

**Draft Minutes**  
**HOME CARE EMPLOYMENT STANDARDS BOARD**  
**October 25, 2022**  
**2:00 p.m.**

**MEETING LOCATIONS:**

Per Assembly Bill (AB) 253 (2021), public bodies whose members are not required to be elected officials may hold public meetings by means of remote technology system with no physical location.

Accordingly, all members of the public were encouraged to participate by using the web-based link and teleconference number provided in the notice.

**Call to order– Cody Phinney, Chair Designee**

Cody Phinney, Chair opened the meeting at 2:01 p.m.

**Agenda Item 2: Roll Call – Kayla Samuels, Management Analyst**

Kayla Samuels reviewed expectations for the meeting and took roll call.

**BOARD MEMBERS PRESENT:**

Cody Phinney, Chair Designee  
Brett K. Harris, Labor Commissioner  
Safiyyah Abdul Rahim  
Robert Crocket  
Farren Epstein  
Stephanie Schoen  
Shanieka Cooper  
Kristi De Leon  
Sue Wagner

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

Kayla Samuels, Management Analyst, Bureau of Health Care Quality and Compliance (HCQC)  
Brooke Maylath, HCQC

**OTHERS PRESENT:**

Dena Schmidt, Aging and Disability Services Division  
Pierron Tackes, Attorney General's Office  
Carrie A. Greeley, Aging and Disability Services Division (ADSD)  
Kirsten Coulombe, Social Services Chief, Health Care Financing and Policy (DHCFP)  
Jackeline Obregon, DHCFP  
Wendy Montgomery, Provider Enrollment, DHCFP  
Tracey Richards, Home Care Worker

Erma Henderson, Home Care Worker  
Dawn Ralenkotter, Home Care Worker  
Joseph Mondestin  
Donna Laffey  
Gloria Madrid  
Karen Gonzales, Office of the Labor Commissioner  
Vanessa Torti  
Dave Bates  
Matt McDonald  
Marlene Lockard  
Silva Rodriguez  
Jake Quigley  
Dawn Lyons, ADSD  
Debra Loving  
Angela Rappley  
Keiera Reliford  
Gina Jolliff  
Sofia Ayala

Roll call was taken, and it was determined that a quorum of the Home Care Employment Standards Board (HCESB) was present.

#### **General Public Comment**

Erma Henderson said she was happy the Governor included recommendations from the Board in the budget. Ms. Henderson thanked everyone on the Board and the input everyone has given and that she is looking for positive change to come.

#### **Agenda Item 4: Informational Item – Introduction of the new Labor Commissioner**

##### **Brett K. Harris, Labor Commissioner, Office of the Labor Commissioner**

Brett Harris introduced herself as the new Labor Commissioner of the State of Nevada. Ms. Harris said she started with the State in September and is still new. Ms. Harris said she appreciates the patience with getting her on the Board and is excited to be part of the project. Ms. Harris said she is excited to work with the Board and make the community better.

#### **Agenda Item 5: Action Item – Approve Minutes from October 4, 2022, HCESB Meeting**

The agenda item was held until after item six was heard.

Chair Phinney called for edits or discussion on the October 4, 2022, meeting minutes. None heard.

Chair Phinney called for a motion to approve the October 4, 2022, meeting minutes. Shanika Cooper made a motion to approve the October 4, 2022, minutes. Farren Epstein seconded the motion. Chair Phinney called for a vote. Sue Wagner abstained, and all other members of the Board were in favor; the motion passed.

**Agenda Item 6: Informational Item: Presentation of proposal to establish a caregiving training institute from Aging and Disability Services Division (ADSD)**

**Dena Schmidt, Administrator, ADSD**

Dena Schmidt said ADSD was awarded five million dollars to support direct care staff. The goal of the funding was to create some type of standardized development curriculum and training platform for direct care staff. Ms. Schmidt said she has been meeting with various stakeholder groups to try to better understand what the program should look like in Nevada, whether it should be statewide, regional, online, in person, or any other sort of opportunity. The division is in the information gathering stage right now and has not established any particular platform. To make a successful program, staff want to have a standardized curriculum that supports the workforce, but that meets all the federal requirements and state requirements to provide something that adds value and highlights the critical workforce. Right now, staff are focusing on stakeholder engagement and gathering information to develop a funding opportunity. The goal is to have applications and evaluations between January and June then start the project in June of next year.

Farren Epstein said she thinks the project has great promise and is excited about. Ms. Epstein asked how the workers and union are going to be included in what is going on. The memo mentions existing contracts and sub awards to community partners. Ms. Epstein asked who those partners are if the state will be relying on those partners. Ms. Epstein asked what prompted the project as she had not heard about it prior to getting the memo. Ms. Epstein said she is happy about the project and that it will fill a void, but would like to know what type of caregivers it would apply to, whether it is just home care, adult care, skilled nursing assistants, or hospital staff. Ms. Epstein asked how the training project will intersect with the current training requirements and the new cultural competency training.

Ms. Schmidt said what prompted the project was that ADSD is responsible for the frail elderly waiver, the physically disabled waiver, the intellectual developmental disability waivers, as well as some other state programs that provide personal care services. There is an incredible struggle with staffing and ADSD determined a state strategy could be creating a standardized curriculum and making it readily available to all direct support staff. Ms. Schmidt said to her direct support staff is anybody that goes into anybody's home and provides assistance with daily living or homemaker services. When staff were given the opportunity to put forward ideas for American Rescue Plan Act (ARPA) dollars, they thought this was something that could be done with one time funding to create a platform and have it be sustainable. The goal is to reach as many caregivers and types of caregivers as possible, for the project to be scalable. Staff will be looking at state requirements to see at minimum what curriculum can be made that applies to as many

provider types as possible and make those readily available in a standardized format with online and in-person platforms for certain classes. For those classes that are required to be in person, ADSD would most likely be working with community colleges or university systems. Nothing is set right now and if there are ideas or people know or have seen what other state have done and have ideas, ADSD is trying to gather that information. With existing contractors and community partners, what is being referred to are the several contracts with the universities to provide training for state staff. ADSD would like to expand that if it is the best way but will seek competitive options to see what the best option is. One of the goals would be to create something all caregivers could access. Staff have worked with the university to do some cultural competency trainings, so if that kind of certification could be the standard, working with HCQC, that is the goal to reduce barriers currently present. Ms. Schmidt said her personal opinion is that that training creation should be the state's role if they are going to require people to be trained.

Kristi De Leon said she is excited about the project and thanked staff for considering the Board and looking into the fact that the home care industry needs help with the training. Streamlining training would be so beneficial for the industry. Ms. De Leon asked what employers need to do to participate in the project.

Ms. Schmidt staff are hoping to put out to bid and start the process. Once a vendor is found, it will take several months to develop the curriculum and working with groups to make sure the curriculum meets all the required standards. Ms. Schmidt said staff will keep HCESB apprised of the progress as staff move forward if that is something the Board is interested in. 2026 will be the latest that staff have to get the project completed, but the goal is to get it done as soon as possible. Ms. Schmidt said since the project is a new area, she does not have time frames.

Stephanie Schoen said an online platform would be great. Having the training online will erase part of the issue for agencies training employees. Ms. Schoen said the administrators, the people who hire the caregivers, probably need to help a lot of the people who are the care recipients navigate different programs within ADSD and Medicaid within the state, so that should be included. Ms. Schoen said additional trainings beyond those required by HCQC, such as patient handling, mobility, and transfers would also be helpful.

Ms. Schmidt said the intent is to start with the minimum requirements to make sure those are covered at least, then expand to add value and help support staff where possible. Staff have heard from others that there is a need of the administrators as well, so it will be taken into consideration.

Shanieka Cooper said the memo lists the number of stakeholders but does not mention the workers or their union. The memo states the goal of the project is to meet the training needs of agencies. However, it does not say anything about the workers. The worker perspective and needs have to be included in the development of this institute from the beginning. Ms. Cooper said her concern is that the description of the project does not include the workers. The vision is to be sure workers have a voice and are the center of the development process. Ms. Cooper asked how the home care works and union have a part in the process.

Ms. Schmidt said Ms. Cooper's concerns are one of the reasons she is at the meeting. For ideas on how to engage with the direct workforce. Ms. Schmidt said if there are union meetings that she needs to attend or if there are ideas around other groups she should meet with, staff are open to doing that over the next several months. The goal is to determine where staff should be and who they should be talking to.

Ms. Cooper said she wanted to make sure that home care workers and their union are part of the conversation because the project currently seems geared towards the agencies.

**Agenda Item 7: Possible Action Item: Discussion and possible recommendation to Director of DHHS regarding the cultural competency training requirement for home care workers**

**Cody Phinney, Chair, Deputy Administrator, DPBH**

Chair Phinney said the Board has heard that there are regulations that are enforced by HCQC that require all health care facilities to submit a training for cultural competency and have that approved by the Bureau. There has been some discussion about how this interacts with the home care industry. The requirement was heavily focused on the hospital industry when it was designed.

Ms. Epstein said she worries about the cost burden and that it needs to be made sure that the workers can not be burdened by the cost of the cultural competency class. Workers are already barely holding on and living on the edge in poverty. Ms. Epstein motioned that HCESB strongly recommend that employers are required to cover the cost of the cultural competency training and pay the workers for the time attending the training.

Chair Phinney noted that the issue is being addressed by changing the regulations requiring administrators to see that the training is provided. Staff are in the process of putting that into a requirement and regulation, which included the cultural competency training.

Robert Crockett said based on the fact that the cultural competency training as heavily focused on people in hospitals or hospital employees, and home care is quite a bit different, he made a motion that HCESB request of the Director that HCQC develop industry-specific cultural competency standards and training based on the demographics of the workforce.

Chair Phinney asked if Mr. Crockett was suggesting that the Bureau would open their regulations and specify for the home care industry specific standards based on some of the demographics the Board has looked at and how that differs from other parts of the healthcare industry.

Mr. Crockett said most caregivers work with one or two people. If someone is in the hospital, they might see hundreds on any given day. The marginalized people that are addressed in cultural competency training also happen to be a high percentage of caregivers and they would benefit from something that is a lot more targeted to what their needs are and language levels

within the number of people that speak different languages and have different cultures. Mr. Crockett said on the fact that these workers are marginalized, the training could work coping skills and how to address things happening to them. That would be better for caregivers to get training that is directed towards them for them.

Chair Phinney said there are two motions proposed for discussion.

Ms. Schoen said there are about 60% of caregivers who are caring for a family member, and to ask those caregivers to take an eight-hour cultural competency training to care for somebody who lives in their home seems inappropriate. Ms. Schoen said the motion should maybe request that there be some way to waive cultural competency when the person the worker is caring for is a member of their own family.

Ms. Epstein asked if the cultural competency trainings could only happen after the new regulation takes effect.

Chair Phinney said no, not necessarily.

Ms. Cooper said she agreed with Mr. Crockett and that there should be different requirements for those not working in hospitals.

Chair Phinney restated that Mr. Crockett's motion was a recommendation to the Director that the Director ask HCQC to work on specific standards to the home care industry related to cultural competency.

Ms. Cooper seconded the motion. Chair Phinney called for a vote. The motion passed unanimously.

Chair Phinney restated that Ms. Epstein's motion was that the cultural competency training should not be at the expense of the worker and that the time spent in the cultural competency training should be paid time.

Ms. De Leon asked if the raise in the Medicaid reimbursement rate will happen before the requirement for employer paid trainings goes into effect, stating that the Board is about to vote on the agency being responsible for the eight-hour class to pay caregivers to participate in it.

Chair Phinney said there is an eight-hour class available, however the eight-hour class is not the only class that is available. There is no requirement in the current law or regulation that requires the training to be eight hours. The timing of these changes is not necessarily linked to each other. Chair Phinney said what Ms. Epstein is stating is the position of the Board is that the training should be paid time and the cost of the training should be on the agency.

Ms. Schoen said she would like the motion to be reworded so that the entity responsible for paying is not specified, as Ms. Schmidt's project may take over those costs. Ms. Schoen said the

motion could say that the cultural competency training and paid time to attend are not the responsibility of the caregiver.

Chair Phinney stated that the motion is the position of the Board is that the time spent in the cultural competency training should be paid time, not the worker's own time, and the worker should not have to pay for the training.

Safiyyah AbdulRahim asked how relevant the cultural competency class is and if caregivers need it.

Chair Phinney said the cultural competency training is a legal requirement. What the Board is trying to do today is make sure it is relevant and make sure that the burden is not on the worker.

Ms. AbdulRahim said she agrees that the training should not be the burden of the worker.

Ms. Epstein said her intention is not to put an extra burden on the agency, but she does not want another burden on the worker either. The financial burdens of training are interfering with the retention and recruitment of home care workers. Ms. Epstein changed her motion to state that the burden of paying for the cultural competency training will not be on the employee.

Chair Phinney asked Ms. Epstein if her motion is to recommend to the Director that it is continued to ensure the burden of training not be on the employee.

Ms. Epstein confirmed.

Ms. Schoen seconded Ms. Epstein's motion. Chair Phinney called for a vote. The motion passed unanimously.

### **Agenda Item 8: Possible Action Item – Discussion and possible recommendation to Director of DHHS on functional assessment in home care**

**Robert Crockett, Board Member Representing Home Care Employers**  
**Kirsten Coulombe, Social Services Chief, Division of Health Care Financing and Policy (DHCFP)**

Mr. Crockett reviewed the [Nevada Medicaid: Functional assessment Service Plan Recipient Signature Page](#). Mr. Crockett motioned to make all functional assessments available to agencies in a timely manner and distributed to clients as called for in the functional assessment instructions for Medicaid.

Ms. Schoen said people have a right to see what is being said and reported about them and should have the right to see it before it gets submitted. People should be given the form to review before it is even submitted. Ms. Schoen said there have been many times where she has been told she will get a copy later and never receives it. Ms. Schoen said as a therapist, she would want the

form as the person doing the assessment. Ms. Schoen said she would make a recommendation to the director that there is a demand to observe any skill a recipient says they have or do not have. Ms. Schoen said she has seen the older generation not want to admit they have a need. If they cannot demonstrate that they can get on and off the toilet safely, then the assessor has done their job assessing the patient's toileting skills. It goes both ways where someone will say they cannot do an action when they can.

Ms. AbdulRahim said Mr. Crockett's presentation was very informational and the Board needed to understand and see how the clients are getting their hours. Ms. AbdulRahim said the workers have repeatedly said that their clients do not get close to the hours required to perform caring daily. Almost every other state in the country invests more in the home and community-based services so that clients get the hours they need. According to the state Medicaid data, Nevada is at the bottom of the barrel when it comes to funding for home and community-based services. Only five states, Alabama, Florida, Georgia, Oklahoma, Michigan, and Utah spend less per resident than Nevada does. The Board needs to make sure the functional assessments are truly taken into account to fulfill services recipients need.

Ms. Epstein thanked Mr. Crockett for his presentation and Ms. Schoen for her comments. Ms. Epstein said it would be good to have information on whether a client has been approached or asked if they need assistance to help be more independent.

Ms. Cooper thanked Mr. Crockett for his presentation and said it answered a lot of questions she had.

Ms. De Leon said it would be beneficial for agencies to receive functional assessments so they can better care for clients and see where the client is rated. Agencies can have caregivers do an assessment as well when clients are admitted to better care for them, but having the assessment already done and for the recipient to know what they rated would be beneficial. Ms. De Leon said the functional assessments also fall in line with the investigation of the Board because it can show whether recipients are being fairly rated on their functional assessment.

Chair Phinney asked if Kirsten Coulombe had any information to add.

Ms. Coulombe said a client's functional assessment is in the portal and is available to agencies. Ms. Coulombe said there may be a need for Medicaid to do some reminder communications. Sending out to all Medicaid providers where to find that information. Ms. Coulombe said Mr. Crockett's recommendation is reasonable because Medicaid already performs the requested action, however Medicaid perhaps needs to refresh their communication on the topic.

Chair Phinney called for a representative from ADSD to present information.

Carrie Greeley introduced herself as the social services manager for the community-based care unit and that she supervises the case managers that are over the frail and elderly waiver and the physically disabled waiver. Ms. Greeley said social workers will go in and work with the clients or the recipients and talk to them about what additional needs they may need on top of the personal care services provided by Medicaid. It is funded by Medicaid but is a separate piece to



the waiver. There are homemaker services that may be authorized that are on top of personal care services. The functional assessment is completed by an occupational therapist or physical therapist and then a case manager for the waivers goes in and work with the recipients to talk to them about what they received in hours from the state and what is still needed to help the recipient live safely and achieve their goals in the home. Ms. Greeley said ADSD can expand on those awarded hours and can offer the personal emergency response system for safety reasons, supplement the personal care hours that are given by state plans, and other options. The goal is to get a full picture and add in those social aspects on top of the physical functional assessment. Ms. Greeley said her staff look at different things and try to be person centered. Everybody should be treated as an individual with individual circumstances. Ms. Greeley said her staff and what additions can be granted are limited based on what the waivers offer. The physically disabled waiver does offer the attendant care, homemaker and chore services.

Ms. Schoen said people on the autism spectrum frequently present similar behavioral challenges as people who have dementia who fall under the frail and elderly waiver, but the people with autism do not get expanded personal care services. The challenge of changing and dressing somebody on the autism spectrum is as much or more difficult than changing the clothes on somebody who might have dementia, depending on the person. That is a general inconsistency within state services, where one group is treated with more favor than another group. Ms. Schoen said recipients get a service coordinator who is probably not an actual licensed social worker, so the recipient does not get coordination of social services other than the only program the coordinator is in. The service coordinator services that are within the program of developmental services do not help coordinate anything else. Ms. Schoen said she thinks it would be useful to include in Mr. Crockett's recommendation to the Director that it is required that the personal care agency that has been providing the service to a recipient have input on the recipient's reassessment. That would help know if the original assessment is still current or if it needs to be redone, because it is the personal care providers that are going to know the recipient best.

Ms. Cooper asked how the person who comes out to do the assessment determine what services are offered or if the assessor is supposed to offer all relevant services to everyone. Ms. Cooper said she does not think services are given or told to everybody. Ms. Cooper asked how a person gets a disability waiver and how does a person get an adult companion. Ms. Cooper also asked if a client could get extra physical therapy hours if they need them.

Ms. Greeley said for waver services, someone has to be on either the physically disabled waiver or the frail and elderly waiver. Physical therapists and Medicaid can send referrals to ADSD for extra assistance. Anybody can make a referral, but there are eligibility and financial requirements. Anyone can make a referral or call to ask for information.

Ms. Epstein said the problem is that the funds are limited for waivers so there is usually a waiting list. Not everyone who needs a waiver has a waiver.

Ms. Greeley said she agreed with Ms. Epstein and there is an issue sometimes with the funding. Right now, there is an issue with the shortage of social workers.

Ms. AbdulRahim asked how people come to know about the services, if they are offered by the agencies or assessors.

Ms. Greeley said personal care agencies will refer to ASD a lot, but there is a wide range. ASD also does outreach.

Ms. De Leon asked if physical therapy was needed, if that would be suggested. Ms. De Leon said she thinks that occupational or physical therapy would be beneficial.

Ms. AbdulRahim asked if services are only offered through Medicaid, if a client that is getting Medicaid benefits will qualify for ASD services or if it has to be a private care client.

Ms. Greeley said the services are Medicaid based so clients could only qualify if they are already on Medicaid and meet other criteria. A social worker would come out and do an assessment to help a client get on the program.

Chair Phinney called for a second to Mr. Crockett's motion of a recommendation to the Director that all functional assessments made available to agencies in a timely manner and distributed to clients as called for in the functional assessment instructions for Medicaid.

Ms. Epstein seconded the motion. Chair Phinney called for a vote. The motion passed unanimously.

**Agenda Item 9: Possible Action Item – Discussion and possible recommendation to Director of DHHS on the need for expanded respite-like services for medically fragile population**

**Stephanie Schoen, Board Member Representing Home Care Recipients**

Ms. Schoen presented [Skilled Respite Presentation](#).

Ms. Epstein said there is a critical need for skilled respite that there is not much data or information for. Ms. Epstein said she liked the idea of making a recommendation to the Director to form a commission to study the issue. Skilled respite is a big issue, especially with catheterizations and medications.

Ms. Schoen said she would make a motion.

Chair Phinney said the Board may not want to say they recommend appointing a commission, as HCESB may not have the power to do that, but an investigation is good.

Ms. Schoen motioned that HCESB recommend to the Director that he commission an investigation into the numbers of people in Nevada who: have complex care needs being met in home environments; how many personal caregivers in Nevada are paid and how many are not paid to perform "skilled" tasks for their care recipients; and who is meeting a client's complex care needs (personal care agencies, family, friends, self); any other data that addresses the need

for medically-based respite funding to relieve caregivers and family members performing skilled tasks.

Ms. Epstein seconded the motion. Chair Phinney called for a vote. The motion passed unanimously.

**Agenda Item 10: Possible Action Item – Discussion and possible recommendation to Director of DHHS to request a study on the savings to Nevada Medicaid due to home and community-based services**

**Kayla Samuels, Management Analyst, Health Care Quality and Compliance (HCQC)**

Ms. Samuels said the agenda item was requested at a previous meeting that stemmed from the effects of home care on the overall health industry presentation. Ms. Samuels asked if there is a motion to recommend that a study be done on Nevada home care.

Sue Wagner motioned that HCESB recommend to the Director to request a study on the savings to Nevada Medicaid due to home and community-based services.

Ms. Cooper seconded the motion. Chair Phinney called for a vote. The motion passed unanimously.

**Agenda Item 11: Possible Action Item – Discussion and possible recommendation to Director of DHHS for increased surveillance of licensing requirements for agencies to provider personal care services in the home**

Chair Phinney withdrew the Agenda Item 11.

**Agenda Item 12: Informational Item - Discussion and edits of the draft of the HCESB End of Year Report to Director of DHHS**

**Kayla Samuels, Management Analyst, HCQC**

Ms. Samuels asked due to time constraints, for the members of the board to email any edits they may have on the report to be considered before the next meeting. Ms. Samuels said before the next meeting, she will try to have the DPBH public information officers review the draft report for edits, so the report will change slightly whether there are edits submitted or not along with the recommendations made today. If there are no edits at the November meeting and the report is accepted, there will not be a December meeting. Ms. Samuels said if there are edits, which are welcomed, then there will have to be a December meeting to approve the final draft.

Ms. Epstein said she was very pleased with the report and that when she read it realized the Board has accomplished a lot.

Ms. Cooper agreed with Ms. Epstein. Ms. Cooper said there was one thing she was concerned about in that the section on the survey said it was only done in English, and that she was

surprised to know that it was not also done in Spanish. Ms. Cooper said she was proud of the Board, and everyone did a great job.

Ms. Wagner said she has learned so much from the Board and thinks the dilemma know is getting the recommendations passed through the legislature because it is not going to be easy.

Ms. AbdulRahim said she was glad to be able to serve on the Board and that she learned a lot about how to express herself in her words and the industry works. Ms AbdulRahim said she looks forward to continuing because this is just the beginning.

Ms. De Leon said it has been a pleasure to be on the Board.

Chair Phinney asked the Board to send any edits to the report to Ms. Samuels.

### **General Public Comment**

Tracey Richards said she wanted to speak with Dena Schmidt and Medicaid because she has a serious situation, she is dealing with that has not been discussed. Ms. Richards said she has had issues with Authenticare and asked if any of the employers have had to pay out of pocket for their employees because Medicaid has not done what they are supposed to do. Ms. Richards said she has lost money because of Medicaid and the system glitches. Ms. Richards said there have been times where she logs her hours but does not get paid due to glitches in the system. Ms. Richards said she has a client whose situation is changing and whose social worker came in to assess. Ms. Richards said her client needs more hours.

Chair Phinney said staff are happy to collect concerns Ms. Richards has and offered her contact information to hear her concerns. Chair Phinney said she will get Ms. Richards information on her issues.

Erma Henderson said she was thrilled to see the Board come together to make things happen and see the Governor speak on the actions originating form HCESB.

Dawn Ralenkotter thanked Mr. Crockett and Ms. Schoen for their presentations and said the meeting was one of the best she has attended.

Ms. Epstein said it has been a pleasure to have a voice at the table and bring everybody together where there can be discussion. The Board has been a good learning process and place for workers, clients, and agencies to come and bring their concerns.

### **Adjournment – Cody Phinney, Chair Designee**

**Meeting Adjourned at 4:30 p.m.**