

Draft Minutes
STATE BOARD OF HEALTH
September 4th, 2020
9:00 a.m.

MEETING LOCATIONS:

Pursuant to Governor Sisolak's March 22, 2020, Declaration of Emergency Directive 006, the requirement contained in NRS 241.023(1)(b) that there be a physical location is suspended in order to mitigate the possible exposure or transmission of COVID-19 (Coronavirus). Accordingly, all members of the public were encouraged to participate by using the web-based link and teleconference number provided in the notice.

1. Call to order/roll call – Dr. Jon Pennell, Chair

BOARD MEMBERS PRESENT:

Dr. Jon Pennell, DVM (Phone)
Dr. Jeffrey Murawsky, M.D. (Phone)
Dr. Monica Ponce, DDS (Phone)
Charles (Tom) Smith (Phone)
Dr. Dipti Shah, M.D. (Phone)
Judith Bittner (Phone)

BOARD MEMBERS EXCUSED:

All Board of Health Members Present

DIVISION OF PUBLIC & BEHAVIORAL HEALTH (DPBH) STAFF PRESENT:

Lisa Sherych, Administrator, Joseph Filippi, Executive Assistant; Rex Gifford, Administrative Assistant III; Dr. Leon Ravin, Statewide Psychiatric Director; Dr. Ihsan Azzam, Chief Medical Officer; Leticia Metherell, Deputy Bureau Chief, Bureau of Health Care Quality and Compliance (HCQC); Brook Maylath, Health Facilities Inspector II, Bureau of Health Care Quality and Compliance (HCQC)

OTHERS PRESENT:

Linda Anderson, Attorney General's Office; Andre Wade, Silver State Equality; Stephen Pate, Health Care Equality HRC; Kevin Dick, Washoe County Health Officer

Joseph Filippi opened the meeting at 9:00 a.m.

Roll call was taken, and it was determined that a quorum of the State Board of Health was present.

2. Public Comment

No public comments

3. Consideration and Approval of previous Board of Health Minutes from March 6th, 2020, March 18th, 2020 and June 5th, 2020 – Dr. Jon Pennell, Chair

Chair Pennell had some corrections for the June 5, 2020 meeting minutes. Chair Pennell gave his minor corrections to Mr. Filippi.

Chair Pennell asked if there were any corrections or additions to the March 6th, 2020 minutes. The Board Members did not have any corrections or additions to the March 6th, 2020 Board of Health meeting minutes.

CHAIR PENNELL REQUESTED A MOTION TO APPROVE THE MARCH 6TH, 2020 BOARD OF HEALTH MEETING MINUTES. A MOTION BY DR. MURAWSKI TO APPROVE OF THE MARCH 6TH, 2020 BOARD OF HEALTH MEETING MINUTES WAS MADE AND SECONDED BY MR. SMITH. APPROVAL OF THE MARCH 6TH, 2020 BOARD OF HEALTH MEETING MINUTES PASSED UNANIMOUSLY.

Chair Pennell asked if there were any corrections or additions to the March 18th, 2020 minutes. The Board Members did not have any corrections or additions to the March 18th, 2020 Board of Health meeting minutes.

CHAIR PENNELL REQUESTED A MOTION TO APPROVE THE MARCH 18TH, 2020 BOARD OF HEALTH MEETING MINUTES. A MOTION BY DR. SHAH TO APPROVE OF THE MARCH 18TH, 2020 BOARD OF HEALTH MEETING MINUTES WAS MADE AND SECONDED BY MR. SMITH. APPROVAL OF THE MARCH 18TH, 2020 BOARD OF HEALTH MEETING MINUTES PASSED UNANIMOUSLY.

Chair Pennell listed the corrections he had to the June 5th, 2020 Board of Health meeting minutes:

There is a difference between “There” and “Their” throughout the meeting minutes. Under “State of Nevada Division of Public and Behavioral Health” it says, “pending elected” it should say “elective” and “standard surgical procedures objecting regulations.” Chair Pennell questioned what word should be in the sentence instead of “objecting”. Chair Pennell corrected the record to state he thanked Dr. Azzam the State of Nevada’s Chief Medical Officer, instead of Dr. Murawski as the minutes reflected. Under the Sentinel Events section on Page 13 the sentence

reads “evasive surgery” and it should say “invasive surgery”. Mr. Filippi assured Chair Pennell that the corrections would be made. Then Chair Pennell asked if there were any other corrections or additions to the June 5th, 2020 minutes. The Board Members did not have any corrections or additions to the June 5th, 2020 Board of Health meeting minutes.

CHAIR PENNELL REQUESTED A MOTION TO APPROVE THE JUNE 5TH, 2020 BOARD OF HEALTH MEETING MINUTES. A MOTION BY DR. MURAWSKI TO APPROVE WITH CORRECTIONS OF THE JUNE 5TH, 2020 BOARD OF HEALTH MEETING MINUTES WAS MADE AND SECONDED BY DR. SHAH. APPROVAL OF THE JUNE 5TH, 2020 BOARD OF HEALTH MEETING MINUTES WITH CHAIR PENNELL’S CORRECTIONS PASSED UNANIMOUSLY.

4. Consent Agenda Items – Dr. Jon Pennell, Chair

Chair Pennell presented item number 4 the Consent Agenda before the Board of Health members and asked if there were any objections to the Consent Agenda

Hearing no objections Chair Pennell asked the Board of Health members for a motion

CHAIR PENNELL REQUESTED A MOTION TO APPROVE THE CONSENT AGENDA. A MOTION BY DR. MURAWSKI TO APPROVE OF THE CONSENT AGENDA WAS MADE AND SECONDED BY DR. PONCE. THE REGULATIONS PASSED UNANIMOUSLY.

5. Consideration and Adoption of Proposed Regulation Amendments to NAC 449 Culturally Competent Health Care, LCB File No. R016-20 - Leticia Metherell, Deputy Bureau Chief, Bureau of Health Care Quality and Compliance (HCQC), DPBH; Brook Maylath, Health Facilities Inspector II, Bureau of Health Care Quality and Compliance (HCQC)

Presented by Leticia Metherell;

Thank you, Chair Pennell, and members of the Board, for the record my name is Leticia Metherell, co-Bureau Chief with the Bureau of Health Care Quality and Compliance, and with me I have Brooke Maylath to assist in answering any questions the Board may have. I am presenting for your consideration proposed amendments for Nevada Administrative Code in LCB File No. R016-20 relating to prohibited discrimination in licensed health care facilities, the duties of licensed facilities to protect the privacy of patients and residents, cultural competency training requirements for any agent or employee of a facility, and regulations to ensure patients or residents are identified in accordance with their gender identity or expression. These proposed regulations bring the Board of Health into compliance with NRS 449.103 and NRS 449.104.

These proposed regulations were moved forward in accordance with NRS Chapter 233B, Nevada Administrative Procedure Act, as outlined in the administrative staff memo provided to Board members.

Sections 2 to 6 are related to definitions of terms used throughout the proposed regulations.

Section 7 describes the specific types of prohibited discrimination.

Section 8 requires a facility to develop policies and procedures which do not discriminate against a patient or resident based on a person's payment source.

Section 9 requires facilities to post prominently in the facility and on any Internet, website used to market the facility notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the Division and the contact information for the Division.

Section 10 sets forth the specific requirements with which a statement, notice and information posted by a facility must comply.

Section 11 requires facilities to provide a patient or resident, upon admission a written copy of the statement, notice and information required by existing law and section 9 of the proposed regulations as well as a written notice that a patient or resident who has experienced prohibited discrimination may file a complaint with the facility in addition to the complaint that may be filed with the Division.

Section 12 requires a facility to develop and adopt a written policy on how a complaint filed with the facility is documented, investigated, and resolved and to maintain a log that lists certain information.

Section 13 clarifies that a patient, resident or authorized representative of the patient or resident must provide express permission in writing for employees or contractors of the facility who are not performing a physical examination or directly providing care to a patient to be present when the person is fully or partially unclothed.

Section 14 requires a facility to conduct training relating specifically to cultural competency for any agent or employee of the facility who provides care to a patient or resident of the facility and requires the training to be provided through a course or program that is approved by the Director of the Department or their designee and to be assigned a course number by the Division.

Sections 15 to 18 describes the process for a facility to submit the cultural competency course or program for approval, the information to be provided when a facility submits a course or program for approval, the required course materials, the mediums that may be used to provide the course or program, and the assignment of the course number.

Section 19 requires the health records that a medical facility keeps to include certain information and the medical facility to develop a procedure to ensure the information of a patient or resident accurately reflects the diverse gender identities or expressions of patients or residents to be used in providing care to the patient or resident, including when interacting with insurance providers and allows a patient or resident to decline to answer questions related to the information in this section.

Section 20 requires the statements, notices and information that are provided to patients or residents concerning prohibited discrimination be in English and in any other language the Department determines is appropriate based on Nevada's demographic characteristics. It also authorizes a facility to provide the statements, notices and information in any foreign language the facility may desire. It also requires a facility to make reasonable accommodations for patients or residents who do not read or speak English or any other language in which the statements, notices and information are written.

Section 21 requires a facility to designate a representative of the facility who is responsible for ensuring that the facility complies with the provisions of existing law and the proposed regulations.

Section 22 requires, upon request from the Division or Department, a facility to make available to the Division or Department documentation to determine if the facility is complying with the provisions of the proposed regulations and existing law.

Sections 24-32 update existing regulations so that they conform with the provisions of existing law and the proposed regulations, as applicable.

Section 34 repeals current regulatory provisions addressing antidiscrimination since existing law and the provisions of the proposed regulation replace these prohibitions.

Ms. Metherell concluded her presentation and asked the Board if they had any questions.

Chair Pennell asked if there were any questions from the Board of Health members, none of the members had a question or comment. Chair Pennell then asked Mr. Filippi if anyone had written the Board of Health with a public comment for this regulation. Mr. Filippi answered that nobody has entered written comment for the regulation.

Mr. Filippi then asked if any member of the public had any comments or questions about the regulation.

Mr. Andre Wade with Silver State Equality stated he and Silver State Equality fully support the proposed regulations.

Chair Pennell and Mr. Filippi thanked Mr. Wade for his comments and asked the public for any further comment or questions regarding the proposed regulations.

Mr. Stephan Pate, on behalf of the Human Rights Campaign (HRC) expressed their support to the amendments to the NAC and stated he wanted to express how the amendment to the NAC would benefit the LGBTQ Quest Community. If anyone doubts the LGBTQ Quest Community has had any compromising experiences in health care, he wanted to mention HRC's Healthcare Equality Index (HCI), a report that evaluates health care facilities policies and practices related to equitable and inclusion of LGBTQ patients. According to their HCI over half of lesbian, gay and bi-sexual patients have experienced some type of discrimination in healthcare. Even more alarming are the HCI reports that show 70% of transgender or gender non-conforming individuals have faced healthcare discrimination, so the changes being proposed today are very needed, especially for the LGBTQ Quest Community. As for retraining, our healthcare quality index shows some Nevada health facilities lack adequate training that would prevent discrimination or other adverse healthcare outcomes. Mr. Pate once again stated that HRC supports these amendments and we hope to see them adopted today.

Chair Pennell thanked Mr. Pate and asked for any other public comments

CHAIR PENNELL REQUESTED A VOTE. A MOTION TO APPROVE LCB FILE NO. R016-20 BY DR. MURAWSKY WAS MADE AND SECONDED BY MR. SMITH. THE REGULATION PASSED UNANIMOUSLY.

6. Health Department Reports:

Mr. Filippi informed the Board that Ms. Nicki Aaker, Director of Carson City Health and Human Services and Mr. Fermin Leguen, District Health Officer for the Southern Nevada Health District were unable to attend the meeting, however they did submit their district health reports to the Board. Both Ms. Aaker and Mr. Leguen both informed the Board of Health members that if they had any questions, they could contact them directly. Carson City Health and Human Services report is listed as Exhibit “A” and the Southern Nevada Health District report is listed as Exhibit “C”.

Washoe County Health District – Kevin Dick, Health Officer, Washoe County Health District (WCHD)

Mr. Kevin Dick, District Health Officer reported for the Washoe County Health District (WCHD). His report is attached hereto as Exhibit “B.” Mr. Dick started his report with an update on the Washoe County Health District’s response to COVID-19. Mr. Dick stated Washoe County remains at an elevated disease transmission level under the State County Tracking System. We are exceeding the thresholds for new cases per 100,000 over a 30-day period. We are at 291.5 we are also exceeding the 7% positivity threshold for COVID-19 testing as currently we are at 8.3%. As a result of that our bars remain closed, but we are working with local jurisdictions to build additional enforcement processes and measures for compliance with the governor’s directive. Washoe County Health District will be working with our bars as well on an approach for reopening safely and working closely with Caleb Cage, Julia Peek and Terry Reynolds in that effort. We continue to operate our point of care screening and testing, the post drive-through testing which is available weekdays and it is set up at the Reno/Sparks Livestock Events Center. It will be closed for Labor Day next week. is the testing is staffed with WCHD Staff, with national guards that provide medical support as well as other guard staff that help with traffic flow, paperwork, etc. We are utilizing our local CERT (Community Emergency Response Team) and our MRC (Medical Reserve Corps) volunteers as well in that effort. We have contracted with Charles River Labs to do some of the testing. We have been relying on the State Public Health Lab, Utilizing Charles River Labs newly developed capacity we are able to have some of our tests sent there two days a week, moving to three days a week for them running our analysis next week. That is providing us with improved turn-around times of 48 to 72 hours. The use of this lab is also elevating the State lab to help them get caught-up. We are continuing to build disease investigation staffing an improve our disease investigation contact time. We do contact everyone with a positive test within 24 hours which is followed up with a disease investigation. For most of those cases it is in within 48 hours. The schools are now open in Washoe County and we are working closely with the school district to identify positive cases and to do appropriate seclusions of those contacts. To enable that we have identified 4 of our disease investigations staff on each of our teams. The teams are made up of 10 to 12 people. Those 4 team members prioritize and expedite the disease investigation on all pediatric cases so that we can work quickly and coordinate with the schools. The schools assist the Washoe County Health District in contacting those contacts and we work with them to make sure that all those individuals that are close contacts are exclude from the schools. We will begin offering a flu shot through drive-through testing at the post. We will be operating the post morning to collect the COVID-19 swab specimens. In the afternoons, beginning on September 14th we will be offering flu shots at those

posts. We are also partnering with Wal-Mart to provide flu shots at the Senior Center. The county doesn't have the Medicare insurance coverage, so Wal-Mart will provide those shots and serve the under 65 population. The State SB4 statute provides the liability protections for a number of business and establishes the compliance and inspection program for resort facilities and large public accommodations. We have a special District Board of Health meeting that will occur next Thursday at 2:00 pm to discuss SB4. The board will ratify the State's 447 regulations that were adopted. The board will also take action to terminate the agreements that we have with the Division of Environmental Protection for the inspections and surveys of the public water systems under the State Drinking Water Act and the inspection of underground storage tanks, because the inspections that we do under State law require us to use registered environmental health specialists. We have limited staffing and those are just tough to hire just off the street, so we will be diverting staffing to the Compliance Inspection Program for the resorts and the public accommodations with staffing that we had used previously. In those program areas we have talked to the Division of Environmental Protection, they understand the situation that the county is in and they are willing to take back those responsibilities. Post COVID-19 the county will have discussions with them whether to resume those agreements and activities.

Chair Pennell asked Mr. Dick how long the schools have been open in Washoe County.

Mr. Dick replied that this is the third week that they have been open. They started on the 17th and through the first two weeks they lost almost a week of school because impact of the wildfire smoke.

Chair Pennell asked Mr. Dick if the schools were fully open or hybrid.

Mr. Dick stated that kindergarten through sixth grade, maybe fifth grade (elementary schools) are open every day. Middle schools and high schools are under a hybrid model where they have two cohorts attending those schools. Those cohorts attend on separate days to those cohorts two days a week. Then they do distance learning the other days. All students have the opportunity to do distance learning completely rather than attending the schools.

Chair Pennell thanked Mr. Dick and asked the board members if they had any additional questions for Mr. Dick. The board did not have any additional questions.

State of Nevada, Division of Public and Behavioral Health - Ihsan Azzam, Ph.D., M.D., Chief Medical Officer

Dr. Ihsan Azzam, Chief Medical Officer reported for the State of Nevada Board of Health. He gave a report on updates with the State of Nevada Board of Health hereto known as Exhibit "D." Dr. Azzam gave a brief overview of his report. Good Morning Mr. Chairman and Esteemed Members of the Board. For the Record, Ihsan Azzam, Chief Medical Officer for the Nevada Division of Public and Behavioral Health.

As you already have a copy of my report – I will briefly go over some important points. It is almost eight months since the start of the pandemic. We learned a lot, but still there are many unknowns. At the beginning, the danger of the pandemic was grossly under-estimated, while our ability to control it was way over-estimated. As of today morning, there have been more than 26 million cases with 864,000 COVID-related death worldwide. About 6,120,000 cases were confirmed in

the U.S. with almost 186,000 deaths. So far more than 70,000 cases were diagnosed and about 1,400 deaths occurred in Nevada. More than 870,000 laboratory tests were performed in Nevada, with a range between 4,000 to 17,000 tests per day. Please note that these updated numbers are slightly different than the numbers you have in my report which was prepared on August 25, 2020. It seems that our community is properly complying with the prevention measures, such as wearing face masks; practicing physical distancing and avoiding crowds - as we started to see significant improvements in the incidence, hospitalization, and death due to COVID-19. Both; the cumulative test positivity both weekly and biweekly and the daily Test Positivity rates continue to steadily decline in Nevada and nationwide. Hospitalization and death due to COVID-19 also continue to decrease in Nevada.

Progress toward developing COVID-19 vaccines has been made in a record time. Several vaccines are well into phase III clinical trials. Effective Herd Immunity rates required to control the active spreading of COVID-19 are estimated to be between 50 to 70%. While deaths rates among children and teens remain very low, recent research demonstrated that children are probably contracting and contributing to spreading the infection as much as adults. Hospitalization rates among children with COVID-19 remain low. However, recently observed trends showed that one in three children hospitalized with COVID-19 may require intensive care. Small proportion of children infected with COVID-19 seem to develop a serious complication called the Pediatric Multisystem Inflammatory Syndrome. Fortunately, most children who developed this syndrome recovered. As an additional negative public health outcome: childhood intake of all types of vaccines had significantly decreased since the onset of the pandemic, leaving many vulnerable kids without any protection against prevalent childhood infections such as measles, pertussis, and mumps. Ensuring routine vaccination for all children and adults; especially during this pandemic is essential to prevent the spread of all kinds of vaccine-preventable infections and avoid further strains on the healthcare system. As we are moving into the fall and winter, it is more than certain that we will be facing a continuation of the pandemic that can be synergized by seasonal influenza. Influenza viruses and the COVID-19 will co-circulate, and individuals can be co-infected with both viruses at the same time.

Even a mild influenza season could overwhelm our already-stressed hospitals who are currently treating large numbers of critical cases of COVID-19 patients. Each year almost 60 million Americans contract the flu, with up to 900,000 of them requiring hospitalization; resulting in 12,000 to 59,000 deaths. Despite this very concerning burden, less than a half of the U.S. population usually gets vaccinated for the flu. Annual flu vaccination can reduce the risk for spreading influenza viruses; - it can reduce severity; complications; hospitalizations and death due to influenza. The Division of Public and Behavioral Health is urging all Nevada residents to get the influenza vaccine. The division is coordinating with CDC and our community partners to conduct mass influenza vaccination campaigns with a major focus on high risk individuals. Additionally, we partnered with the Nevada Department of Corrections to ensure that vulnerable inmates are properly immunized for influenza. Countries in the southern hemisphere where winter is almost ending reported that the flu season this year has been milder than usual. This is certainly due to their compliance with wearing facemasks, practicing physical distancing, and avoiding crowds, in addition to a significantly increased intake of the influenza vaccine.

With this I am concluding my update and will be happy to answer your questions.

Chair Pennell asked if any of the board members had any questions.

Dr. Murawsky commented that he wanted to thank Dr. Azzam and the other health district leaders for their response to the pandemic and their efforts and the State's ongoing efforts to keep the citizens of Nevada as safe as they can with recommendations that we can all take up and follow. Dr. Murawsky asked if there is anything at the State level to try and push Influenza vaccination rates higher than our historical use, since we are going into a season with two virus' that will be more complex?

Dr. Azzam stated, Yes, we are partnering with the CDC (Centers for Disease Control and Prevention) to ensure that we have enough Influenza vaccines early on, and as you know the vaccine is available in Nevada. It has been available for about 3 weeks. We are trying to focus at the Division of Public and Behavioral Health, on the vulnerable population, those who have underlying conditions, individuals who are underserved, uninsured and under insured who are usually more vulnerable to contract the flu and develop complications and die. The elderly and very young. This year we are ensuring that the marginalized individuals, who are mostly, really hit hard. As you know, about 40% of the deaths due to COVID-19 occurred among Nursing home residents, so we are ensuring nursing home residents are getting the influenza vaccine because with the circulating COVID-19 virus and being energized by the influenza virus it may worsen the burden. Especially now that we are seeing some gains in some reduction of COVID-19 and we want to keep that.

Chair Pennell echoed what Dr. Murawsky said and acknowledged that the last six months could not have been easy and thanked Dr. Azzam for his leadership.

7. Item for Possible Action:

Approval of the proposed 2021 State Board of Health meeting dates: 3/5/2021, 6/4/2021, 9/3/2021, 12/3/2021.

Chair Pennell asked the Board if anyone had a conflict with the proposed Board of Health meeting dates, none of the board members indicated they had a conflicting schedule for the proposed dates.

CHAIR PENNELL REQUESTED A MOTION TO APPROVE THE 2021 STATE BOARD OF HEALTH MEETING DATES. A MOTION BY DR. SHAH TO APPROVE OF THE 2021 BOARD OF HEALTH MEETING DATES WAS MADE AND SECONDED BY DR. PONCE. THE 2021 BOARD OF HEALTH MEETING DATES PASSED UNANIMOUSLY.

8. Item for Possible Action:

Future Agenda Items

Chair Pennell asked the board if they had any suggestions for future agenda items. None of the board members suggested any future agenda items. Chair Pennell asked if there were any public comments.

Public Comment

Chair Pennell asked if there were any public comments. There were no public comments.

Chair Pennell then addressed the board and public to announce that today is Linda Anderson's last day with the State of Nevada Attorney General's Office as she is retiring. Chair Pennell wanted to personally thank her for her service and everything she did for the Board of Health and especially everything she did for Dr. Pennell. Chair Pennell stated that he never once asked Ms. Anderson a question that she did not have the answer to immediately. Her wealth of knowledge is going to be missed and the citizens of the State of Nevada send their gratitude as well. Thank you, Linda, we are going to miss you.

Dr. Murawsky stated that he wanted to echo the comments that Chair Pennell made. The State is a better place for Linda's service and as a citizen and a member of the board we are grateful for all the time and effort she has put into making Nevada a better place. Her input and wisdom will be missed. We welcome her public comment anytime in the future as a citizen to help guide us and do the right thing. Which she has been so good at up and to this point. The invitation is always open.

Ms. Anderson replied to the Board that it has been such an honor to get to represent this Board. The meeting today shows the difference you make to the community with approving all of these compliance agreements and passing these regulations that will change communities throughout Nevada. I started working for the State in 1990 so I have 30 years in. I hope to continue in public health in some other capacity, so I appreciate the invitation and I have learned so much from working with all of you. Thank you.

Chair Pennell stated that it is good to hear from her and that he is glad that she will stay in touch in the future.

There was no further public comment.

Meeting Adjourned at 9:50 am