

**HOMES FOR INDIVIDUAL RESIDENTIAL CARE ADVISORY COUNCIL MEETING
DRAFT MINUTES**

Date: November 19, 2014

Time: 10 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:

Phil Glessner, Mimi's Care Home
Dorothy Domingo, Golden Retreat Care Home
Emelita Tugas, Washinton Senior Home
Sharon Leffingwell

Carson City Attendees:

Gary Bell
Steve Gilbert, Medical Marijuana Program Manager, Preparedness, Assurance, Inspection, and Statistics
(PAIS)
Chad Westom, Bureau Chief, PAIS
Julie D. Bell, Health Care Quality and Compliance (HCQC)
Sherry Crance, HCQC
Meg Matta, HCQC
Leslie Bittleston, Division of Health Care Financing and Policy (DHCFP)
Jennifer Frischmann, Chief Long-Term Support Services, (DHCFP)

Teleconference:

Jacqui La Voie, La Casa De La Voie

Approval of minutes from the August 12, 2014 meeting. *Phil Glessner, Chairperson*

Julie Bell stated she would have the minutes reflect Linda Anderson's presentation in more detail regarding diabetes testing from the August 12, 2014 meeting and that she would send Jacqui La Voie the information of where diabetes testing fall under *Nevada Revised Statute*.

DOROTHY DOMINGO MOVED TO APPROVE THE MEETING MINUTES OF AUGUST 12, 2014, JACQUI LA VOIE SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Bureau Topics – *Julie D. Bell, Health Facilities Inspection Manager and Donald Sampson, Health Facilities Inspector III, HCQC*

Discussion on topic of Medical Marijuana.

Julie Bell thanked Steve Gilbert, Program Manager, Medical Marijuana Program and Chad Westom, Bureau Chief, Preparedness, Assurance, Inspection, and Statistics (PAIS) for today's presentation.

Steve Gilbert, Program Manager for Medical Marijuana said the Medical Marijuana Card Holder Program has been in existence since 2001. Continuing, he said the topic of medical marijuana has been in the news recently due to the legalization of dispensaries, cultivation and laboratories in the State of Nevada. On November 3, 2014, provisional licenses for dispensaries were issued in Nevada. He stated that there are approximately 7,000 card holders in the state.

Chad Westom, Bureau Chief, PAIS commented that the HIRCs need to establish a medical marijuana policy. He said that medical marijuana is not a prescription but rather a recommendation from a physician. He commented that there is not a lot of guidance of how much the patient should ingest or consume.

Julie Bell said that the HIRCs will have to have a policy in place and a plan of how they will enforce their policy on medical marijuana. She noted that at another advisory council meeting, the attorney for the State Board of Nursing recommended that no one allow it and to not get involved with medical marijuana. He explained that if you have Medicaid or Medicare funding which are federal funds, it is still against federal law to smoke marijuana. He cautioned that if you allow medical marijuana, it may affect your funding from these federal programs.

In response to Jacqui's question on how do individuals who have medical marijuana cards get their product from the dispensaries, Steve Gerleman said a patient can visit a pharmacy to pick up their product. The medical marijuana card holders are allowed to purchase a prescription every 14 days. A patient is allowed one care giver who will also be able to go to a dispensary or grow the product. He noted that if you have two medical marijuana card residents, one care giver is not allowed for both. He noted that there are agents who can deliver the product which has a manifest and the product is transported in a locked container.

In response to Jacqui La Voie's question as to what forms of medical marijuana product are there, Steve Gerleman stated that production facilities produce edible forms, which may include lotions, tincture (abstracted from marijuana plant and orally take drops), butter, skin patches, edibles, and marijuana cigarettes. Dispensaries are where they can purchase product. Each time the product changes form, it needs to be tested by an independent laboratory and other properties.

Chad Westom said there are two dispensaries in Carson City. He also stated that there will also be ten dispensaries in Reno area.

In response to Jacqui La Voie's request for something in writing that shows the different options regarding medical marijuana, Steve Gerleman explained requirements for the caregiver are the same as for a patient that is a medical marijuana card holder. The caregiver would need to submit an application that is in conjunction with the patient. He also noted that there is a background check run to see if there are any disqualifying convictions. He noted that the instructions are on our web site which is <http://health.nv.gov/medicalmarijuana.htm> that contains a lot of helpful information. People can either register through walk in or through the mail according to NRS 453A and NAC 453A.

Dorothy Domingo said that HIRCs need to be educated for what is necessary to be in compliance.

Julie Bell said HCQC will look at the medical marijuana policy that facilities have in place and how you would manage your clients. The advisory group may want to invite someone from the Division of Insurance to speak about liability insurance speak. She said other questions that have come up include: Do you want to have a caregiver who will pick up the marijuana. One of the other advisory councils decided they are not going to allow medical marijuana at their facility and encourage its use at home before they came on site. She continued that the attorney was with the State Nursing Board who made a recommendation for the nurses not to touch medical marijuana or have anything to do with it so their license would not be in jeopardy. The adult day care advisory council consensus was that they are going to make a policy to not allow this in their facilities.

Chad Westom pointed out the difference in the adult day cares and skilled nursing facilities was that they use Medicare funds which would not allow medical marijuana at all because it is against federal law.

Julie Bell said what if you have an employee that has medical marijuana card. What if they show up at work impaired. Do they have a responsibility to disclose this to their employer? The answer to that was no.

Steve Gerleman said the physician is recommending medical marijuana for qualifying condition such as AIDs, cancer, post traumatic syndrome, and chronic pain. He said the physician is signing the recommendation based on the condition the patient has and it is not a prescription.

Questions posed by members included:

- Is required to get a physician statement?
- If a prospective employee obligated to disclose their medical marijuana use or that they have a medical marijuana card.
- If a person qualifies for the card and has the qualifying condition, would this exclude them from care giving duties.
- The liability issue is a question, as long as you are in compliance as caregiver.

Julie Bell said someone may still be able to do the requirements of a caregiver job but the question is how do you know what is the impairment level.

Julie Bell said that they could reach out to the Division of Insurance and some insurance providers regarding what liability coverage is needed.

Sherry Crance said that if your employee is impaired on alcohol, pain meds, or marijuana that and your resident's safety is involved, of course, take action.

Contact information for the Medical Marijuana Program:

Steve Gilbert, Medical Marijuana Program manager, 775.684.5874 email: sfgilbert@state.nv.us
Web site: <http://health.nv.gov/medicalmarijuana.htm>

Top tags for homes for individual residential care. – HCQC

Julie Bell reviewed a handout was provided to members which listed the top tags for HIRC homes. This hand out is on file with HCQC and was distributed to all members and made available to the public in Carson City and Las Vegas.

In response to Jacqui La Voie question as to where she can find a complete list of tags and what the bureau's expectations are, Julie Bell said that NRS 441A, Chapter 449, and regulations spells out all requirements and offered a free training class that is held monthly by video conference and teleconference (if a person could not attend in person, they could just call in). The training handouts could also be emailed to you from Don Sampson dsampson@health.nv.gov.

Don Sampson stated the homes for individual residential care training is the second Wednesday of every month is 1:30 to 4:30 pm and is teleconferenced from – Carson City to Las Vegas. She said that she could call 775 684-1030 and ask for Teri. He stated that they cover TB and what gets cited, and go through each item that you could be tagged for. This program that HCQC provides was created after this group was first put together.

Dorothy Domingo suggested that HIC homes educate themselves on what surveyors look at for inspections. As an advisory group, a checklist can be made to help prepare facilities for inspections.

Overview of Medicaid Waiver –Leslie Bittleston

Responding to some general questions regarding Medicaid Waivers, Leslie Bittleston commented that there has been some confusion for some time regarding HIRCs, which previously were not required to be licensed. When HIRC's originally became licensed, they did not qualify for the Medicaid Waiver because the licensing requirements by the state did not match the requirements for federal funding, background checks, training, and all the items that are required by Medicaid. In essence, they did not match the requirements of a residential facility for groups. Basically, HIRCs state licensing requirements did not meet Medicaid guidelines and there has there has been no federal funding for HIRCs through a Medicaid Waiver.

Julie D. Bell said that HIRCs now have all those requirements, which are not exactly the same as residential facilities. She said she could provide a current list of what HIRCs are required to receive a state license and explain what they are currently doing that has the same fundamental components.

Leslie Bittleston said that would be helpful in their review and that there are basically three types of waivers which are 1) home and community based waivers; 2) waiver for a person with intellectual

disabilities and a waiver for persons with physical disabilities or frail and aged. The only waiver that may possibly be reimbursed for HIRCS are for frail and aged individuals age 65 years and older. Medicaid currently does not have a residential program for individuals under the age of 64.

Ms. Bittleston recommended that Jacqui La Voie wait to send in her application for a waiver. She said that she would meet with Julie Bell to review the State of Nevada requirements that HIRCs comply with that will satisfy Medicaid federal requirements. She explained could not give an exact date as to when this review would be completed but gave an estimate of two months. She explained that due to the 2015 Legislative Session, her office has deadlines to meet before that commences which takes priority as that is a large portion of the state budget.

In response to Jacqui La Voie's question of where she could obtain a list of federal requirements, Ms. Bittleston referred her to the website www.dhcfp.nv.gov and to click under Medicaid Services Manual. She said if she had additional questions after reading the manual, she could contact her at 775-684-3624.

Don Sampson said that tuberculosis (TB) and Background checks are new additions that are required of HIRCs. Leslie Bittleston said that the Medicaid office just needs to verify these changes.

Responding to Dorothy Domingo's question if the waiver is the same as a community based waiver, Leslie Bittleston said there are no other Medicaid programs available today other than the frail and aged waiver that HIRCs may possibly qualify for. She added that the federal government and the state government may take a year to approve a new waiver. She said there is a white paper for the budget concept and state funds are also necessary. The waiver would have to be approved by the legislature because it is 50 percent funded by the state. Due to all the complexities, the earliest to implement a new waiver is four years.

Ms. Bittleston explained that does Medicaid does not reimburse for room and board. There must be a lease agreement in place between the landlord and the recipient which meets *the* State's the landlord tenant laws. There are three levels of service that are reimbursable under the Frail Elderly Waiver.

1. \$20 a day
2. \$45 a day
3. \$60 a day

The levels are determined by an Aging and Disabilities Case Manager and it I based on the needs of the recipient. **Clarification:** These levels cover personal care services which are activities of daily living and instrumental activities of daily living. There is no skilled component to this service as it is.

Responding to Jacque LaVoie's statement that once the HIRCs services are verified by Medicaid in Nevada that HIRCS are following federal guidelines, then she can send in her application, Leslie Bittleston said that was correct. She noted that there are multiple steps that must be taken before a new provider starts providing applications. The fiscal agent is Hewlett Packard, who enrolls the new providers who have to be trained.

In response to Jacqui La Voie's question as to how she should respond to calls from social workers who ask her if she can place a person, Leslie Bittleston said there is no Medicaid funding for VA services,

their funding is separate from Medicaid. She explained that her office is currently working on Medicaid expansion which covers a new population of Nevadans who are the childless adults. Many of these patients are homeless and need to go into a hospital and a nursing home for a period of time, but have nowhere to discharge to. Ms. Bittleston said that Jackie LaVoie's response should be "no, I am not a Medicaid provider, I cannot help you." She added for clarification, a HIRC may accept a person who chooses to private pay, but Medicaid will not reimburse for those people.

Worker's Compensation Information

Workers Comp representative – Gary Bell, Supervisor of the Employer Compliance gave a brief overview of who has to pay worker's compensation as it relates to homes for individual residential care. He stated that in the State of Nevada, all employers are required to provide worker's compensation for their employees with a few exceptions. If for some reason they are not, a number of things can happen to the employer which may include:

1. They can close their business until they have workers comp.
2. Charge them a penalty for not having insurance.
3. Refer them to the attorney general's office, who may choose to investigate or prosecute you criminally depending on the level of the accident such as a death.
4. If they choose not to prosecute, then employer compliance will fine you a range of \$5,000 to \$15,000 if you do not have coverage.

Continuing, Mr. Bell stated that independent coverage is a popular tag – If you hire someone to do something the same as what you are in business for, they are an employee. Worker's compensation in Nevada use to be a state run system but ceased to exist in 1999. All worker's compensation is now provided by private insurance companies.

Jacqui La Voie commented that she is a one person employer and asked if she needed to buy workers compensation coverage. Mr. Bell responded that she would not have to buy coverage just for herself.

Responding to Jacqui question as to what if she had volunteers performing things that employee that an employee would not, Mr. Bell said if they are getting something in exchange for their service. and get hurt, and if they say "I got hurt working for you," the hospital is required by law to start a worker's comp investigation. He explained that you could be responsible for their medical coverage and the liability.

Industry Updates – Phil Glessner, Chairperson

Top three challenges facing the industry

Jaqui La Voie asked if there is any kind of emergency policy in place that a person can check their own blood sugars.

Julie Bell commented the issue regarding glucose monitoring and being required to have a lab license is also an issue for group facilities also. A family member or home health agency could conduct this test but the bureau cannot do anything to help you not follow the law. The bureau

hears from this group what the issue is regarding this and have brought it up to the bureau chief and attorney general. She noted that the attorney general attended at our last meeting in August and reviewed the statutes.

Phil Glessner said discussions are underway with the attorney general to submit a bill draft request with a solution for the glucose monitoring but it will be some time before that would become law.

A member suggested that when members have multiple issues that they would like to resolve, it would be helpful to send an email prior to these advisory council meetings so those issues can be addressed and answered at the advisory council meeting instead of having to wait for answers. Questions and answers are helpful to the entire group and they all could benefit.

Updates from Aging and Disability Services Division. *Heather Korbolic, Long Term Care Ombudsman*

Heather Korbolic did not have an updates under this item.

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.)

There were no comments under this item.

Adjournment.

The meeting adjourned at 12 noon.