

Joe Lombardo
Governor



Richard Whitley, MS
Director

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH

Helping people. It's who we are and what we do.



Lisa Sherych
Administrator

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

DRAFT MEETING MINUTES **STATE BOARD OF HEALTH**

December 2, 2022

9:00 am

MEETING LOCATIONS:

This meeting was held at physical locations, online, and by phone.

Physical Meeting Locations:

Southern Nevada Health District (SNHD)
Red Rock Trail Rooms A and B
280 S. Decatur Boulevard; Las Vegas, Nevada 89107

Nevada Division of Public and Behavioral Health
Hearing Room 303
4150 Technology Way, Suite 300, Carson City, NV 89706

Online Meetings Link:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_M2UwZmYwOGQtOWFhYy00ZGI1LTk2OTEtZWlyMDE0MDc2NDc1%40thread.v2/0?context=%7b%22Tid%22%3a%22e4a340e6-b89e-4e68-8eaa-1544d2703980%22%2c%22Oid%22%3a%22455656b7-d121-4709-ba81-3f70d51b1100%22%7d%7d

Phone Number:

+1-775-321-6111
Phone Conference Number: 1530453179#

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

BOARD MEMBERS PRESENT:

Dr. Jon Pennell, DVM (online)
Dr. Jeffery Murawsky, M.D.
Dr. Trudy Larson, M.D. (online)
Ms. Judith Bittner (online)
Charles Smith

BOARD MEMBERS ABSENT EXCUSED:

Dr. Monica Ponce, DDS

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

Autumn Blattman, Executive Assistant, Division of Public and Behavioral Health (DPBH); Lisa Sherych, Administrator, DPBH; Kayla Samuels, Management Analyst, Sherry Stevens, Administrative Assistant III, DPBH; Joanne Malay, Deputy Administrator, DPBH; Cody Phinney, Deputy Administration, DPBH; Julia Peek, Deputy Administrator, DPBH; Bradley Waples, Health Facilities Inspector, DPBH; Leticia Metherell, Health Program Manager III, HCQC; Vicki Ives, Health Program Manager, DPBH; Nathan Orme, Public Information Officer, DPBH; Brooke Maylath, Health Facilities Inspector, DPBH; Chris Hooper, Auditor II, DPBH; Edith Farmer, Childcare Facilities Supervisor, DPBH; Jesse Wellman, Biostatistician II, DPBH; John Gemar, Health Facilities Inspector II, DPBH; Johna Rusch, Health Facilities Inspector III, DPBH; Leon Ravin, State Psychiatric Medical Officer, DPBH; Paul Shubert, Bureau Chief, HCQC; Preston Tang, Health Program Specialist I, DPBH; Teresa Hayes Health Program Manager III, DPBH; Terri Henwood, Health Facilities Inspector III, DPBH; Kayla Villegas, Administration Assistant III, DPBH; Tina Dortch OMHE Program Manager; DHHS; Vickie S. Ives, Health Program Manager III, DPBH; Mamdoe Dyamwalle, Residential Program Manager, SNAMH.

OTHERS PRESENT:

Andria Cordovez Mulet, Southern Nevada Health District; Dr. Colleen Lyons, Carson City Health and Human Services; Dr. Troy Ross, Lander County; Pierron Tackes, Attorney General's Office; Allison Genco, Governor's Office; Kevin Dick, Washoe County Health District; Dr. Fermin Leguen, Southern Nevada Health District, Linda Anderson; Steve Messinger; Steve Smith; Sheila Lishafill, Sparks Police Department; Tracey Piltone, Interim Health Care; Allan Ward; Barry Cole; Caleb Cage; Clare (no last name identified); Angelica Hall, COMC; Connie McMullen, Personal Care Association of Nevada; Denise Furguson; Dillon Martin; Ester Quillici; Farren Epstein; Gerlad J. Ackerman; Graceful Hearts, LLC; Justin Heath; Heather Harzke; Heather Shoop; Devan Jones, In Karing Arms; Karen (no last name), In Karing Arms; Jeff Weed; John Peckham; Larry Rackley; Leo Vega, Southern Nevada Health District; Katie Ryan, Dignity Health; Marianne McKown; Marissa Brown; Marlene Lockard; Nicki Aaker, Carson City Health and Human Services; Restina Angat; Shelley Polanco; Sheryl Angat; Tiffany Alewine; Tory Johnson; Tray Abney; Vanessa Torti; Wendy Simons; Jeanne Bishop-Parise, ALF/SNF; Marena Works, UNR; Jim Barkel, Churchill County; Jordan Ernst, CCC; Shannon Ernst, CCSS.

Chair Pennell opened the meeting at 9:01 a.m. Because he was not available in person, Dr. Pennell turned the meeting over to Vice-Chair, Dr. Jeffery Murawsky to facilitate the meeting.

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

2. ACTION ITEM: Review and Approval of meeting minutes from the September 2nd, 2022, Board of Health Meeting – Dr. Jeffery Murawsky, M.D.

Vice Chair Murawsky asked if there were any additions or corrections to the September 2nd, 2022, Board of Health meeting minutes. No objections to the meeting minutes were expressed. Vice Chair Murawsky asked if the public had any comments or if the Board members had any additional corrections to the September 2nd, 2022, meeting minutes. None heard.

VICE CHAIR MURAWSKY REQUESTED A MOTION FOR THE APPROVAL OF THE SEPTEMBER 2ND, 2022 BOARD OF HEALTH MEETING MINUTES. A MOTION BY DR. PENNELL TO APPROVE THE SEPTEMBER 2ND, 2022 BOARD OF HEALTH MEETING MINUTES WAS MADE AND SECONDED BY CHARLES SMITH. THE MOTION PASSED UNANIMOUSLY.

3. INFORMATIONAL ITEM – Quarterly County Health District Reports

Southern Nevada Health District – Dr. Fermin Leguen, MD, MPH, District Health Officer

Dr. Leguen gave a brief report sharing that Southern Nevada, like much of the rest of the state, was dealing with a large number of respiratory infections among children. Many are related to the respiratory syncytial virus

(RSV) infection. Dr. Leguen also reported Southern Nevada Health District (SNHD) received a \$22 million grant from the Centers for Disease Control and Prevention (CDC) to help with public health infrastructure. It is a five-year grant with which SNHD plans to expand their workforce and do several community health equities and relate area program. Dr. Leguen advocated for a sustainable public health fund source for all of Nevada.

There was a request for questions, none heard.

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

Kevin Dick, County Health Officer, wanted to highlight a few things starting with some changes in the district Board of Health for Washoe County. Councilman Delgado resigned from the Reno City Council as did Commissioner Bob Lucy. New appointments of Vice Mayor, Devin Reese, and Commissioner Alexis Hill to serve the remainder of the year when Washoe counties elect appointees to be selected in January for a four-year term on the board. The Board also had new officers elected and Councilman Christopher Dare was elected Chair and Councilman Mike Brown was appointed as Vice-Chair for the time being until an election can be done in January.

Mr. Dick continued, discussing the amendment to the interlocal agreement that establishes the Washoe County Health District. There was confusion with people thinking that the health district was part of Washoe County government. The amendment becomes effective January 1st changing the name of the health district to Northern Nevada Public Health serving Reno, Sparks and Washoe County but the new name will not be formally rolling out right away. Mr. Dick said Northern Nevada Public Health are bringing on a firm to assist with the rebranding effort and anticipate that occurring in summer of 2023. Mr. Dick acknowledged and thanked Julia Peak with the Division of Public and Behavioral Health for her efforts on their behalf to secure American Rescue Plan Act (ARPA) funding through the state, approved by the Interim Finance Committee, that will provide \$10 million. This will allow SNHD to get facility space for the tuberculosis (TB) clinic as well space for staff. He said it will also help to continue with family planning services.

Mr. Dick said SNHD, too, were seeing a lot of RSV cases with 750 cases so far for this season. Mr. Dick said those were numbers SNHD would usually see for the entire year, and this is the first 20 weeks. Lastly, Mr. Dick reported on a grant from the National Association of County and City Health Officials for food safety programs to mentor other public health agencies, food safety programs where were asked to mentor Guam and Saipan. The program recently had staff that visited those islands to work with their food safety programs.

Carson City Health and Human Services – Dr. Colleen Lyons, Health Officer and Nicki Aaker, Director of Carson City Health and Human Services (CCHHS)

Nicki Aaker provided updates on Carson City Health and Human Services reporting their Title 10 family planning grant was approved but unfunded. Ms. Aaker expressed gratitude for Julia Peek and the State for agreeing to help with some of that funding, stating that family planning is very important in the communities. Ms. Aaker spoke about the CCHHS Ryan White program and second annual art exhibit that kicked off on World AIDs Day.

Ms. Aaker's update moved to the CCHHS tobacco control and prevention program as well as Carson City's Epidemiology program. Ms. Aaker said CCHHS was continuing to advocate for the youth vaping prevention funds. Those funds are used to provide education to our youth, our parents and our teachers about vaping and the dangers of vaping. Ms. Aaker said she was happy to report that the CCHHS Board of Supervisors agreed to bring on as city employees two epidemiologists and one additional public health investigator for a total of three.

Ms. Aaker reminded the Board about the approved housing plan paid with ARPA funds. CCHHS has had agencies submit their letters of intent with project ideas. The goal is to help individuals in three phases, first helping them get off the street and with an outreach program where they would help with keeping the city clean giving them purpose. Next would be to help them thrive moving forward toward stabilization and finally into stabilization moving into more permanent housing.

Ms. Aaker concluded with brief updates on the Public Health Preparedness program in which they have hired a contractor to an after-action report and their Community Health Improvement program. Ms. Aaker said the data will be up on the website and out to partners in the Quad Counties soon. Ms. Aaker stated that Dr. Colleen Lyons, Carson City Health Officer, was on the phone and asked if she had anything further to add.

Dr. Lyons said the biggest thing she wanted to comment on was the family planning funding. Dr. Lyons said the birth control options and being able to get same day or next day appointments is very important in the Carson City and Quad County area. Dr. Lyons stated the Quad County area has the highest teen pregnancy rate so losing appointment availability is concerning.

No other counties wished to give verbal report. Dr. Murawsky thanked those who reported and moved on to the next agenda item.

4. ACTION ITEM: Consideration and Possible Approval of Appointments to the Nevada Office of Minority and Health Equity (NOMHE) Advisory Committee – Tina Dortch, Program Manager, Office of Minority Health and Equity

Tina Dortch, Program Manager for the Office of Minority Health and Equity, presented the three (3) nominations to the Board. Ms. Dortch stated that these three individuals will allow the office to have at this point a fully seated advisory committee. The three recommendations were:

Nancy Bowen, CEO, Nevada Primary Care Association

Debra Lax, Pastor, Bethel AME Church

Nicholas Dunkle, Diversity Advisor, High Sierra Health Education Center

Ms. Dortch stated that it is a requirement of statutes to make sure that the composition is ethnically, racially, and geographically diverse. The candidates do present and provide expertise, subject matter expertise and stellar council across the representative at large category, the healthcare provider category, and across the nonprofit category. The candidates will have subject matter expertise when it comes to workforce diversification. Ms. Dortch asked if there were questions.

Vice-Chair Dr. Murawsky asked if there were public comments regarding the nominees. None were heard. He asked for discussion from the board. There was no discussion.

VICE-CHAIR MURAWSKY REQUESTED A MOTION FOR ACTION ITEM 4. A MOTION FOR THE APPROVAL AND ADOPTION OF THE NOMINEES FOR THE NEVADA OFFICE OF MINORITY HEALTH AND EQUITY ADVISORY COMMITTEE WAS MADE BY DR. LARSON AND SECONDED BY MR. SMITH. THE MOTION TO ADOPT THE NOMINEES FOR THE NEVADA OFFICE OF MINORITY HEALTH AND EQUITY ADVISORY COMMITTEE WAS APPROVED UNANIMOUSLY.

5. ACTION ITEM: Consideration and Possible Approval of Candidate for Medical Technologist Position on Medical Laboratory Advisory Committee – Bradley Waples, Health Facilities Inspector, Bureau of Healthcare Quality and Compliance

Bradley Waples, Health Facilities Inspector for Healthcare Quality and Compliance, presented the nomination recommendation to the Medical Laboratory Advisory Committee. Mr. Waples explained there were 17 interested applicants and on October 7th of 2022 had a meeting of the committee. After review of all applicants, the committee made the following recommendation:

Taylor Noyes, Clinical Lab Manager, Renown Health.

Dr. Murawsky asked for public comment on the Medical Laboratory Advisory Committee nominee. None were heard. He asked for questions or discussion by Board members. None were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION FOR THE APPROVAL OF MEDICAL LABORATORY ADVISORY COMMITTEE NOMINEE. A MOTION FOR APPROVAL WAS MADE BY MR. SMITH AND SECONDED BY JUDITH BITTNER. THE MOTION TO APPROVE THE MEDICAL LABORATORY ADVISORY COMMITTEE NOMINEE WAS APPROVED UNANIMOUSLY.

6. **ACTION ITEM: Consideration and Possible Approval of the Formation of Central Nevada Health District, pursuant to NRS 439.370 – *Marena Works, Churchill County Initiative***

Marena Works with the University of Nevada Reno (UNR) School of Medicine appeared in person to present the proposition to create the Central Nevada Health District. Ms. Works presented the material from a prepared PowerPoint presentation, for details, see [Central Nevada Health District \(nv.gov\)](https://www.nv.gov). Ms. Works updated the Board on the inclusion of Fallon. Ms. Works asked for the approval of the Board to create the Central Nevada Health District and for any questions members may have.

Dr. Larson inquired about who would be a part of the Central Nevada Health District.

Ms. Works responded informing the members that Churchill, Mineral, and Pershing counties have all become qualified members and that Eureka, because they are not an adjacent county, is joining by contract. Ms. Works said the language is expected to change during the legislative session removing adjacent from the requirement and Eureka will become a full quantified member at that time. Ms. Works also said the health district's board of health was in the process of being selected.

Dr. Murawsky asked for feedback from the Department of Public and Behavioral Health and whether they had any concerns.

Julia Peek, Deputy Administrator for the Department of Public and Behavioral Health responded, stating that "on behalf of the agency, we could not be more proud of the folks for putting this together. This has really been a labor of love for the last decade and it's only with COVID that we've actually had progress in this area where we're really hoping that the Central Nevada Health District will be a model for other counties. But so proud of this team, so supportive of the work that they're doing. And we hope that they get your support as well."

Cody Phinney, Deputy Administrator for the Department of Public and Behavioral Health, responded as well, "We've worked on our side of the regulatory side very cooperatively with this group and will continue to do so related to some of the specific issues that we're still hammering out, including Burning Man and public health preparedness. So, look forward to continue working with them and making sure we get all of those issues down to brass tacks."

The Board thanked them for their input and no further questions were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON THE APPROVAL FOR THE FORMATION OF THE CENTRAL NEVADA HEALTH DISTRICT. A MOTION FOR THE APPROVAL WAS MADE BY DR. LARSON AND DR. PENNELL SECONDED. THE MOTION PASSED UNANIMOUSLY.

7. **ACTION ITEM: Consideration and Possible Approval or Denial of Variance #740 regarding requirements of NAC 444.790 "Lot Size", submitted by Cathy Wise. The variance requests to build on a parcel that is less than one acre to install an individual sewage disposal system on a lot served by a well. – *Teresa Hayes, Health Program Manager, Environmental Health Section, DPBH***

Teresa Hayes, Environmental Health Program Manager, provided the testimony for the approval of Variance #740. Ms. Hayes asked the board to approve the variance application from Ms. Wise to install a sewage disposal system for an unimproved lot of .51 acres. Ms. Wise states in her application that strict adherence to the regulation would unduly burdensome and render the lot unusable as a residential property. Ms. Hayes stated there is a low enough density to accommodate a smaller lot and allow for the smaller lot size. For more details, please view [Variance #740 Cathy Wise \(nv.gov\)](#). Ms. Hayes concluded by saying the department believes approval without conditions would not be detriment to public welfare, nor substantially impair the purpose of the regulation. The department did not request any additional constitutions to the variance.

Vice-Chair Murawsky asked for any public comment or questions from the Board regarding the variance. None were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 7, APPROVAL OF VARIANCE #740 FOR CATHY WISE WITHOUT CONDITIONS WAS MADE BY MR. SMITH AND SECONDED BY DR. LARSON. THE MOTION TO APPROVE VARIANCE #740 WAS APPROVED UNANIMOUSLY.

8. **ACTION ITEM: Consideration and Possible Approval or Denial of Variance #741 regarding NAC 432A.536 “Group Homes”, submitted by Mission Possible Montessori, LLC. The variance requests to have more than the number of children authorized by licensure as group home childcare facility. - *Latisha Brown, Child Care Facilities Surveyor Manager, Bureau of Healthcare Quality and Compliance, DPBH***

Variance #741 submitted by Mission Possible Montessori, LLC was withdrawn.

9. **ACTION ITEM: Consideration and Possible Adoption of Proposed Regulation Amendments to Chapter 433 of Nevada Administrative Code (NAC), LCB File No. R009-22. The proposed regulation establishes a regulation relating to mental health; establishing a procedure for determining whether to involuntarily administer psychotropic medication to a patient at a public or private mental health facility; and providing other matters properly relating thereto. - *Joanne Malay, Deputy Administrator, DPBH***

Joanne Malay, Deputy Administrator for the Division of Public and Behavioral Health, presented the proposed amendments to Chapter 433 of the Nevada Administrative Code that establishes a procedure for determining whether to involuntarily administer psychotropic medication to a patient at a public or private mental health facility and other matters relating thereto. Ms. Malay stated that the proposed changes would revise Section 10 of LCB File R012-20, adopted by the Board on June 5th of 2020, clarifying the language that the patient must be currently admitted to a public or private mental health facility while under an involuntary court admission pursuant to NRS 433A.200. The change will also remove language that allows for involuntary administration of a psychotropic medication to a patient admitted under an emergency admission. Lastly, proposed changes clarify language on the criteria of admission and needs of the client before administration of medication.

Ms. Malay stated the clarification language is to be unable to care for himself or herself is removed and changed to the client is at risk of incurring serious injury or illness resulting from neglect of his or her basic needs before administration of involuntary medication. Procedure was followed, conversation was had with Nevada Psychiatric Association and there is no fiscal impact. Ms. Malay said most hospitals are already adopting and following the regulation change. Ms. Malay thanked the Board and asked for questions.

Vice-Chair Murawsky asked if there was any public comment on this regulation. None were heard.

Dr. Murawsky had a question regarding the criteria and whether risk of harm to others was considered when talking about psychiatric stabilization.

Ms. Malay replied that there have been the mental health hold crisis criteria of “serious harm to himself or others” and there have been no question of clarification but what they have heard from others are what is mentioned in the regulation changes do seem to need clarification.

No further questions were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 9. MOTION FOR THE APPROVAL OF REGULATION R009-22 AS SUBMITTED WAS MADE BY DR. PENNELL AND SECONDED BY JUDITH BITTNER. THE MOTION TO APPROVE REGULATION R009-22 WAS APPROVED UNANIMOUSLY.

10. **ACTION ITEM: Consideration and Possible Adoption of Proposed Regulation Amendments to Chapter 439 of Nevada Administrative Code (NAC), LCB File No. R037-22. Programs for the treatment of persons who solicit**

prostitution to be certified by the Division of Public and Behavioral Health. - Leticia Metherell, RN, CPM, Health Program Manager III, Healthcare Quality and Compliance, DPBH

Leticia Metherell, RN, CPM, Health Program Manager III for the Bureau of Healthcare Quality and Compliance, presented for LCB File number R037-22. The proposed regulation this is related to the certification of programs for the treatment of persons who solicit prostitution. These changes are needed as statues exist which allow for a justice of the peace or municipal judge to order customers of prostitutes who have been convicted of a misdemeanor that constitutes prostitute to participate in a program for the treatment of persons to solicit prostitution. The proposed regulations established certification of these programs for the treatment of persons who solicit transportation prostitution. The proposed regulations were moved forward in accordance with NRS and NAC Chapter 233 B. The Nevada Administrative Procedure Act.

Ms. Metherell detailed each section of the proposed regulation and what they cover in the development, certification, and publication of the programs. Please see [LCB File No. R037-22](#) for regulation and program details. Ms. Metherell concluded by stating she was available for questions.

Vice-Chair Murawsky asked for public comment or questions from the Board on LCB File number R037-22. None heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 10. MOTION FOR THE APPROVAL OF REGULATION R037-22 AS SUBMITTED WAS MADE BY CHARLES SMITH AND SECONDED BY DR. TRUDY LARSON. THE MOTION TO APPROVE REGULATION R037-22 WAS APPROVED UNANIMOUSLY.

11. ACTION ITEM: Consideration and Possible Adoption of Proposed Regulation Amendments to Chapter 449 of Nevada Administrative Code (NAC), LCB File No. R048-22. Medical Facilities and Other Related Entities – Infection control and prevention, use of audio or video monitoring equipment, reporting national accreditation status to DPBH, practice of surgical technology, changes to home health agency, ambulatory surgical center, community-based living arrangement services, facility for hospice regulations & other matters - Leticia Metherell, RN, CPM, Health Program Manager III, Healthcare Quality and Compliance, DPBH

Ms. Metherell presented for LCB File number R048-22 related to healthcare facilities. Ms. Metherell stated the proposed regulations were moved forward in accordance with NRS and NAC Chapter 233 B Nevada's Administrative Procedure Act. The proposed regulations were drafted to align Chapter 449 of Nevada Administrative Code with the passage of several bills passed during the 2019 and 2021 legislative sessions. In addition, the proposed regulations addressed several issues identified in the past several years, including infection control and prevention, construction and life safety, code standards for facilities to Hospice care, and other provisions.

Ms. Metherell reported a public workshop was held on September 28, 2022. The concerns expressed during the public workshop included the following. The provisions addressing the sexual assault or attempted sexual assault training required by NRS 449.302, found in sections 4147 and 80. The concerns are addressed in the proposed Errata. Concerns related to admitting, the provision and NEC 449.996 requiring an ambulatory surgical center to maintain, patient transfer agreement with the hospital and section 68. This recommended change was not incorporated into the Errata and the reasons for this is surgical centers are required to establish written guidelines for transferring a patient to a licensed hospital and the proposed regulations clarify the hospital must have surgical and medical capabilities, all medical and administrative information related to the patients are to be transferred with the patient or to be promptly available to the license center or agency responsible for the patients continuing care. In 2019, Centers for Medicare and Medicaid Services (CMS) did remove the requirement for an Ambulatory Surgery Centers (ASC) to have it written transfer agreement with a local hospital. One article noted that according to CMS, this was meant in part to address the competition barriers that currently exist in some situations where hospitals providing outpatient services refuse to sign patient transfer agreements. The article also noted that at time the rule was finalized, 14 states, including California, did not have patient transfer agreements. The Emergency Medical Treatment and Labor Act, known as EMTALA Emergency Response Regulations, would have continued to address emergency transfers of a patient from an ASC to a nearby hospital, and emergency

medical services would implement their procedures to ensure a patient is transferred to a higher level of care based on the patient's condition.

Ms. Metherell continued with the third concern expressed, which was related to requiring personnel receive all trainings required by NRS. Chapter 449, including family member caregivers providing care to their family, taking the entire cultural competency training and section 44, the recommendation to modify the proposed regulations to provide a waiver or exception to family members that care for family from having to take the cultural compensating training was not included in the errata. The cultural competency training is a statutory requirement. Therefore, the Board of Health does not have authority to waive or exempt these requirements.

Ms. Metherell provided an overview of the sections of the proposed regulation. Ms. Metherell said the Errata proposes to remove sections one and five completely. Please see [LCB File No. R048-22](#) for the regulation section details and proposed Errata. Ms. Metherell concluded by telling the Board she was available for questions.

Vice-Chair Murawsky opened the meeting to public comment relating to LCB File R048-22. Connie McMullen representing the Personal Care Association of Nevada was recognized and the two-minute timer was started.

Connie McMullen's Statement:

Nevada Board of Health
Item 11 - RO48-22

On behalf of the Personal Care Association of Nevada and Advanced Personal Care Solutions (a Medicaid contracted provider for the state), I am Connie McMullen, testifying on regulations proposed in Item 11, for Chapter 449, sec. 44 & 10 regarding training of caregivers working for personal care agencies.

Training for unlicensed caregivers is an important issue. Everyone should know that in the Personal Care industry, licensed agencies must train caregivers to a set of standards in NRS, before providing care, along with an additional eight hours of training annually.

Personal Care Agencies train on 16 topics before a caregiver can provide personal care, and the Division of Health Care Quality and Compliance inspects the agency training records regularly.

Many agencies use nationally recognized training platforms or have spent years developing thorough and consistent training.

Because training in the personal care industry is already regulated, and because training systems are already in place, PCAN would like to propose a couple of alternatives.

1. Caregivers employed by licensed agencies should be excluded from the requirement since they already receive and meet training requirements under existing regulations.
(The licensed agencies take the time to comply with existing regulations and already follow through on the training of their employees. The word employees is significant... pointing to the agency's investment.)

2. The current training requirements for personal care agencies should be used as a model for unlicensed caregiver training.

There are Personal Care Agencies that are more than happy to assist in developing standards for unlicensed caregivers that caregivers are already meeting. HCQC should also be able to provide support due to their regulation of current training requirements for personal care agencies. Thank You for allowing me to speak on behalf of the personal care industry. And happy holiday to you!

Vice-Chair Murawsky asked if the State would like to respond to the public comment.

Ms. Metherell responded for the record. The proposed regulations just says that it must be ensured that such personnel receive training that is already required by chapter NAC and NRS 449, so it is not adding more training requirements. It is more related to having to pay personal care attendants for taking those trainings and for their hourly wage and things of that nature. Ms. Metherell said based on the comments it appeared that it was more geared towards additional training and is not quite sure how she would be able to assist that individual.

Connie McMullen replied to Ms. Metherell stating that employees and contractor must pay for the training under National Labor Laws and that if additional training, Ms. McMullen concluded by saying that if more training does come down the line that they would like to be included in it.

Vice-Chair Murawsky asked Ms. Metherell about the increased costs to businesses if they are required to pay workers who are not employees because he did not see where it was addressed in the small business impact analysis.

Ms. Metherell replied for the record. She said she believes the small impact statement does acknowledge that there would be an increase for some facilities. Some agencies already provide the cost and pay for training some may not. There was one individual in the small impact statement, it is in the comment section note what they felt those (costs) would be. They said the proposed regulations specified that the administrative Personal Care Agency (PCA) is required to ensure employees are provided training, which they estimated the cost would be approximately \$45,000. Additionally, Section 10 would require the agency to pay certain costs and these costs would result in \$40,000 of additional wages to be paid annually. For that particular entity which turned out to not be a personal care agency, did outline those as the cost. Ms. Metherell said she did not know if those would be similar cost to other agencies and might be depending on the size.

Jeanne Bishop-Parise was in person at the Carson City location for public comment on LCB File 048-22. Ms. Bishop-Parise was recognized by the Board and a two-minute timer was started. Ms. Bishop-Parise stated her name and identified herself as Health Service Executive III for the State of Nevada. Ms. Bishop-Parise stated she recently retired but was ten (10) years at an assisted living facility and then 20 years at doing skilled nursing facility administration. Ms. Bishop-Parise expressed concern because of how the cultural competency morphed into a very specific training that was unique to Nevada. All new employees are required to complete it within 30 days. What is required is different for the association, nursing facilities and assisted living facilities. It's different from the Board of Nursing and through the university system, which is nine (9) hours. Ms. Bishop-Parise said the association is three (3) hours, which is cumbersome, and thinks that is why they tried to remove that requirement from families.

Ms. Bishop-Parise said she was looking at how in Section 7 #4 (of the proposed regulation), the person who is designated, pursuant to subsection #3, as responsible for infection control shall complete not less than 15 hours of training concerning the control and prevention of infections. Training provided by the Association for professionals, Infection Control and Epidemiology, the Centers for Disease Control and Prevention of the United States, Department of Health and Human Services, the World Health Organization, the Society for Healthcare Epidemiology of America, or a successor in interest to any of these organizations not later than three months after being designated then annually thereafter. Ms. Bishop-Parise said she thinks the state might be heading down the same path with the language being too specific and not allowing for some of the wonderful nationally accredited programs. Ms. Bishop-Parise said she thinks that the language needs to be amended and the terms for approval through the Bureau less stringent than the Cultural Competency training.

Vice-Chair Murawsky asked the State wished to respond to the public comment. Leticia Metherell reintroduced herself for the record.

Ms. Metherell explained that the cultural competency training regulations were not addressed in this proposed regulation amendment. Ms. Metherell said it reverts to saying that PCAs must follow the statutory requirements and pay for staff to take the training, and went on to address the issue regarding Section 7, Infection Control. Ms. Metherell said that the regulation says agencies shall adopt an infection control program developed pursuant to subsection when the facility shall adopt an infection control policy and the policy must include, without limitation, current infection control dialogues

developed by a nationally recognized infection control organization that are appropriate for the scope and services of the facility. The main goal here is to ensure that the policies are done in accordance with evidence-based practices. Ms. Metherell concluded by saying that there may be other accreditation programs out there, but they would have to be evaluated to see if they are and that would be separate, so the State stays with the nationally recognized standards to ensure they are correct.

Vice-Chair Murawsky ask Ms. Metherell if an agency did find an alternative program if they could apply for a variance which would lead to potential regulation amendment. Ms. Metherell deferred to Deputy Attorney General, Pierron Tackes.

Ms. Tackes stated that anything passed in regulation by the Board of Health is subject to the variance process so it would go through the typical review where they apply for a variance, it would be considered by staff, and then the Board of Health, generally, that would apply.

Vice-Chair Murawsky asked if there were any further public comment. Marlene Lockard was recognized, and the two-minute timer was started.

Ms. Lockard began by introducing herself and stated that she was involved with the legislation of Senate Bill (SB) 340 during the last legislative session. One of the main issues that was found was that home care and personal home care workers were experiencing inconsistent training throughout the industry. The Homecare Employment Standards Board (HCESB) was created with consists of providers, home care workers, and care recipients. The HCESB voted unanimously to make the training recommendations that are in the regulation. Ms. Lockard said the recommendations were also approved by Director Richard Whitley. Ms. Lockard said the regulation would remove the ambiguity that previously existed in the language of the regulation.

Ms. Lockard was reminded of the two-minute time limit and concluded by saying that HCESB recommended approval of the regulation.

Vice-Chair Murawsky asked for additional public comment. Farren Epstein, who joined by phone, was recognized and the two-minute timer was started.

Ms. Epstein began by introducing himself and informing the Board that he is a home care worker for her son, who is an incomplete quadriplegic. Ms. Epstein said that she is also a member of the Home Care Employment Standards Board that Ms. Lockard just spoke about. Ms. Farren stated that home care workers carry out all the duties that allow seniors and people with disabilities to live in their own homes with dignity and the demand for home care services has been skyrocketing as Nevada's population ages faster than the rest of the country. Ms. Epstein said that despite their essential work, home care workers make only an average of about \$11.00 an hour, some as low as \$7.00 an hour. Most do not have any health care or paid time off at all, and as inflation has shot through the roof, workers are struggling just to survive and afford the basics like food, electricity, rent and gas.

Ms. Epstein continued to say that on top of these poverty wages, most home care workers have the added burden of being required to pay for their own job training and attend meetings on their own time, unpaid. Some are without respite care to take care of the people that they are entrusted to watching. This type of out-of-pocket costs have aggravated a severe workforce shortage and many families cannot find the home care services that they desperately need. Ms. Epstein said these were reasons why the Home Care Standards Board passed the recommendation that employers, not workers, should be responsible for covering the costs of training and workers should be paid for attending the trainings. Ms. Epstein concluded by saying we must solve the spiraling home care crisis in Nevada and lifting the burden of training costs for struggling caregivers would be a major step in this in the right direction and strongly urged the Board of Health to approve this amendment.

Vice-Chair Murawsky thanked Mr. Epstein and asked if there were further public comment. Cody Phinney, Deputy Administrator of the Division of Public and Behavioral Health, was recognized.

Ms. Phinney began by introducing herself and let the Board know that she acted as Chair on the Home Care Employment Standards Board. Ms. Phinney said she was available to answer any questions from the Board on the recommendations or anything else they may need to have clarified.

Dr. Murawsky thanked Ms. Phinney and asked for additional public comment on R048-22. Ms. Bishop-Parise asked if she could ask a follow up question. The Vice-Chair Murawsky allowed it.

Ms. Bishop-Parise asked if there are online options for completing the 15 hours of training that would meet the requirements for infection control.

Ms. Metherell replied saying there are online classes that facilities can choose, and that the Bureau would be posting some of them on the website.

Allan Ward was recognized for public comment and a two-minute timer was started. Mr. Ward began by introducing himself as the owner and operator of Home Instead in Northern Nevada. Mr. Ward stated that in Northern Nevada wages for personal care workers is \$15.00 to \$17.00 per hour and they do pay for training. Mr. Ward stated that the train is 16 subjects unless it is Medicaid. Mr. Ward added that labor law requires companies to pay the employee any time they have training and concluded by saying he wanted facts from the employers' side to be on record.

Vice-Chair Murawsky asked if there were any further public commentors. None heard. He asked for questions from the Board members. Dr. Murawsky asked about section ten of the proposed regulation and whether other regulation or federal law existed that already covers what is being asked for. Ms. Metherell responded that she was unsure and deferred to the Deputy Attorney General.

Cody Phinney asked to be recognized by the Chair. Vice-Chair Murawsky welcomed her comments. Ms. Phinney clarified the purpose of this regulation is not that it creates a new requirement, rather it gives Healthcare Quality and Compliance (HCQC) the necessary authority to monitor the implementation of this law. Ms. Phinney said that it was understood that labor law does cover much of this, but labor laws are enforced by the Labor Commissioner's Office. Ms. Phinney stated that they are seeking a way to ensure that HCQC can assist and review making sure the burden of any training is not left to the individual but rather the healthcare facilities. Ms. Phinney also deferred to the deputy attorney general for any further questions about other laws.

Ms. Tackes answered, for the record, that she did not have legal analysis prepared relating to that question and could look into it, but she believed that Ms. Phinney's response addressed the Board's question.

Vice-Chair Murawsky asked if there were any other questions from the Board. None heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 11. MOTION FOR THE APPROVAL OF REGULATION R048-22, REMOVING SECTIONS ONE AND FIVE, WITH THE ERRATA AS PROVIDED WAS MADE BY DR. PENNELL AND SECONDED BY JUDITH BITTNER. THE MOTION WAS APPROVED UNANIMOUSLY.

12. ACTION ITEM: Consideration and Possible Adoption of Proposed Regulation Amendments to Chapter 433 of Nevada Administrative Code (NAC), LCB File No. R093-22. The proposed regulations are needed in order to come into compliance and/or align regulations with NRS 433.631 and NRS 433.639. NRS 433.631 Peer Recovery Support Services which allows the Division to impose upon an adult who violates applicable sections of NRS 433.631, a civil penalty in an amount prescribed by regulation of the Board. - Leticia Metherell, RN, CPM, Health Program Manager III, Healthcare Quality and Compliance, DPBH

Ms. Metherell presented for LCB File number R093-22 related to peer recovery support services and stated that a public workshop was held, and no testimony was heard in support or opposition of the regulation. Ms. Metherell discussed section two which prescribes a process where the investigation of a complaint alleging a violation of NRS 433.631 related to the provisions to be certified by the Nevada Certification Board to provide or supervise peer support recovery services or to work as a peer recovery support specialist intern, or a violation of NRS 433.639 as it relates to this qualification of individuals with a substantially report of child abuse or neglect or certain related violations from providing or supervising peer support recovery services. Section three prescribes the civil penalties that the division may impose for a violation and the right to appeal. Ms. Metherell concluded with section four that prescribes the confidentiality requirements related to complaint investigation conducted pursuant to Section 2 and NRS. 433.639 and section five establishes the process. For detailed information on R093-22, please see [LCB File No. R093-22](#). Ms. Metherell thanked the Board and stated she was available for questions.

Vice-Chair Murawsky asked if there was any public comment or questions from the Board on this item. None were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 12. MOTION FOR THE APPROVAL OF REGULATION R093-22 AS SUBMITTED WAS MADE BY CHARLES SMITH AND SECONDED BY DR. TRUDY LARSON. THE MOTION WAS APPROVED UNANIMOUSLY.

13. ACTION ITEM: Consideration and Possible Adoption of Proposed Regulation Amendments to Chapter 640D of Nevada Administrative Code (NAC), Music Therapists, LCB File No. R094-22. The proposed regulations are needed to be in compliance with Assembly Bill 330 of the 81st (2021) legislative session. Complaints & Equivalent Training Program Credit towards Licensure - Leticia Metherell, RN, CPM, Health Program Manager III, Healthcare Quality and Compliance, DPBH

Ms. Metherell presented for LCB File number R094-22 related to the practice of music therapy. Ms. Metherell stated that a public workshop was held, and no testimony was heard in support or opposition of the regulation. Ms. Metherell went over the sections of the regulations. Section one brings the Board of Health into compliance with NRS 622.087 by requiring an applicant for a license to practice music therapists to submit a transcript or other documentation of the courses completed as part of the training program and a copy of the certificate issued for the completion of the program in order to receive equivalent credit. Section two amends NAC 640D.200 related to unlicensed music therapy complaints by requiring investigations and Section three amends NEC 64 D .210 as it relates to a complaint against a licensee or an applicant for a licensed to practice music therapy by authorizing examination of a complaint to determine whether good cause exists to conduct an investigation before sending the complaint to the Certification Board for Music Therapist. For detailed information on R094-22, please see [LCB File No. R094-22](#). Ms. Metherell thanked the board and stated she was available for questions.

Vice-Chair Murawsky asked if there was any public comment or questions from the Board on this item. None were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 13. MOTION FOR THE APPROVAL OF REGULATION R094-22 AS SUBMITTED WAS MADE BY DR. TRUDY LARSON AND SECONDED BY CHARLES SMITH. THE MOTION WAS APPROVED UNANIMOUSLY.

14. ACTION ITEM: Consideration and Possible Adoption of Proposed Regulation Amendments to Chapter 640E of Nevada Administrative Code (NAC), Dietitians, LCB File No. R095-22. The proposed regulations are being moved forward as a result of Assembly Bill 73 and Assembly Bill 330 of the 81st (2021) Complaints & Equivalent Training Program Credit towards Licensure and other matters - Leticia Metherell, RN, CPM, Health Program Manager III, Healthcare Quality and Compliance, DPBH

Ms. Metherell presented for LCB File number R095-22 related to the practice of dietetics, and stated that a public workshop was held, and no testimony was heard in support or opposition of the regulation. The regulations related to the satisfaction of requirements for the issuance of a dietitian license and the if the person completes a training program and

secondary post-secondary education for occupational vocational, career trade or technical education which meets certain requirements. Ms. Metherell went through various changes by sections., and stated that section one brings the Board of Health into compliance with NRS 622.087 by requiring an applicant for a license to practice dietetics to submit a transcript or other documentation in the course completed as part of the training program, and a copy of the certificate issued for completion of the program and section two, three and nine through eleven updates the names of the national entities for credentialing, section four eliminates the fee for the late renewable license and the issuance of a duplicate license, and Section 7 adds a requirement the application for a temporary license include the applicant registration number from the Commission on Dietetic Registration. Ms. Metherell presented on sections nine and twelve which cover the process for complaints and investigations and removes items that are no longer relevant as a result of the changes made by Assembly Bill 73. For detailed information on R095-22, please see [LCB File No. R095-22](#) . Ms. Metherell thanked the Board and stated that she was available for questions.

Vice-Chair Murawsky asked if there was public comment on this agenda item. Dillion Martin was recognized, and a two-minute timer was started.

Ms. Martin introduced herself and stated that she is with the Nevada Academy of Nutrition and Dietetics. She said she wanted to come and say that their organizations supported AB 73 and understand the purpose of B330 Ms. Martin stated she want to come as a dietitian in the State of Nevada as a representative for the profession and say thank you to Ms. Metherell and to the Board for continuing the support dietitian licensure in our state. Ms. Martin thanked everyone for finalizing these changes and wished all happy holidays.

Vice-Chair Murawsky thanked the commentor and asked if there were any questions from the Board. None were heard.

VICE-CHAIR MURAWSKY REQUESTED A MOTION ON AGENDA ITEM 14. MOTION FOR THE APPROVAL OF REGULATION R095-22 AS SUBMITTED WAS MADE BY CHARLES SMITH AND SECONDED BY JUDITH BITTNER. THE MOTION WAS APPROVED UNANIMOUSLY.

15. ACTION ITEM: Approval of proposed 2023 State Board of Health meeting dates. – *State Board of Health Members*

- a. **March 3rd, 2023**
- b. **June 2nd, 2023**
- c. **September 1st, 2023**
- d. **December 1st, 2023**

Vice-Chair Murawsky read the meeting dates and asked the Board members and public to take note of them as the schedule for 2023. No discussion or vote was taken. No one opposed the meeting dates. Executive Secretary, Autumn Blattman asked the Board members to please check their emails regarding a January meeting per Chair Dr. Jon Pennell.

16. ACTION ITEM: Recommendations for future agenda items. – *State Board of Health Members*

No agenda items were recommended by the Board or public.

17. 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)

Vice-Chair Murawsky introduced the last public comment opportunity for the meeting, reminding everyone that no action will be taken on the agenda time and asked the Executive Assistant if there were any public comments.

Dr. Collen Lyons, the Carson City Health Officer was recognized. Dr. Lyons inquired about the State Health Officer's report that is usually provided at Board of Health meetings.

Autumn Blattman, Executive Assistant, responded to Dr. Lyons' inquiry by saying that the reports will continue, however Dr. Azzam was out of town and did not submit his report for this meeting.

No further comments were heard.

18. Adjournment – *Jon Pennell, Chair*

Chair Pennell, with gratitude and well wishes to all for a wonderful holiday season, adjourned the meeting at 10:53am.

DRAFT