

STATE OF NEVADA
DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)
PRIMARY CARE ADVISORY COUNCIL (PCAC)

Minutes

March 14, 2019

10:00 AM to Adjournment

Videoconference from:

NV Division of Public and Behavioral Health
4150 Technology Way, Rm. 204
Carson City, NV 89706

Videoconference to:

Health Care Quality and Compliance
4220 S. Maryland Pkwy
Bldg. D, Suite 810, Small Conf. Rm.
Las Vegas, NV 89119

COUNCIL MEMBERS PRESENT:

Amir Qureshi, Chair (Call-In)
Nancy Bowen (Call-In)
Cody Phinney (Carson City)
Susan VanBeuge (Call-In)
Gerald J. Ackerman (Call-In)
Mary Wherry (Call-In designee)

COUNCIL MEMBERS EXCUSED:

Charles Duarte (designee sent)

DPBH Staff Present:

Joseph Tucker, Manager, Primary Care Office (PCO)
Heather Mitchell, Health Resource Analyst, PCO

Others Present:

Tina Figueroa, Team Health

1. Roll call and confirmation of quorum.

J. Tucker read the roll call and stated that there was a quorum present.

2. Approval of minutes:

A. Qureshi, asked if there were any additions or corrections to the minutes from the February 5, 2019 meeting. No recommendations were made.

Member Comment: None

Public Comment: None

First Motion: S. VanBeuge

Second Motion: C. Phinney

Motion: PASSED UNANIMOUSLY

3. Recommendation to the Administrator for the Division of Public and Behavioral Health regarding a J-1 Physician Visa Waiver Letter of Support for Dr. Shervin Sarmad.

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H. Mitchell presented summary handout of the completed application.

Member Comment: None

S. VanBuege – the packet looks solid and I do not have any questions or comments at this time.

Public Comment: None

Chair entertained a motion on item 3.

First Motion: C. Phinney

Second Motion: M. Wherry

Motion: PASSED UNANIMOUSLY

4. Recommendation to the Administrator for the Division of Public and Behavioral Health regarding a J-1 Physician Visa Waiver Letter of Support for Dr. Faizan Sheraz.

H. Mitchell presented summary handout of the completed application.

Member Comment:

A. Quershi: is this physician who is finishing cardiology fellowship, you said?

H. Mitchell: correct – he is finishing a fellowship in cardiology. Was completed in January 2016.

A. Quershi: would this be a cardiologist practice or hospitalist practice?

H. Mitchell: he completed his hospitalist residency program and is expected to be completed by June 2019.

A. Quershi: no, my question is, is this a cardiologist practice or medical hospitalist practice?

C. Phinney: it looks like it is a hospitalist practice.

J. Tucker: this is a hospitalist practice.

A. Quershi: so, I do not know...

S. VanBuege: I have a question for clarity, when I look at the application the residency timeframe says July 2016 to present at UNR School of Medicine, but fellowship say July 2015 to January 2016, can you clarify, and may I ask too if a fellowship is a six-month timeframe as I thought it was a full-year, what is the disparity is. There is a six-month link missing on this application. What is the story, what happened?

J. Tucker: I am not sure, I am assuming – not sure we would have to talk to the candidate directly. This is the cv they submitted with the application.

A. Quershi: can you please restate your question you have S. VanBuege?

J. Tucker, it should be on page 26.

S. VanBuege: actually, it is on page 16 of the packet, but it is the first page of that review and under the section of candidate information. It says residency timeframe July 1, 2016 to present, which it says graduation will happen June 30, 2019 and then underneath the location of residency say UNR School of Medicine Las Vegas, and it says fellowship timeframe July 2015 to January 2016 Harvard Medical School Israel Deacon Medical Center, and it says above that it says fellowship in cardiology, so I am just asking timeframe as fellowship in cardiology before he came here to UNR School of Medicine for his residency program.

A. Quershi: let's see what the people say at PCO say.

C. Phinney, on page 26...

S. VanBuege: okay

C. Phinney: on page 26...

S. VanBuege: yes, it shows that.

J. Tucker: so, the information we put on page 16, we pulled directly off the cv that the candidate provided in their application which is off page 26 of the packet.

C. Phinney: it describes a six-month fellowship in cardiology research, it appears to have been a research.

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G. Ackerman: it's not a cardiology it's research, so I....

S. VanBuege: in the first line of his narrative about that says "part of my medical education fellowship" – really, to me it's just not super clear. That's all.

G. Ackerman: so, I would say if he is finishing one of our residencies in state and he is willing to stay in Vegas, I am not concerned about that piece if he is meeting our residence requirements for graduation, I would not hold this candidate up, so I would recommend we would still move him forward but we could maybe get more clarification there.

S. VanBuege: I agree with that.

A. Quereshi: the requirements to do this particular job description, he is already meeting that, so we are okay with that and just need to get clarification.

Public Comment: None

Chair entertained a motion on item 4.

First Motion: G. Ackerman

Second Motion: N. Bowen

Motion: PASSED UNANIMOUSLY WITH STIPULATION TO CLARIFY

5. Recommendation to the Administrator for the Division of Public and Behavioral Health regarding a J-1 Physician Visa Waiver Letter of Support for Dr. Muhammad Umair Bashir.

H. Mitchell presented summary handout of the completed application.

Member Comment:

G. Ackerman: just living in Elko, and with our family practice residency here we are desperate for a general surgeon, so I would just add that this is a huge community need right now. So, I would just add that.

Public Comment: None

Chair entertained a motion on item 5.

First Motion: G. Ackerman

Second Motion: S. VanBuege

Motion: PASSED UNANIMOUSLY

6. Review and consider regulatory changes on liquidated damages clauses in J-1 contracts for the Nevada J-1 Visa Waiver Program.

J. Tucker: based on the questions and discussions we had from the last meeting our office received guidance that in order to set a cap on the liquidated damages we would need to set it in regulation and it would typically not be retroactive. We can ask for more information be requested for the application to explain the justification if they have a higher liquidated damage, but to set a cap on it we would have to adjust the regulations.

Member Comment:

M. Wherry: so, the regs currently say \$50,000?

J. Tucker: no, the reg currently says that they just need to have a liquidated damages clause included or if they have it included that in needs to be specified, but does not put a limit on it. What we propose during the last meeting is if they have a liquidated damage clause that is above the recommended amount of

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\$50,000 that we ask them for a justification of why they have it higher than that amount. In order for us to set a limit on it we would have to conduct a regulatory change, as of right now the office recommended a policy change to ask for justification from the practices.

M. Wherry: are you proposing a regulatory change to this committee of the contract must contain reasonable liquidated damages suggested to be under \$50,000 if the physician or employer terminates the contract before three years, if a contract includes liquidated damages that exceeds the suggested amount of \$50,000 for physician, submit a financial breakdown justification of the costs that would be incurred as the result of early contract termination?

J. Tucker: we...

M. Wherry: that would be your...

J. Tucker: go ahead...

M. Wherry: that would be your regulatory language that you would submit?

J. Tucker: our office is not necessarily proposing, we are just informing the council of the research we did. There was some discrepancy on the amount of liquidated damages that can be offered, and it varies from state to state as our statute and regulations currently sit there is no limit on it. So, what our office originally proposed is to basically implement a policy change where we ask for a justification of liquidated damages that are higher than the recommended \$50,000. The question then came up to set limits would it require us to do a regulatory change, and the guidance we received on that was it would require a regulatory change and it could not be implemented retroactive. It is basically for the council, the role of this would be for the council to discuss the action they would want to take and then provide that recommendation officially to the administrator of DPBH. My understanding is if the council wanted to implement and set a cap on liquidated damages, they could vote and recommend that to the administrator and at that point we would have the discussion with her. For our part – from the office, we were basically suggesting doing a policy change where we would ask for clarification above the \$50,000 mark.

M. Wherry: to Nancy - with FQHC's what do you see, or do you have any terms of what the risks are as far as from an employer perspective?

N. Bowen: I think policy change, the FQHC's aren't really... This conversation dates back to when I think they were a really large amount as a fee as a penalty, and that is a concern cause FQHC's would not be able to pay any kind of large penalty, so the committee asked for verification from Joseph's group what was the standard on other states. I'm fine with keeping it at \$50,000, and then asking for a policy that says to please explain why it is more than that, and a FQHC typically does not put that kind of a penalty on a provider. That make sense?

M. Wherry: yes.

N. Bowen: Okay. I believe so, and the policy change that Joseph is suggesting of adding, asking for clarification as to why they are making a higher amount, and then it is up to the committee to recommend whether we approve that application or not.

A. Quereshi: the final authority if an application with a \$250,000 liquidated damages clause, and the council disapproves it the administrator can still approve it after that?

J. Tucker: correct, the PCAC is providing a recommendation to the administrator, and the administrator has the ultimate authority on approving or disapproving the application.

A. Quereshi: so, it goes on a case-by-case basis if it is more than \$50,000. When you present these cases, which have liquidated damages of more than \$50,000, we have to make sure we have these applications covered. At \$50,000 we do not need any explanation, but more than \$50,000 we need to clarify and breakdown in the application.

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J. Tucker: yes, that is the requested policy change. That was proposed for the policy change is to request a financial justification for any liquidated damages amount above \$50,000.

M. Wherry: So, Joseph you are asking if the PCAC want you to pursue a regulatory change to that affect?

J. Tucker: No, our office has come to the determination that this should be sufficient with the policy change only and not do a regulatory change. With the questions that were proposed during the last meeting about would the program be able to set limits and if so what would that take to set the limits, and would those limits be retroactive or only for future applications, so we sought guidance from legal council to determine if the program were going to set limits on it would take a regulatory change, but our office is not proposing that. We are simply presenting the information of what that would take based on the questions the council had from the meeting.

M. Wherry: from a policy perspective we can ask why the question as to why they are setting a limit beyond \$50,000, but if you are setting a cap beyond \$50,000 it would take regulatory change.

J. Tucker: correct, technically in the regulations there is no cap, no limit it to it. We have just implemented in the policy a suggested amount of \$50,000. That is based on some of the liquidated damages clauses and some concern that the PCAC had back in 2013 with some of the applications that came through. There is no official limit that is set.

M. Wherry: legal council did not tell you couldn't question why they wanted to set any kind of liability beyond that.

J. Tucker: the guidance that we received was that requesting more information could be requested to explain the justification.

A. Qureshi: What do the members think?

G. Ackerman: I am comfortable, I do not think doing a regulatory change, I do not know how you would set the cap and think the recommendation of staff would be fine with me and we could then make the recommendation to the administrator on a case-by-case basis, if there is something outlandish the administrator would have to make that call anyway and I do not know how you would set that cap. I think what staff and legal council recommended to the staff is what we should go with.

S. VanBuege: I agree with, I appreciate the thoughtful discussion and full explanation, and do not believe this should be a regulatory change and we should go with the recommendation of staff and legal counsel.

M. Wherry: I agree with S. VanBuege and G. Ackerman.

Public Comment: None

Chair entertained a motion on item 5.

First Motion: C. Phinney

Second Motion: M. Wherry

Motion: PASSED UNANIMOUSLY TO IMPLEMENT AS POLICY CHANGE

6. Adjournment

The meeting adjourned at 10:35 a.m.