

**ADULT DAY CARE ADVISORY COUNCIL MEETING
MINUTES**

Date: November 13, 2014

Time: 9 AM

MEETING LOCATIONS

Videoconference to:

Division of Public and Behavioral Health
Health Care Quality & Compliance
727 Fairview Drive, Suite E
Carson City, Nevada 89701

Division of Public and Behavioral Health
Health Care Quality & Compliance
4220 South Maryland Parkway, Building D, Suite 810
Las Vegas, Nevada 89119

CALL IN NUMBER: 888-398-2342 ACCESS CODE 1530727

NOTE: SOME ADVISORY COUNCIL MEMBERS MAY ATTEND BY TELECONFERENCE

AGENDA ITEMS MAY BE TAKEN OUT OF ORDER, COMBINED FOR CONSIDERATION, AND/OR
REMOVED FROM THE AGENDA AT THE CHAIRPERSON'S DISCRETION

Las Vegas attendees:

Christopher Vito, Chair
Kathy Posada, Baby Boomer's Activities Club, LLC
Heather Lankford, Willow Creek Memory Care West
Helene Reilly, Nevada Adult Day Care Centers
Jeffrey Klein, Nevada Senior Services, Inc.
Jeff Dold, More to Life

Laura Freed, Deputy Director, Division of Public and Behavioral Health
Kyle Devine, Bureau Chief, Health Care Quality and Compliance (HCQC)
Donna McCafferty, HCQC
Patricia Elkins, HCQC
Julie D. Bell, HCQC
Heather Korbulik, Aging and Disability Services
Leticia Metherell, HCQC
Terry Stricker, Aging and Disability Services
Suzie Cortez, Nevada Adult Day Health Care Centers
Christina Vito, Nevada Adult Day Care Centers
Linda Anderson, Chief Deputy Legal Counsel, Attorney General's Office
Lily Chin, New Life Adult Day Care Center

Carson City:

Jennifer Sinio, Medicaid
Leslie Bittleston, Nevada Medicaid, Division of Health Care Finance Policy (DHCFP)
Jennifer Frischmann, Nevada Medicaid, DHCFP
Leticia Metherell, HCQC
Chad Westom, Bureau Chief, Preparedness, Assurance, Inspection, and Statistics (PAIS)

Steve Gilbert, Program Manager, Medical Marijuana Program, PAIS
Fred Ohlmsted, Legal Counsel, Nevada State Nursing Board
Lee Persefield, HCQC
Sherry Crance, HCQC
Nenita Wasserman, HCQC

Teleconference

Heather Lankford, Willow Creek Memory Care West
Patricia Capello, Washoe County Senior Services
Diane Ross, The Continuum

Approval of minutes from the August 14, 2014 meeting. *Chris Vito, Chairperson*

**JEFFREY KLEIN MOVED TO APPROVE THE MEETING MINUTES OF AUGUST 14, 2014.
KATHY POSADA SECONDED. THE MOTION PASSED UNANIMOUSLY.**

No public comment on minutes.

Bureau Topics – *Julie D. Bell, MED, Health Facilities Inspection Manager, Health Care Quality and Compliance (HCQC)*

Discussion regarding the topic of medical marijuana.

Chad Westom, Bureau Chief, Preparedness, Assurance, Inspection, and Statistics (PAIS) Contact number 775-684-5948 – Chad Westom commented he was invited to this meeting to discuss medical marijuana and how it relates to the adult day care industry. He explained that medical marijuana is a new program and the current law allows people to grow medical marijuana. He said it is a new program and they would also like to hear any feedback.

Chris Vito thanked Chad for attending and was very much appreciated Kyle Devine and Laura Freed's attendance. He stated that his facility would request clients who use medical marijuana to use it at their home before coming to adult day care.

Chad Westom noted that medical marijuana is not a prescription, but it is an actual doctor recommendation. The doctor does not recommend a certain amount and the physical condition that they are giving the recommendation. If your facility makes a policy decision that your facility does not support medical marijuana, he was not aware there is a regulation that requires that a policy be set.

Jeff Klein commented this is a very broad issue. He commented that his facility does not allow any medicine unless it is in a container that can be tracked back to a physician order. He facility does not allow Tylenol unless they have a medical prescription. There is no physician order or dosage or original dosage container that they can go back to for medical marijuana. This is a statutory and regulatory issue for adult day care facilities.

Linda Anderson commented that there is an increase in these types of prescriptions in facilities. She commented that it is to be used in the privacy of your own home. She commented that marijuana is still against Federal law. The smoke from marijuana will be a problem in public as well as sharing edibles. She said that the adult day care facilities may want to look at their policies. The main goal is to have a policy for your clients who use it but how to best use it without imposing on the adult day care setting. It is legal to use it, but physicians should talk to their clients on where and when it would be best.

Chris Vito stated that medication management is done at his facilities, they are healthcare focused, and they look at the exact dosage. He said they could post their policies on medical marijuana. He did not know it was a physician recommendation and not a prescription. He asked the bureau if they could create a policy and post it in the lobby and distribute to their clients.

Chris Vito said he is concerned about sharing edible products because it is not obvious that they have marijuana in them. He was unaware that it is a physician recommendation rather than a physician prescription. He recommended that all facilities post their medical marijuana policies.

Jeffrey Klein said that he is going to wait until the law and statutes are actually changed before considering changing his policy on medical marijuana otherwise it puts his facility at risk. He said he had a concern that there may be a disconnect on what the public expects regarding medical marijuana and the capabilities of an adult day care facilities.

In response to a question posed by Donna McCafferty, Linda Anderson said physicians write recommendations but it would be illegal to write a prescription.

Legal ramifications of allowing or disallowing medical marijuana in health facilities.

Nevada State Nursing Board representative, Fred Olmstead, General Counsel, discussed guidance to nurses and their licensure as it pertains to medical marijuana.

Fred Olmstead gave an example of a question a nurse might pose to the State Nursing Board: He said that the State Board of Nursing web site has a decision making tree.

A nurse might call in and ask, “Can I assist my home health care to use medical marijuana.”

- a. The tree would ask four basic questions; did you learn this skill in nursing school? The answer is no.
- b. Is there a certification to prove competency in rolling a marijuana cigarette; the answer is no.
- c. If you are a nurse, you cannot demonstrate competency in medical marijuana. How will you do this?
- d. The nurse says she/he is going to help the patient use the marijuana. What if you give them too much since there is no prescription, you don't know how much is the correct dosage.

Mr. Olmstead said if you are going to have possession of marijuana, and do not have a recommendation from the physician, it is against the law. It is not a prescription but a physician recommendation. If a facility takes federal money or wants federal money, it is against the law to use medical marijuana.

Kyle Devine said all needs should be looked at from every perspective. Under nursing licenses, there is a provision under the law for a patient to have a designated primary caregiver that goes through the same process to receive their card as your patient does. You cannot be a caregiver for more than one person. If you do have a nurse, who may be designated caregiver, who has a caregiver card, to care for the one person it may not have to do with their license, you can assist them in the use of medical marijuana.

Chad Westom stated that the *Nevada Revised Statutes* state the employer does not have modify working conditions for the use of medical marijuana.

Julie Bell asked Chad Westom if an employee is required to reveal that they have a medical marijuana card. He responded that he was not aware of any law for a card holder to tell the employer. There was a round table discussion regarding employees using medical marijuana.

Chris Vito recommended providers to provide a policy, to make it clear and concise and visible so that the caregiver can understand it.

Kyle Devine stated that HCQC is encouraging all facilities to have a policy as to how they are going to address medical marijuana. The HCQC will be looking to see that you are following your own policies that are set.

Patricia Capello asked Leslie Bittleston, from home and common community based waiver scenario, if the facility looks at the patient's comfort, has anything been addressed for the Medicaid clientele.

Leslie Bittleston said that was an interesting question, and her answer was no that it has not been brought up at all and is something that is something they need to look into that.

Public Comment

Jeffrey Klein thanked the Attorney General's office and Linda Anderson for the help her office provided for help with the seniors during her time in office.

Top tags for facilities for adult day care

A handout listing the top tags for Adult Day Care which includes:

TAG	ASPEN: Tag Summary Report From 05/01/2014 through 10/28/2014	Cite Frequency	Average Severity	Average Scope
0158	Housekeeping and Maintenance	1	2.00	3.00
056	Director and Employees	2	2.00	1.50
088	Files Concerning Employees	1	2.00	3.00
153	Required Services	4	2.00	1.00
170	Service of Food, Dietary Consultants	4	2.00	3.00
200	Contract for Provision By Another Person	1	0.00	0.00

Partnerships in training – development of staff training programs and external provider education.

Chris Vito requested a standing agenda item for a list of who is applying for a license and who is on the queue. Chris Vito said this request is not to impede anyone coming into the market as there are only 14 licensed adult day care facilities. As a group, he said that they will be heard at the upcoming legislature. If the reimbursement is adjusted by the upcoming Legislature, there may be many more applicants.

Julie D. Bell explained that HCQC provides initial applicant training, which will help to ensure quality care. If they meet all the requirements, the HCQC does not put any barriers from them to conduct business. At the front end, we can provide some initial training. There is not as many adult day cares are coming into the community so the training does not occur monthly but the Bureau is certainly willing to look at a mentoring program with you providing input.

- Jeffrey Klein said he supports a program for new providers and would like to help.

- Chris Vito said that perhaps the Bureau can provide a tutorial what they can expect from the applicants.

Donna McCafferty explained that when they are in the application process, they have already selected their locations. She gave the contact information of the ADCAC so that may help in them deciding locations. Inviting more of these people who are already are licensed. If you make sure that everyone is invited it helps everyone know what kind of training is needed. Potential mentors may volunteer.

Continuing, Mr. Klein said that everyone can work in the State of Nevada to make things better and that is where they will work closely with Medicaid, Aging Services Division. These conversations to draw in organizations that are not part of this conversation is important.

There was no public comment on this item.

Update on any new Medicaid items relating to adult day care facilities.

Home and Community Based Waivers. *Leslie Bittleston, Jennifer Frischmann, Division of Health Care Financing and Policy (DHCFP)*

Leslie Bittleston said that they are currently in process of doing their annual adult day care review. The review was implemented five years ago and since then, there have been huge strides. The DHCFP has completed 50 percent. The result has been very positive with no fraudulent billing. Thank you very much to the adult day care community for your collaboration to be on the same page with providers.

Leslie Bittleston commented to Julie Bel, as another state agency she struggles with individuals who call Medicaid that determine that they determine everything. She said they need to do a better job to educate providers that HCQC is the licensing agency and Medicaid is the reimbursement agency. Recently after a Medicaid review, that person called her asking when they are going to send her license. She said from a state perspective we need to do a better job together of helping people navigate the system. She said that may be that could be part of the training for new applicants.

Continuing, Ms. Bittleston said the Home and Community Based Waivers held workshops conducted last week. The state has done quite a bit of work on this topic. They are trying to focus on that transition plan and bring the state on board by the deadlines that have been set. The workshops went well.

Jeffrey Klein said to the extent things from CMS perspective, the sooner that the information gets out and all the waiver rules. As things are knowable, that information is sent out to the community. Boulder City Hospital has a senior center facility in the works. – Medicaid funds won't be forthcoming if they do not take certain things into consideration. He hoped that when new buildings are being built but keep in mind those standards that are required to receive the Federal funding. On the campus, nursing facility inpatient care, it is not allowed for Medicaid care.

Leslie Bittleston said if the proposed facility is on the same campus as a hospital or any kind of inpatient type facility, that would disqualify them from Medicaid reimbursement.

Heather Lankford, Willow Creek, said our day care is located inside our free standing memory care.

Leslie Bittleston said most likely that will not be acceptable going forward Medicaid reimbursement because you have an inpatient assisted living center she asked if it is a licensed residential facility for groups, Leslie said she needs to check on that for Heather Lankford.

Opportunity is an all-inclusive place and not taking the individuals out in the community to do things rather than just a home in a community.

Chris Vito said he was very happy that Leslie reported that the adult day care has receive a good Medicaid audit was received.

Industry Updates - *Chris Vito, Chairperson*

- a. Successes deserving recognition – The success stated from Medicaid was a good recognition. National Adult Day Care Association key note speaker was Jeffrey Klein regarding how adult day care has been operated in Nevada.
- b. Top three challenges the adult day care facilities face. One of the things that came up was 12 hours of continual education for our employees. He said a comprehensive sheet was put together for all our employees so that the surveyors did not have to look at items individually. He suggested putting your education in one sheet saves the surveyors' time.
- c. Advocacy – home health, hospitals, regarding increasing the Medicaid reimbursement rate of adult day care service. He noted that adult day care is not the only level of care that has not been looked at in a long time. The reimbursement rate from Medicaid is \$54.48 for six hours and those services include nursing services. Many of adult day care facilities have other services: physicians, podiatry imaging, for adult day care specifically from six up to 12 hours of care.

Discuss how to prepare for the 2015 Legislative Session

Regarding the upcoming 2015 Legislative Session, there are several bills that are coming up regarding elder issues, community health worker,

Chris Vito said that they do not have an issue of complying but when it starts to incorporate costs on our end it is very difficult. When those standards are raised and the expenses increase and the reimbursement side has not been increased in 12 years, fees are difficult.

Donna McCafferty said that when you talk about lobbying, you are talking about the industry not the Adult Day Care advisory Council.

There was no further comment on this item.

PUBLIC COMMENT

Public Comment (No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.)

Chris Vito said the diabetes check is difficult. He said they were pursuing a CLIA license but it has been suspended because of the costs.

Kyle Devine said that this concern has been brought up and the bureau is willing to look at it. He pointed out that the CLIA, Federal law and Federal regulations are issues the state has no control over. On state side, the Bureau can work to address the issue. Whenever there is an undue burden put on the industry, please let us know. The council was created so that the state could work collaboratively with you.

Leticia Metherell gave an update on proposed regulations. She explained that fees are to pay licensing staff, cars for inspections and costs associated with periodic and unsubstantiated costs. When adding those costs together, if you divide one inspection, the renewal cost would be a lot higher. By taking the average cost, the renewal cost is less. The other misconception is the other facilities are receiving 50 percent reduction. She explained that they

built in the renewal costs, in the past what has happened, it assumed the periodic inspection would be more. That is the way it is set up in the LCB in the past, the new one moving forward, HCQC thought it was fair, it is the cost of the inspection which is 30 percent. The initial inspections, is a 30 percent cost is less. The whole picture was based on workload and based on average workload inspection. She explained that they did not double the initial inspection cost.

Leticia Metherell said the other suggestion HCQC received is to hear input was to base it on more of a grading scale. If you get a good grade you get a less cost. Leticia Metherell gave an update on the grading scale suggestion. She explained there is a problem with the grading set up. She said that may be in the future it can be looked at closer. She said that it becomes volatile in the sense that grades do not remain constant and the grade may change with another inspection so the cost of that inspection is not known. Any time systems are changed, it becomes more complicated and more staff is needed to deal with those things. She said she just wanted to give this information so that the advisory group can bring up the concerns and issues.

There was no further comment.

Adjournment.

Meeting adjourned at approximately 11 a.m.

Approved at the 02-12-2015 ADCAC meeting.