Lee.

Review, Discussion and Approval of Regulations to be Returned to the Board of Examiners of Social Work

Dr. Ableser informed this agenda item is directly related to the decision just made by the Commission. The Board of Examiners for Social Work has submitted a regulation they have been working on, for the Commission's review. The Commission could choose to not review regulations until after January 1, 2018.

Chair Kinnikin asked if the Commission is being asked if they wish to review the regulation now or wait until January 1st, or not review it at all. Dr. Ableser informed the regulation was placed on the agenda to officially submit it to the Commission since Rules of Practice were not in place.

Chair Kinnikin commented, due to the regulation being in process and scheduled to have a public hearing before January 1st, regulations be submitted to the Commission beginning January 1, 2018. Dr. Lefforge agreed with Chair Kinnikin's comment.

Ms. Slabaugh stated the concern was due to it not being fully enacted until after January 1st, there would be some interpretation that the regulation would have to come before the Commission because the statute takes effect January 1st. If the Commission wishes to not review and comment on the regulation, the motion will be the Commission does not wish to review and comment on the regulation, so that it is clear in the record that the Social Work Board attempted to obtain comment and the Commission decided not to do that.

Action: A motion was made by Dr. Lefforge, seconded by Ms. T. Johnson and passed to approve the Commission to only review regulations that originate after January 1, 2018.

Seclusion and Restraint Report

Dr. Ableser reported staff have taken extreme measures in training on the recovery oriented care model at facilities. Dr. Ableser acknowledged Ms. Brooks and her team for taking an aggressive approach at moving away from traditional seclusion and restraint methods and being more proactive and preventative. The technical assistance grant has been approved and they will begin the process on Monday.

Ms. McCloskey reported for ADSD. Ms. McCloskey informed they are currently in the process of bringing on an electronic system. The restraint and denials have been entered into that system. One of the struggles they have had is getting a good report out and doing the validation process for those reports. For the month of June there was a reduction in data entry reflecting a drop in the report, which is not accurate. The numbers will go back up once all the restraint and denials get entered.

Dr. Lefforge commented the number of clients spent in physical restraint for every 1000 hours, like the DPBH report, is a more helpful way to report rather than total restraints by regional center. Dr. Lefforge requested the report reflect the average length of time compared to how many hours spent on premise. Ms. McCloskey replied, due to Developmental Services being a community based setting and patients not living on premise, the reporting is different. The average length of time can be provided.

Local Governing Body Reports

Ms. P. Johnson reported on LGB's for Lake's Crossing and Northern Nevada Adult Mental Health Services. They met on November 1st. Lake's Crossing continues to be concerned with reimbursement for medical care of individuals due to aging population and there being more chronic diseases. They

continue to have staffing issues for recruitment of forensic and nursing positions. NNAMHS continues to work on CMS and JACO QI programs. NNAMHS is actively developing new systems to address issues.

Ms. Malay reported on the LGB for SNAMHS. The Joint Commission did a full event survey in September. Two areas of improvement were determined, suicide prevention measures and improved treatment plan. SNAMHS continues to provide counseling, guidance, and support to victims and families of the October 1st tragedy. At the LGB, a presentation was made on their no restraint initiative and measures going forward.

Substance Abuse Prevention and Treatment Agency

Mr. Devine reported they have developed an operational plan for the first goal of the Strategic Plan that was presented in the last meeting. The Capacity Management and Wait List policies have been combined into one policy, which assures compliance with federal requirements. The Bureau has completed the process of releasing a funding announcement to enhance residential capacity for adolescent and transitional age youth. The funding announcement resulted in five applications, two of which were approved. The block grant application was submitted and is available on the Division website. The Bureau has begun the implementation of two new electronic systems, the WITS and CLICS system.

Ms. Ruiz-Lee inquired on the vendor pool process regarding the length of time for opportunity for vendors to become part of the vendor pool. Mr. Devine informed new agencies who want to become a part of the vendor pool can apply at any time. Ms. Ruiz-Lee asked if the application process is available. Mr. Devine responded there is information on the website, however it is not clear. Mr. Devine informed they will work on making the information clearer and have the application process available.

Aging and Disability Services Division Report

Ms. McCloskey reported for Dena Schmidt. ADSD has developed the Quality Assurance team, which will be led by Jennifer Frischmann. Ms. McCloskey announced Marina Valerio is the new Agency Manager in the south.

Policies

Recommend for Archive, 2.006- Testing for Acquired Immune Deficiency Syndrome

Dr. Ableser reported for Rose Park. Dr. Ableser informed the policy is an old MHDS policy. The policy is no longer relevant to the policies of the Division. Due to HIV being included in the current Blood Borne Pathogen and Communicable Disease policies, this policy is recommended to be archived.

Action: A motion was made by Ms. T. Johnson, seconded Dr. Durette and carried to archiving policy 2.006- Testing for Acquired Immune Deficiency.

Recommendations for New Commission Chair and Upcoming Open Positions

Chair: Dr. Durette nominated Dr. Lefforge. Ms. T. Johnson seconded and carried to approve the nomination of Dr. Lefforge as Chairperson. Dr. Lefforge abstained.

Vice-Chair: Dr. Durette volunteered for Vice-Chair. A motion was made by Dr. Lefforge, seconded by Ms. T. Johnson and carried to approve the nomination of Dr. Durette as Vice-Chair. Dr. Durette abstained.

Future Agenda Items

- Discussion of SMI
- Discussion and possible action of board's regulations

Public Comment

Jake Wiskerchen, President of the Marriage and Family Therapists and Clinical Professional Board of Examiners, provided a statement from the board, which is attached to these minutes as Exhibit "B". The statement will be posted to their website. The board currently does not have the data requested on licensees regarding applications granted, endorsed, denied or reviewed nor information on complaints other than they presently have 16, 8 of which will need to be addressed soon.

Mr. Wiskerchen commented on the process by which the NAC changes will be submitted to the Commission. Mr. Wiskerchen is recommending the Commission re-address the process and put its review of the proposed changes earlier in the process at a public workshop or one of the series of public workshops, where it is easier to change some of the proposed changes as opposed to after LCB has vetted them.

Mr. Wiskerchen stated the last meeting minutes did not include the board's public comments and is requesting they be included this time.

The DPBH Commission on Behavioral Health meeting was adjourned to the Executive Session at 11:48 a.m.