

**NEVADA STATE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
ADULT DAY CARE ADVISORY COUNCIL MEETING
SUMMARY MEETING MINUTES**

Date: August 27, 2015

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

ADCAC Members

Christopher Vito, Chair (Las Vegas)
Jeffrey Klein, Vice Chair (Las Vegas)
Howard Chin, New Life Adult Day Health Care Center (Las Vegas)
Patricia Capello, Washoe County Senior Services (teleconference)
Jeff Dold, More to Life Adult Day Health Center, LLC (teleconference)
Heather Lankford, Willow Creek Memory Care West (teleconference)
Diane Ross, The Continuum (teleconference)
Beatrice Mercado Shimada, Senior Residential Care (Las Vegas)
Dorothy Domingo, Ohana Adult Group Care Home (Las Vegas)
Kathy Posada, Baby Boomer's Activities Club (Las Vegas)

Las Vegas Attendees:

Donna McCafferty, HCQC
Don Sampson, HCQC
Pat Elkins, HCQC
Julie D. Bell, HCQC (teleconference)

Carson City Attendees:

Chuck Damon, Nevada Medicaid
Leslie Bittleston, Nevada Medicaid
Jennifer Frischmann, Chief, Long Term Support Services, Division of Health Care Financing and Policy

Approval of minutes from the May 28, 2015 meeting. *Chris Vito, Chairperson*

JEFF KLEIN MOVED FOR APPROVAL OF THE MEETING MINUTES. HOWARD CHIN SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY. APPROVED UNANIMOUSLY.

Re-election of Advisory Council membership.

All members agreed to renew their membership as council members.

I MAKE A MOTION THAT CHRIS VITO CONTINUE AS CHAIR AND THAT THEIR TERM BE EXTENDED ACCORDING TO BYLAWS.

CHRIS VITO MADE A MOTION JEFF KLEIN CONTINUE AS VICE CHAIR AND THAT HIS TERM BE EXTENDED.

JEFF KLEIN MOVED FOR APPROVAL OF ALL MEMBERS TO RENEW THEIR MEMBERSHIP ACCORDING TO THE BY LAWS WHICH INCLUDED THE FOLLOWING MEMBERS.

Christopher Vito, Chair
Jeffrey Klein, Vice Chair
Howard Chin
Patricia Capello
Jeff Dold
Heather Lankford
Diane Ross
Beatrice Mercado Shimada
Dorothy Domingo
Kathy Posada

SECONDED BY CATHY POSADA. THE MOTION PASSED UNANIMOUSLY.

Don Sampson reviewed the top ten tags for the adult day care facility.

170 Service of Food
056 Director and Employees – TB Testing
153 Required Services - Medications
230 Written Assessments of Clients
247 Plan of Care
057 Director and Employees – annual TB
088 Files Concerning Employees – employee evaluation
095 Files Concerning Employees – employee requirement
110 Requirements of Facility
140 Requirements for Admission

Chris Vito said he sees the tag for the 170 – Service of Food requirements. He asked if there is any one from the bureau that could make a presentation to the advisory council. Don Sampson said may be for service of food presentation could be done by Ashley Watters and Vinny Valiente.

Julie D. Bell reviewed the list of open and closed adult day care facilities.

Update on Centers for Medicare and Medicaid Services (CMS) Home and Community Based Services 1915 – Chuck Damon, Leslie Bittleston, Long-Term Support Services, Division of Health Care Financing and Policy (DHCFP)

Donna McCafferty said there will be some regulation development that will be opened up during the interim and may be look at some of the regulations that could be matched with Medicaid.

Chuck Damon explained that on August 20, 2015m there was a workshop north and south and he put out information on chapter revisions. Some processes were brought forward and public comment. Some comments will be addressed in the near future and looking at continuing with provider partners. Soliciting the provider for input on what is working and what is not working.

Jeff Klein thanked Leslie and Chuck for an excellent workshop. He said it was a worthwhile process and looking forward to working with them. Related workshops are coming up and we look forward to attending those as well.

Chris Vito said he appreciated a lot of things about the workshop as it is all about the clients.

Leslie Bittleston gave a summary from workshop regarding RNs and LPNs to clarify that adult day health care is a medical model program which means that physicians give orders that are carried out by RNs. That does not mean facilities cannot hire LPNs. It does not mean that LPNs cannot be left alone but the caveat is the RN must directly supervise the LPNs and must be a phone call away and the RN is ultimately responsible and that the Nevada Administrative Code 632087 and 63222 is followed. She knows there is a problem hiring RNs. You can hire LPNs but the RNs are ultimately responsible. She hoped that provides some clarification to the industry as a whole.

Chuck Damon said if you have questions as to the roll of the RN, the agency that can answer that best is the State Board of Nursing. If there is any questions as to how this contact should be made through RNs, please contact State Board of Nursing.

Chair Vito thanked everyone for the information.

NRS NAC 632 – Chapter for nursing. LPNs are very limited what they can do autonomously. They have to be under the supervision of an RN. I would refer you back to the nurses practice acts. The LP develop a plan of care but it still must be supervised by an RN. You just hire one RN per facility Nursing will not allow that.

For the record Leslie Bittleston said she must make a correction to the statement she made to the Adult Day Health Care Advisory Council previously. She said she had misstated that an LPN cannot perform a Plan of Care. The correct reference is as follows.

LICENSED PRACTICAL NURSE

At the direction of RN, APN, licensed physician, licensed physician assistant, or licensed dentist

Contributes to assessment of health status by: collecting, reporting, and recording objective and subjective data observation of conditions or change in condition signs and symptoms of deviation from normal health status.

Assists in formulating lists of needs/problems

Contributes to setting realistic and measurable goals by identifying major short and long term goals

Participates in development of written care plan

Recognizes, understands, respects cultural, spiritual, religious issues, beliefs, needs and rights to choice

Assists in identification of measures to maintain hygiene and comfort

Supports human functions

Maintains environment conducive to well-being

Provides health teaching

Participates in identification of priorities

<http://nevadanursingboard.org/practice-and-discipline/scope-of-practice/>

Information items for discussion. *Chris Vito, Chairperson*

According to Medicaid Rules and Regulations, it is not appropriate for the physician owner to refer or write orders to his own adult day care.

Chris Vito said that the HCQC does not have regulations prohibiting physician ownership of a licensed adult day care in the State of Nevada. One of the things he talked to Chuck Damon, Leslie Bittleston, and Don Sampson, is it inappropriate for the physician owned facility to self-refer patients. That was a concern that was brought up and he wanted to share with everyone.

Chris Vito said it is important to maintain the integrity of the adult day care industry.

Donna McCafferty said that everyone here knows that you represent excellence in adult day care. Because this is your reputation, the licensing process is prescriptive in nature. It also is the duty of the bureau. The

advisory council provides advice, regulation development and issues as they come up. At this time, we could not change this group to a licensing group that you have review of the applications. She said that they would want to know if there is someone out there that there is concerns that they are not regulatory compliant. There is a form of compliance that everyone must follow and it is the duty of the regulatory agency to follow these guidelines.

Industry Updates – *Chris Vito, Chairperson*

There was no discussion under this item.

Public Comment

Leslie Bittleston said that she received a complaint from an adult day care and that they wanted to move but the person changed their mind because the adult day care paid them \$150 to stay. That is not considered Medicare fraud. It is not Medicaid fraud because they cannot bill for paying them to stay. It may be unsavory practices but there is nothing that they can do. What she told the complainant is that Medicaid does not have any control over that. One of the things that Medicaid does promote that they have freedom of choice. If a recipient has the freedom to make a choice and if someone's freedom is impeded they can do something about that. The person has to be allowed to have a choice, they need to be allowed to move if they with without offering better food or other items. She was bringing that up as to what Medicaid's role is and what it is not.

Christina Vito said is that a form of coercion. Leslie Bittleston said yes it is, but it is not anything Medicaid can do about.

Jennifer Frischmann, Chief, Long Term Support Services, Division of Health Care Financing and Policy said that if it is a Medicaid recipient, the Medicaid fraud unit can investigate.

Chris Vito said that absolutely, everyone has a freedom of choice. If there is a client that does not quite fit in Nevada Adult Day, etc., they do have the freedom to go back and forth. We communicate with each other as a form of professional courtesy.

Jeff Klein noted that they want to be good citizens in our own right. He commented that as a group they need to stand together.

Jennifer Frischmann, Chief, Long Term Support Services, Division of Health Care Financing and Policy, provided the following information regarding kickbacks and incentives. Federal and State Anti-Kickback statutes prohibit any person or business entity from making or accepting payment to induce or reward any person for referring, recommending or arranging for the purchase of any item or service for which payment may be made under a federally-funded health care program. The statutes prohibit kickbacks, bribes, inducements, rewards, and other economic incentives that induce providers to refer recipients for services or recommend purchase of medical supplies that will be reimbursable under government health care programs. Claims submitted for Medicaid reimbursement for services or medical supplies that are the result of bribes, kickbacks, or other economic incentives are considered false claims and are subject to potential prosecution. Violations of these statutes can result in criminal prosecution, loss of reimbursement, contract termination from NV Medicaid, and possible exclusion from the Medicaid and Medicare programs.

Specific statutes: 42 U.S.C. § 1320a-7b(b), 42 CFR § 1001.951, **NRS 422.560, HCR 3590: SEC. 1128J. MEDICARE AND MEDICAID PROGRAM INTEGRITY PROVISIONS (pages 640-641)**

Adjournment.

The meeting adjourned at approximately 11:45 a.m.