

Joe Lombardo
Governor



Richard Whitley,
MS
Director



Cody Phinney,
MPH
Administrator

Ihsan Azzam,
Ph.D., M.D.
Chief Medical
Officer

MEETING MINUTES STATE BOARD OF HEALTH Special Session April 28th, 2023 9:00 am

MEETING LOCATIONS:

This meeting was held in two physical locations as well as virtually via Microsoft Teams and by phone.

Physical Meeting Locations:

Rawson-Neal Psychiatric Hospital
Training Room B (193)
1650 Community College Dr., Las Vegas, NV 89146

Nevada Division of Public and Behavioral Health (DPBH)
Hearing Room No. 303, 3rd Floor
4150 Technology Way; Carson City, Nevada 89706

Online Meetings Link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_MTliZGE1N2UtOGNmMy00YzFkLWE4MzUtOTEwNDBkZDJhYTQ2%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22e2f9f008-841c-437d-b037-927c30ea003e%22%7d

Phone Number:

+1-775-321-6111
Phone Conference ID Number: 273 597 72#

1. CALL TO ORDER/ROLL CALL – *Dr. Jon Pennell, Chair*

BOARD MEMBERS PRESENT:

Dr. Jon Pennell, DVM, Chair (In Person-Southern Nevada)
Dr. Jeffery Murawsky, M.D. (In Person-Southern Nevada)
Dr. Trudy Larson, M.D. (online)
Ms. Judith Bittner (online)
Charles Smith (online)
Dr. Monica Ponce, DDS (Phone)

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

Autumn Blattman, Executive Assistant, Division of Public and Behavioral Health (DPBH); Lisa Sherych, Administrator, DPBH; Sherry Stevens, Administrative Assistant III, DPBH; Cody Phinney, Deputy Administration, DPBH; Julia Peek, Deputy Administrator, DPBH; Kayla Villegas, Administration Assistant III, DPBH; Leticia Metherell, Health Program Manager III, DPBH; Teresa Hayes, Health Program Manager III, DPBH; John Follette, Radiation Control Manager, DPBH; Maria Flores, Administrative Assistant IV, DPBH; Julie Lindesmith, Drew Cross, Agency Director, Lake's Crossing Center; Shannon Bennett, Bureau Chief, DPBH; Janice Hadlock-Burnett, Health Bureau Chief, DPBH; Kyle Devine, Deputy Administrator, DPBH; Misty Vaughan Allen, Statewide Suicide Prevention Coordinator, DPBH; Brooke Maylath, Health Facility Inspector, HCQC, DPBH; Preston Tang, Health Program Specialist I, DPBH; Donielle Allen, Health Program Manager II, DPBH; Sharon Bluemer, Environmental Health Specialist IV, DPBH; Nathan Orme, Public Information Officer, DPBH

OTHERS PRESENT:

Cheryl Woehr, Gemelie Domingo, Anna Duffy, Carmen Hirciag, Linda Anderson, Dr. Tedd McDonald, Pierron Tackes, Michelle Lybrook, Michael Johnson, Joseph Filippi, Jr., Joetta Forsty, Tracie Pistone, Tammy Ritter, Marena Works, Steve Messinger, Brandon Beckman, Ernie Diaz, Jennifer Russell, Tracy Palmer, Dennis Fitzpatrick, Jay Cafferata, Jeanne Bishop-Parise; Assaad Zeid

Chair Pennell called the meeting to order and opened the meeting at 9:00 a.m.

Roll call was taken, member attendance reflected above. The Board of Health had a quorum.

2. ACTION ITEM: Review and Approval of meeting minutes from January 20th, 2023 – Jon Pennell, Chair

Chair Pennell asked if there were any additions or corrections to the January 20th, 2023, meeting minutes.

Dr. Trudy Larson corrected “Mr. Barry Cole” should be “Dr. Barry Cole.”

No other corrections or additions.

CHAIR PENNELL REQUESTED A MOTION FOR THE APPROVAL OF THE JANUARY 20TH, 2023, BOARD OF HEALTH MEETING MINUTES WITH CORRECTION. A MOTION BY DR. LARSON TO APPROVE WITH CORRECTION. MOTION WAS SECONDED BY MR. SMITH. THE MOTION PASSED UNANIMOUSLY.

3. ACTION ITEM: Review and Approval of meeting minutes from March 3, 2023 – Jon Pennell, Chair

Chair Pennell asked if there were any additions or corrections to the March 3rd, 2023, meeting minutes.

Dr. Jeffery Murawsky stated on page 8, third line from the bottom should read because of scope rather than sense of scope.

Chair Pennell stated on Page 10, sixth paragraph, Dr. Murawsky's statement regarding the election should read “on different years” rather than “of indifferent years”.

No other corrections or additions.

CHAIR PENNELL REQUESTED A MOTION FOR THE APPROVAL OF THE MARCH 3RD, 2023, BOARD OF HEALTH MEETING MINUTES WITH CORRECTION. A MOTION BY DR. MURAWSKY TO APPROVE WITH CORRECTION. MOTION WAS SECONDED BY MR. SMITH. THE MOTION PASSED UNANIMOUSLY.

4. ACTION ITEM: Review, Discussion, and Possible Approval of Joint Report and Regulation Recommendations for Removal in Compliance with Executive Order #2023-003 – Division of Public and Behavioral Health Executive Team

Ms. Lisa Sherych, Administrator of the Division of Public and Behavioral Health (DPBH), presented for review and approval the agency report, which they wanted to put forward as a joint report with the Board of Health in accordance with the Governor's executive order #2023-003. Ms. Sherych stated that #2023-003 had several requirements for each department, agency, board, and commission in the executive branch of government surrounding regulations.

Ms. Sherych said the requirements included a comprehensive review of all regulations subject to its enforcement, a report submitted to the Governor's office detailing how the regulation, subject to its enforcement can be streamlined, clarified, reduced or otherwise improved to ensure those regulations provide for the general welfare of the state without unnecessarily inhibiting economic growth as part of the report, provide a list of no less than ten (10) regulations recommended for removal.

Ms. Sherych explained the Division drafted the report and gave the public and stakeholders opportunities to provide input and feedback. Ms. Sherych said a survey was developed and the Division held both a public workshop and stakeholder's meeting allowing those interested to comment. Ms. Sherych concluded by asking for the Board's support by approving the information in the report as a joint effort from the Division of Public and Behavioral Health and the Board of Health.

Chair Pennell asked for questions or comments from the Board members.

Dr. Trudy Larson asked if the Board and Division were going to review each recommendation separately or if Division was asking to take them all together.

Ms. Lisa Sherych confirmed the intent was to take all items as a whole.

Dr. Larson said she had a question regarding the recommendation to remove the cultural competency requirement from the drug and alcohol treatment centers. Dr. Larson asked if staff had reviewed the other educational opportunities to make sure it covers most of the cultural competency issues. Dr. Larson said the rationale given was that much of the material is covered in antidiscrimination education already being conducted. Dr. Larson said she wanted to know if the staff had an opportunity to look at it and make sure it was covered in existing education.

Cody Phinney, Deputy Administrator for the Division of Public and Behavioral Health, responded. Ms. Phinney stated that she could not recall anything specifically relating to alcohol and drug abuse counseling and cultural competency in the alcohol and drug abuse section however, on the cultural competency in general, in Chapter 449, the Division decided to start over with the regulation on cultural competency training for medical facilities. Ms. Phinney said the current approval process is incredibly problematic but the Nevada Revised Statute (NRS) requiring cultural competency is intact and the Division will continue to enforce it while identifying a more sustainable process which would allow everyone to be in compliance.

Dr. Trudy Larson stated that the Nevada Revised Statute was important and that she was pleased to hear the Division was starting over and not abandoning the regulation.

Deputy Administrator, Cody Phinney, concluded by stating the Division of Public and Behavioral Health is committed to cultural competency. Ms. Phinney said the Division would like to do it in a way that training consistently gets out to people working in this field in a sustainable way. Ms. Phinney said the Division is making progress towards that goal and it is the foundation they will be working on moving forward.

Chair Pennell thanked Ms. Phinney for her statement and observed the cultural competency recommendation was the source of the most public comment. Chair Pennell asked for additional questions or comments from the Board. With none heard, Chair Pennell opened the floor to public comment.

Dennis Fitzpatrick provided public comment virtually. Mr. Fitzpatrick stated he has been a domestic violence supervisor for 21 years in Nevada and is requesting a change to Nevada Administrative Code (NAC) 228.165 from requiring two treatment providers to only requiring one. Mr. Fitzpatrick stated that it is an unfair financial burden on private agencies. Mr. Fitzpatrick said that the agency takes the expense of offenders who cannot pay and stated that no other state requires two providers for this type of class. Mr. Fitzpatrick said domestic violence classes are small and there is no reason to have two providers for such a small class. Mr. Fitzpatrick said that there is no discipline problem since many offenders attend class online and private deviation domestic violence agencies face unfair competition from Clark County. Mr. Fitzpatrick stated that alternative sentencing with Las Vegas Municipal Court offenders face immediate jail if they cannot pay but this is not the case with private domestic violence agencies, who must accept all offenders. Mr. Fitzpatrick said he has been reporting the problem for three years to the Division of Public and Behavioral Health with his objections to requiring two providers. Mr. Fitzpatrick said he knows of eight domestic violence agencies who have stopped handling these cases largely because of the requirement to have two providers. Mr. Fitzpatrick concluded by saying he was forced to give up domestic violence services and had more bad debt from those services than any other services provided.

Mr. Jay Cafferata provided public comment in person at the Carson City meeting location. Mr. Cafferata stated that these regulations protect patients and by deleting these regulations, it would be protecting the industry and he does not think that was really the intention of the law. Mr. Cafferata said he does not think it helps and he understands the desire to start over with the regulations, but it has created confusion in the industry, and no one is doing cultural competency training. Mr. Cafferata said the industry is making it sound like it costs hundreds of thousands of dollars to do the training, but it does not. Mr. Cafferata stated he submitted written comments as well, and said he provides training at nonprofit and group rates. Mr. Cafferata stated training can be done over time or online and is not expensive. Mr. Cafferata stated by repealing or taking out the entirety of section 14 [of NAC Chapter 449] eliminates the requirement to provide proof training was completed within 30 days of hire like the requirement for sexual harassment training to be completed within 30 days of hire. Mr. Cafferata stated that he has personally filed two complaints with the Division of Public and Behavioral Health about two different hospitals that violated his personal civil rights that are governed by these regulations and has received zero satisfaction. Mr. Cafferata said he realizes his complaints may not be a high priority because his life was not in danger but if these regulations are repealed, he believes his chances of getting any kind of justice are zero. Mr. Cafferata concluded by imploring the board not to forward 449 changes with the other regulation recommendations.

Mr. Steven Messinger with Nevada Primary Care Association provided public comment virtually. Mr. Messinger stated that his organization also provides Cultural Competency training and he agreed with Mr. Cafferata's statements. Mr. Messinger said they agree that the regulation needs to be rethought and made easier for the industry, but the idea that it is just going to be repealed without any idea what the replacement is, leaving the citizens of and patients of Nevada without any sort of recourse, is really misguided. Mr. Messinger said everyone who spoke at the hearing last week proved how necessary training is. Mr. Messinger said he heard two things, either the industry believes in cultural competency but does not have time or money for it or the belief they do not need cultural competency because they have a diverse staff. Mr. Messinger said he believes this attitude screams for the need for cultural competency. Mr. Messinger said the idea that because someone is from a minority group means they are culturally competent is not a culturally competent attitude. Mr. Messinger stated there is still a big need for this and there is still a law stating that a health facility cannot be licensed without having this training. Mr. Messinger concluded by saying to walk out on a ledge with no regulations supporting that law or even idea of what the regulations may look like is misguided and he hoped the Board does not go through with approving the cancellation of the regulations in 449.

Ms. Carmen Hirciag, Administrator for Golden Years Residential Care Facility, provided public comment virtually. Ms. Hirciag stated she would like to repeat her comments from the previous sessions in that she supports the repealing of the cultural competency regulations. Ms. Hirciag said the reason is she believes they are redundant and most focus on discrimination which there are already state and federal regulations to protect people from discrimination. Ms. Hirciag

stated the cultural competency regulations are an extra cost and time on administration and staff to go over material that have already been trained on.

No further public comment heard.

Chair Pennell asked for clarification from the Deputy Attorney General on the report and what the Board would be voting on.

Pierron Tackes, Deputy Attorney General, commented for the record. Ms. Tackes stated that this is a report the Division has put together on recommended changes pursuant to the Governor's Executive Order 2023-003. Ms. Tackes said it is recommended changes per the executive order and not regulations going forward for regulatory changes. Ms. Tackes clarified if that were to happen, the regulations will come back to the Division and go through the process pursuant to Nevada Revised Statute (NRS) 233B where there would be additional opportunity for the public to weigh in on those changes to move forward.

Chair Pennell asked for questions from the Board. None heard.

CHAIR PENNELL REQUESTED A MOTION TO ACCEPT AND APPROVE THE REPORT OF RECOMMENDATIONS MADE BY THE DIVISION OF PUBLIC AND BEHAVIORAL HEALTH IN COMPLIANCE WITH EXECUTIVE ORDER 2023-003 WITH THE ADDITON OF PUBLIC COMMENT MADE AT TODAY'S MEETING. A MOTION WAS MADE BY DR. MURAWSKY TO ACCEPT AND APPROVE WITH ADDITIONS. MOTION WAS SECONDED BY JUDITH BITTNER.

IN DISCUSSION, DR. LARSON EXPRESSED BEING UNCOMFORTABLE WITH APPROVING THE REPORT WITH THE REMOVAL OF THE CULTURAL COMPENTENCY REGULATIONS IN THE REPORT. CHAIR PENNELL CLARIFIED THE BOARD WAS NOT VOTING TO REMOVE THE REGULATION, ONLY THE RECOMMENDATION MADE BY THE DIVISION. DR. LARSON'S COMMENTS HAVE BEEN MADE PART OF PUBLIC COMMENT BELOW WITH HER OBJECTION NOTED. THE MOTION PASSED UNANIMOUSLY.

5) ACTION ITEM: Recommendations for Future Agenda Items – *State Board of Health Members*

None heard.

6) GENERAL PUBLIC COMMENT (Action may not be taken on any matter brought up under this agenda item until scheduled on an agenda for a later meeting)

Dr. Trudy Larson's statement for public record. Dr. Larson stated she still had a problem with the 449 sections of the report. Dr. Larson said she agrees with some of the folks who have spoken up that cultural competency is much broader than discrimination.

Cody Phinney, Deputy Administrator, provided public comment. Ms. Phinney thanked Executive Assistant Autumn Blattman for the hard work she put in on the report developed for the meeting and for the Division to comply with the Governor's Executive Order 2023-003. Ms. Phinney also announced that this meeting would be Ms. Blattman's last meeting as she has found a new position. Ms. Phinney concluded by also thanking Administrator Lisa Sherych for her hard work and dedication to the Division of Public and Behavioral Health. Ms. Phinney explained that it was also Ms. Sherych's last day with the Division.

7) Adjournment – *Jon Pennell, Chair*

Chair Pennell, Vice Chair Murawsky, and other Board members expressed their thanks and gratitude to both Autumn Blattman and Lisa Sherych as well. Chair Pennell adjourned the meeting at 9:38 a.m.