

**DIVISION OF PUBLIC AND BEHAVIORAL HEALTH
PERSONAL CARE AGENCIES ADVISORY COUNCIL MEETING**

Minutes

Date: March 17, 2015

Time: 1:30 PM

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

Members present:

Peter Morris, Bright Star Health Care, Co-Chair PCA-AC
Michael Di Asio, Visiting Angels
Tammy Sisson, Lend-A-Hand Senior Services
Allan Ward, Home Instead Senior Care (teleconference)
Diana Waugh, Sierra Home Healthcare
Trace Wolf, A Helping Hand Las Vegas (teleconference)

Members absent:

Laura Coger, Consumer Direct Personal Care, Co-Chair

Las Vegas Attendees:

Julie D. Bell, HCQC
Steve Glecller, Right at Home
Donna McCafferty, HCAC
Minou Nelson, HCQC

Carson City Attendees:

Wayne Alexander, Sierra Home Health Care
Sherry Crance, HCQC
Kyle Devine, HCQC
M. Jeanne Hesterlee, HCQC
Jacque Kizer
Daniel Mathis, Nevada HealthCare Association
Connie McMullen, Senior Spectrum Nevada
Adrienne Navarro, DHC FP
Mary Kaunie
Eric Spell, HCQC
Leslie Bittleston, DHC FP
Bob Crockett

Teleconference:

Damian Belker, Home Helpers
Raymond Kemper, Happy Health Services
Bob Crockett, Advanced Personal Care
Tammy Stricker, ADSD

Opening Remarks for Personal Care Agencies Advisory Council meeting – Julie D. Bell, Bureau of Health Care quality and Compliance (HCQC), Division of Public and Behavioral Health

Julie Bell welcomed everyone to today's meeting.

Approval of meeting minutes from December 16, 2014 Personal Care Advisory Council meeting.
Peter Morris, Co-Chair North

ALLAN WARD MOVED TO APPROVE THE MEETING MINUTES OF DECEMBER 16, 2014. MICHAEL DI ASIO SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

Vote on additional member(s) for Personal Care Agencies Advisory Council.

Trace Wolf said she would be very grateful to be a part of this advisory council and hoped the advisory council would consider her as a member.

Allan Ward said that Trace Wolf was a very active participant when this group was first formed. She would bring much knowledge regarding Medicaid and will be a valued member of this advisory council.

THERE WAS A MOTION BY DIANA WAUGH TO APPROVE TRACE WOLF AS A MEMBER. THE MOTION WAS SECONDED BY ALLAN WARD. MOTION PASSED UNANIMOUSLY.

Update on Division of Public Behavioral Health, Health Care Quality and Compliance - Julie D. Bell, Health Care Quality and Compliance (HCQC), Division of Public and Behavioral Health

Review Nevada Automatic Background System (NABS) Requirements

Leticia Metherell, HCQC, Nevada Automatic Background System is in force (NRS 449.123) and it requires it be used. The Bureau is in the process of getting the personal care agencies on board. She said Ausra Bergin will give another training session before next one if there is an interest. There is a training session the third week of every month. Ausra Bergin's phone number 775/ 684-1070 and her email is abergin@health.nv.gov. No access is allowed to the system until at least one person is trained from your agency.

Leticia Metherell noted that the Bureau also needs a Department of Public Safety (DPS) Account number. If you provide any services to children and would like your employees screened for the Child Abuse Registry please be sure to check that feature is on. If you are providing services to children and would like your employees checked in that regard, please let us know.

Peter Morris asked if there was a deadline that everyone needs to be on this system. Leticia Metherell said the deadline would be the end of April 2015. The training is a webinar, so this is available from any computer.

As a Medicaid provider, Trace Wolf explained that they are required to prove that they have initiated a background check prior to hiring an employee, and asked how the status would be confirmed so they know the requirement is satisfied.

Leticia Metherell explained basically there will be an applicant waiver form and criminal history form that needs to be signed. You must log into the system and link to the documents. It is recommended that they start to use that document right away. If the fingerprint is electronic and the fingerprint cards is proof that they have been fingerprinted. That would serve as proof that you have initiated the background check system.

Continuing, Leticia Metherell explained that the other program is called Rapback. She said you would send a person's background check in that is clear; if a conviction comes through a year later, the Department of Public Safety (DPS) will come back and let you know when they were convicted. The Rapback is voluntary item, so if you want them to participate in this program you have to have it in your policy and tell them that the employee has to consent by checking that box. If there are any questions regarding this, you may call 775/684-1070.

The Department of Public and Safety is planning on charging for Rapback (arrest records) in the future. If we receive something that is undetermined, the same procedure is followed. Leticia noted that all undetermined background checks should be challenged and only challenged if the information is wrong.

Allan Ward said that once the Bureau gets everyone on board, what will be the response time be. Leticia Metherell said in a year, once all the providers are on board and the bureau has worked through the bugs, if someone has a clean record the response time should be two or three days. You should get an automatic notice by email and by not using snail mail, this would be a quicker response.

Allan Ward said that some franchises will not allow us to place that care giver until we receive notice. Leticia Metherell explained what will help get a faster response is if they send electronic fingerprints and all the correct information is there.

Allan Ward said a colleague who had had a survey going on where the surveyor forced him to terminate an "undetermined individual." That individual applied for unemployment and lost the unemployment case. Leticia noted that you do not have to terminate an undetermined person for 30 days. She said if there is a concern, that person can give her a call. Generally, undetermined results are not an automatic firing. You can do an internal investigation to work under supervision is sufficient. They could continue to work with an undetermined result. Whether a facility has a policy in place that they will fire someone that is undetermined, the bureau has no control over that. In response to Allan Ward, Leticia Metherell said that said if that person would like to call her so she can get all the facts, then she can also talk to the case manager and look at it. Her contact number is 775-684-1030.

General overview and discussion of Senate Bill 198 – Sponsored by Senator Kieckhefer – Requires an agency to provide personal care services in the home to adopt an electronic visit verification system under certain circumstances (*BDR 40-830*) *Julie D. Bell, HCQC*

Peter Morris said that the acronym for electronic verification system (EVS). He asked ADDIS what the goals for this is and what they hope to achieve.

Marlene of Addis HomeCare said the bottom line for the electronic visit verification system (EVVS) is to prevent Medicaid fraud. Medicaid looked at this bill prior to it being drafted. This system makes everyone accountable when the worker arrives to work, how long they are there. It is to get rid of Medicaid Fraud which is the bottom line.

There was a round table discussion whether Medicaid reviewed this bill before it was submitted, if there was a cost and if that was included in the fiscal note, why this method would be better than the current method used, cost analysis, and what stance Medicaid and HCQC had regarding this bill. The bill was reviewed by Medicaid, it had a fiscal note attached to it and Medicaid and HCQC were both neutral on the bill.

Senate Bill 198 was introduced on March 2, 2015 by Senator Kieckhefer. The bill died in committee on April 11, 2015. There will be no further action on this bill for the 2015 Legislative Session.

Kyle Devine said that the Bureau is neutral on the bill. He pointed out this is an advisory committee; and the purpose is to collaborate, not to criticize.

Peter Morris said the one thing as co-chair of this group, this is a great thing is good to bring up ahead of time so we have time to digest it. We are in the business is trying to care for people in this state. It is unfortunate that we are discussing this bill after it has already been presented.

General discussion regarding the topic of medical marijuana.- *Steve Gilbert, Pam Graber, Medical Marijuana Program Manager, Preparedness, Assurance, Inspection, and Statistic; Daniel Mathis, Nevada Health Care Association*

Pam Graber said she was present at today's meeting to answer any questions or concerns as they arise regarding the medical marijuana program.

Allan Ward said he had some general broad questions, mainly about ultimately how the state would test the impairment of a caregiver in most cases, if they have card or script. He said he did not think that there is a clean test. That THC could be from the previous four days when they were not working. He asked if there is an objective way of doing that testing and who would do that testing.

Pam Graber responded she did not know of one.

Peter Morris said his concern is that of liability. They are a bonafide member of my team. Where does that leave us if an accident happens in a home and there is suddenly a case against me as an owner. These people may be legitimately able to be employed but leaves us in a difficult position. It worries me that they may be legitimately be employed.

Kyle Devine asked if Pam Graber could come back with a model of what is done in other states. Medical Marijuana has been legal since 2001 and there has not been any specific requirements for employers. He said the group brings up a good point on the employment aspect.

Pam Graber responded that medical marijuana has been legal since 2001, but there has not been any specific requirements under employee/employers. This is a situation to be handled regardless.

Dan Mathis said the Board of Nursing is very concerned about this. The Board of Nursing would handle it the same as intoxication. There are tests; State Troopers have blood testing if there is an incident and for your investigation you think that they may be intoxicated. Other states are dealing it the same way. No one has come up with a definitive answer at this point and it is something that the state continues to struggle with. The conversation will continue with the Board of Health. When the distribution centers are open, then the "what if" situations will become real. It will be interesting to see what will happen with the regulations.

Pam Graber patient card holders are allowed to hold their medicine but they are still held accountable to be able to perform at their jobs, drive cars. They are allowed to use their medicine under certain circumstances. She said that they are just getting phone calls for their pre-inspections before opening.

Trace Wolf said that she would hate for one of her employees to end up with a conviction. She was asked by one of her services to do a prescription pick up for someone in the medical marijuana program. Would we have to register that caregiver and what if we had to send in a fill in if the scheduled person were ill. How would that work.

Pam Graber said the current situation for the law allows one caregiver to have one patient and one patient for one caregiver. For something for a dedicated delivery service, that is not allowable at this time and that anyone in the possession to be in possession of someone else's medication puts them at a lot of risk.

Update on Centers for Medicare and Medicaid Services (CMS) new rules for home and community based settings. *Leslie Bittleston, Long-Term Support Services, Division of Health Care Financing and Policy (DHCFP)*

Leslie Bittleston, State Medicaid Agency explained that Centers for Medicare and Medicaid Services are implementing new state guidelines of what a residential setting looks like. She said that for personal care agencies this is not that concerning as you go into homes and do not have a residential setting. She commented that the most areas of concern are in supported living arrangements and group homes. There has been a lot of work to do of regulatory reviews on home and community based settings.

There was no public comment under this item.

Updates for Nevada Health Care Association (NVHCA) *Daniel Mathis, NVHCA*

Daniel Mathis explained that the Nevada Health Care Association is a member of the American Health Care Association and is a nonprofit organization. Its mission is to provide leadership and support to advocate for its members while working with them to improve the quality of care in Nevada's skilled nursing, assisted living, personal care agencies and other post-acute care settings. He said that home health care services are interested in working with us and NVHCA want to make sure that the personal care agencies have exposure to our education services.

Peter Morris said that it is great that entities are getting together to look at delivery and low return. He added that the Personal Care Agencies of Nevada (PCAN) would welcome the opportunity to talk to you in more detail and set some time up a meeting to get going on relations between the two.

Daniel Mathis said that the Division of Health Care Financing and Policy (DHCFP) was awarded a \$2 million grant from the Centers for Medicare and Medicaid Services (CMS) State Innovation Models initiative in December 2014. The Model provides finance and technical support to states to design or test innovative multi-payer, health care payment and services delivery models. The grant hopes to improve delivery care models to the lowest level of acuity possible. He said that he and Jim Prentice look forward to working with the personal care agencies.

Leslie Bittleston said that the CMS grant is brand new and is a year-long study on how to proceed although there is no set start date.

Industry Updates and Issues (All participating agencies)

Unlicensed Operators being marked with deficiencies when (and if) they do become licensed. *Peter Morris, Co Chair*

The Bureau has no power (at this time) to levy penalties against unlicensed operators, and to have those rogue agencies get licensed. PCAN would like to see that when they do become licensed, they start out with an immediate posted deficiency as having operated initially in an unlicensed capacity.

Julie Bell said that one thing that would meet your needs is to post all the unlicensed facilities on the web in a particular location.

Trace Wolf said it would be good incentive to post a deficiency and or fine which would be persuasive in stopping them. Deficiency is usually something that is given to a licensed facility. If the bill goes through then they will have more teeth in fining. This does not stop the previously illegally-operating agency operating under the law once licensed, but will appropriately and fairly notify the public that there was previously a major problem. Plans of Corrections are posted for all interested people to see and base their decisions upon.

Julie Bell stated that for the new website they can make a place for UNL facility information which might be an easier way to arrive at this goal. She said this would be a good agenda item for a future meeting – “An update on web site area for posting unlicensed operators.”

Rating System for PCA/ISO agencies

Julie D. Bell commented that the assisted living residential facilities have a rating system. After it was put in place there was some change of behavior so they did get better inspections.

Trace Wolf noted that one of her agencies had a review and there was not a score just a pass or fail. Minou Nelson said that was correct that once the review is completed, if there are any deficiencies those are noted and to be addressed. There is no longer a scoring system of a pass or fail.

Leslie Bittleston said there is some confusion that sometimes a provider may not be following the rules to be a Medicaid provider. She explained that does not mean that they cannot be a licensed provider. She added that it does not mean that HCQC is going to reject your license. She said if some of reviewers see some of the things that fall under HCQC umbrella, those issues are referred to HCQC.

Leslie Bittleston gave a practical example, and said for agencies that are not paying caregivers minimum wage, these agencies would not qualify as Medicaid providers and that they could get the Department of Labor involved. It is Nevada law that caregivers should be paid minimum wage.

Media Campaign Ideas and suggestions

Minou Nelson commented that the advisory council said they were open to ideas for a media campaign but she has not heard from anyone else. She explained one idea would be to point out the advantages of working with a licensed PCA agency compared to a non-licensed agency. The advantages of using a licensed PCA agency would include:

- All employees are run through a criminal background check;
- have CPR certification;
- have workers' compensation;
- have been tested for TB;
- are trained and qualified.

Open to any suggestions If any of you have ideas, please email minelson@health.nv.gov.

Other industry related issues

A member asked if the HCQC have a list of schools or programs that are recommend for personal care attendants. Julie D. Bell commented that the bureau does not endorse any particular course or school or certify trainings.

Update from Aging and Disability Services Division regarding Home Based Community Waiver

Trace Wolf said the WINN waiver is going to be moving under the ADSD. Teresa Stricker noted that it has not been officially moved and the final word will come when the legislative body adjourns sine die and we are notified it will begin on July 1, 2015. Trace Wolf also asked Leslie Bittleston if it would be possible to give an email update.

Leslie Bittleston said the premise is moving fast to move the physically disability waiver under to ADSD. The ultimate goal will be to have that completed two to three years now. She said that they would like to combine the physically disabled and the frail and aged waivers to be combined. She noted that the operations are moving to Aging Services and the long-term goal is to combine the waiver.

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 was no public comment under this item.

Adjournment.

Meeting adjourned at 3:18 p.m.

Respectfully submitted,

Nenita Wasserman

Approved by PCA-AC on June 16, 2015