

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

DRAFTMINUTES
December 3, 2019
11:30 AM to Adjournment

Videoconference from:

NV Division of Public and Behavioral Health
4150 Technology Way, Rm. 301
Carson City, NV 89706

Videoconference to:

Health Care Quality and Compliance
4220 S. Maryland Pkwy
Bldg. D, Suite 810, Large 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)
Julie Clyde (Call-In)

COUNCIL MEMBERS EXCUSED:

DPBH Staff Present:

Joseph Tucker, Manager, Primary Care Office (PCO)
Heather Mitchell, Health Resource Analyst, PCO
Linda Anderson, DPBH Deputy Attorney General (Call-In)

Others Present:

Stacy Zirath (Call-In)

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 July 23, 2019 meeting. No recommendations were made.

Chair entertained a motion on item 2.

First Motion: S. VanBuege

Second Motion: J. Clyde

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. Vivian Ekwutosi Onuagu.

H. Mitchell presented summary handout of the completed application.

Member Comment: None

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Public Comment: None

Chair entertained a motion on item 3.

First Motion: C. Phinney

Second Motion: G. Ackerman

Motion: PASSED UNANIMOUSLY

4. Recommendation to the Administrator for the Division of Public and Behavioral Health regarding the J-1 Waiver complaint process.

J. Tucker presented an overview of the J-1 Waiver complaint process. There has been a significant increase in applications, 23 in the last fiscal year. We have also had an increase in complaints or how to express concerns about practices and/or things that are going on with the J-1 doctors. The PCO has put together an official complaint document as shown on page 21 of 27 to standardized and streamline the process.

Member Comment:

G. Ackerman: How many complaints are we getting? Has it been significant?

J. Tucker: We have had five (5) complaints come in this last fiscal year; however, some of the individuals decided to remain anonymous and filed the complaints under pseudonyms and did not present any evidence of their complaints. In presenting the evidence to the Administrator, it was determined that unless we had more evidence to substantiate their claims we could not investigate or conduct an inquiry into it. As a result of that, some of the J-1 doctors names that were brought into it, the PCO contacted those doctors to see how things were going and did not receive any complaints from those doctors. It just brought up the idea that we are getting more complaints and even though they were not substantiated that it would be good to have an objective process in place.

S. VanBeuge: If complaints are coming in and they are not coming from the recipients from this J-1 program, who are the complaints coming from?

J. Tucker: On three of the complaints, I am not sure who it was. For example, someone who claimed to be involved at a hospital where a J-1 doctor was working. The name, identity, how they were involved or any of the information they provided could be verified and they requested to remain anonymous. The complaint was not against a physician per se, but against a practice. The evidence they presented in that case was a newspaper clipping with a lot of assumptions-based underneath it.

J. Clyde: Is the nature of these complaints more a violation of visa or medical?

J. Tucker: Not a violation of visa. One of the complaints accused the practice of abusing J-1 doctors by hiring only J-1 doctors and not providing opportunities for American born physicians to fill in those spots. That practice provided us with a list of interviews and dates of those interviews of the J-1 candidates as well as the American born physicians for a separate project, but the complaint happened to come in at the same time we had that evidence and determined the accusation was not valid.

S. VanBeuge: Have any of these complaints been in regard to patient safety?

J. Tucker: We did have one complaint that came from a J-1 doctor that was concerned with some patient safety. We contacted Health Care Quality and Compliance and licensing board, and the DPBH Administrator determined that the complaint needed to be handled through the licensing board. The PCO helped the J-1 Physician ensure that all the information and complaint was registered with the licensing board, and they are currently following-up with that.

A. Qureshi: There is no direct complaints of any employee towards an employer or these are complaints, but they are indirect? These five complaints are they five different people of the same practice, or different practices?

J. Tucker: Only two of the complaints came from the same practice, but two separate issues.

S. VanBeuge: I appreciate the process policy that has been presented in front of me as I am a process-oriented person, but I think it would be enhanced in a flow-chart. It is concerning to me that we are having complaints, and I

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am not sure if I was clear if this was an increase over the years prior. Historically, where does five complaints fall in the history?

J. Tucker: To give you a quick five-year history on this, in 2015 there were two applications with zero complaints, but again a very small amount of applications, in 2016 and 2017 there were eight applications each year and maybe one or two complaints out of the 2017, in 2018 we had 14 applications and to my knowledge we did not have any substantiated complaints at that point. Out of the five complaints we had this year, three of the complaints were unsubstantiated because they did not present enough evidence to substantiate the complaints or accusations or concerns that they had. We are looking at this preemptively and saying if we continue on the rise of getting 15 to 25 applications a year or even reaching the max it is inevitable we are going to have more issues rise that we haven't previously had because of the low number of applications.

S. VanBeuge: Do you feel that what has been put together as far as a policy and what there is currently in place covers you as an office that if these complaints come through you can look at them and call in who you need to and then be able to handle them completely for them to be resolved and go forward, or do you feel like you are at a place that your at an endpoint and not sure which way to go, do you feel like you have enough in policy to resolve? Something comes in and you can follow it through and get to a resolution that gets it all complete?

J. Tucker: I do, I think for the most part complaints that come in we do not hold any authority over a facility or a practice necessarily. Sometimes complaints come in and they do not have to do with the program, but there are other issues, so we work very closely with Health Care Quality and Compliance and the licensing board so we can make sure those complaints are handed-off quickly and accurately handled without any gaps. Our main concern is when the complaint comes in is to determine if there is a program violation of the Conrad30 program and if there is then handle it accordingly, do the investigation, and essentially provide a recommendation to the Administrator and ultimately it is up to her to make the decision. A lot of these complaints that come may be required to be handled by Health Care Quality and Compliance or licensing board and do not have a process in place for someone to be able to handle that, or if we have new staff members come in or turnover we are just trying to create a process that is streamlined and objective and can be shared with everyone publicly. Also, Dr. VanBeuge I did take note of the flow-chart and think that is a great idea and appreciate your input.

S. VanBeuge: Thank you that really helps clarify it, my biggest concern is if we have safety concerns that we need to have processes in place to be able to handle that immediately if it is a patient safety issue, and that you have whatever you need in policy or tools in place that can be followed through, and it sounds like you do and are streamlining it and getting ahead of it.

A. Qureshi: You said the patient-safety issues are taken care of by the State Medical Board and I understand your office does not have anything to do with it directly. Historically speaking the problem with the J-1 program has been abuse by employers, and that is the part of complaints that I have had experience with committee many years now. Employers have had employees do things which were not appropriate, like forcing them to do things that which are unethical, immoral, medically not necessary and things like that and this is where I think the Administrators role will come in and figure out if that is happening.

J. Tucker: I agree with you 100%, and that is the goal of this process is to lay it out. For example, towards the end of the second paragraph – I have complaints come in from J-1 doctors who want to complain about a process, want us to investigate it, and want to remain anonymous as well and there are some circumstances where it is not possible for us to do that. By streamlining this process and having a document out to say here is a policy of how this is handled. Generally, we conduct the investigation and take down all the facts and present it to the Administrator to make the decision. Like it says in the top paragraph, if there is patient safety involved the investigation and complaint process takes place immediately.

A. Qureshi: Since it is in my personal knowledge, I heard that one physician left the program.

J. Tucker: Yes, it is my understanding that there was a physician that was in the process of leaving the program.

A. Qureshi: Did they tell you the circumstances and reason for all that?

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J. Tucker: Yes, we did have a complaint regarding a contract dispute between the J-1 physician and the practice, and we investigated, talked to both sides and presented the information to the Administrator and what it boiled down to it looked like it was essentially a contract dispute. We offered to meet...

A. Qureshi: Did you see the contract? The contract was presented to us a few months ago. The contract was presented to us like in this case today, so when you say contract dispute, what does that mean?

J. Tucker: The two stories coming from the practice and physician were different, the J-1 physician said there was a certain set of events and conversations that took place and the practice said there was another set of events and conversations that took place and the two parties were not willing to meet.

L. Anderson: It was really about the implementation of the contract rather than a complaint about the contract itself, they were disputing how those terms were being implemented.

Public Comment: None

Chair entertained a motion on item 4.

First Motion: S. VanBeuge

Second Motion: N. Bowen

Motion: PASSED UNANIMOUSLY with the addition of creating a flow chart to reflect the same process.

5. Recommendation to the Administrator for the Division of Public and Behavioral Health regarding the J-1 Waiver program regulations.

J. Tucker presented proposed amendments of the J-1 Waiver program. As a result of the increase of applications and different challenges we have had at looking at some of the applications that have come in and processed over the last couple of years, the PCO has gone through the Nevada Administrative Code and has provided some suggestions to update the J-1 Visa Waiver regulations. A lot of them are little things, for example on page 22 of 27 in section 1 of 439.720, it says the fee has to be paid in equal amounts and we wanted to reword to allow the employer to pay the whole thing if they so choose to. The biggest change in the suggestion to increase the fees to \$2,000, the PCO has done a time and effort study and looked at based on travel, on time spent processing the application, site visits, and handling the complaints. Over the last two to three (2-3) years we did a study on about how much time we spend and about what it costs, and it looks like it costs around \$2,000 to handle the application and all the administrative tasks and everything underneath it. We also looked at four-five (4-5) other states that have also been increasing their fees, and almost all of them were even higher than \$2,000, like I think Texas was right around \$3,000 an application, and determined it was not out of line with the similar process that are going on throughout the rest of the nation with the J-1 Visa Waiver program.

Member Comment:

N. Bowen: Do the other states that you compared to have a flat-fee as compared to the breakout that is standing right now? You're going from a HPSA being \$500 to \$2,000, that is a \$1,500 increase.

J. Tucker: Most of them just run a flat fee.

A. Qureshi: When you mean they run a flat fee, they run a flat fee to be paid by whom? The employee, the employer or they did not specify?

J. Tucker: We did not look at that to see who was paying.

S. VanBeuge: Do you have the report we would be able to review how you came with that breakdown of the individual fees for that \$2,000, part of our responsibility is that fiscal piece. For me, I would like to see

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the work that you did and know that we looked at it. And it would be nice if you looked at other states, to see what that breakdown is and having that transparency available, makes us have an informed decision.

J. Tucker: Absolutely, I would be happy to provide that.

A. Qureshi: NAC portion on violations, the first offense \$1,000 and the second \$10,000. When does the Administrator decide to bar somebody for participating in the J-1 program as an employer? Is it after the first offense or the second offense?

J. Tucker: That is a good question, this is a discussion I had with Scott Jones as he had a bit more of a historical understanding. I assuming it is up to the Administrator.

A. Qureshi: I could no conclude as to when you bar the employer, if they are such bad employers. Do you not bar them after the first offense?

J. Tucker: I think that would be depending on what the offense is and what they have done, and at the discretion of the Administrator.

S. VanBeuge: I think it would have to be clear on what the offenses are, what would be someone who would be barred, and if they were what is the period of time, how could they reapply, or maybe I missed seeing that in there?

A. Qureshi: They can be allowed back after two years, but my question is when you bar them. How do you determine how bad the offense is?

J. Tucker: Since these are the regulations, some of those details might be better laid out in the policy that would fit under the regulations rather than having it tied into the regulations specifically.

C. Phinney: If this committee recommends these changes, do we have any authority to change NAC or does this go to another level after us?

J. Tucker: The council would be providing recommendations to the Administrator regarding these changes, and then we will host a public meeting and receive public input regarding the changes, and then at that point they would be able to be approved and/or revised by the Administrator.

L. Anderson: Yes, it still goes through the usual workshop and public hearing process, they are just looking to your expertise to give feedback but would continue through a full process as required by the regs.

Public Comment:

None

Chair entertained a motion on item 5.

First Motion: S. VanBeuge

Second Motion: J. Clyde

Motion: PASSED UNANIMOUSLY TO AWAIT FURTHER FEEDBACK REGARDING BARRING AND COSTS

6. Public Comment

None

7. Adjournment

The meeting adjourned at 12:11 p.m.