MEETING NOTICE AND AGENDA

Name of Organization: Nevada Commission on Services for Persons with Disabilities

Date and Time of Meeting: February 5, 2015
9:00 a.m.

Location: Governor’s Office of Economic Development
808 W. Nye Ln.
Carson City, NV 89703

Governor’s Office of Economic Development
555 E. Washington Ave., Suite 5400
Las Vegas, NV 89119

To join this meeting by phone dial 1-888-251-2909, then enter Access code 8985078 when prompted.

Minutes

Members Present: Brian Patchett, Jon Sasser, Karen Taycher, Shelley Hendren, Bill Heaivilin, Mary Bryant, Gary Olson, Jodi Sabal, Nicole Schomberg

Staff: Julie Balderson (ADSD), Vicki Kemp (ADSD), Desiree Bennett (ADSD), Shaina Holmes-Robinson (ADSD)

Guests: David Daviton, James Osti, Mark Olson, Barry Gold, Sherry Manning, Kari Horn, Marlene Stuart, Debbie Helms, Betsy Aiello, Samantha King, Ashley Greenwald, Jan Crandy, Sue Gulas, Bailey Borderlin

1. Welcome and Introductions
   Brian Patchett, Commission Chairperson
Mr. Patchett welcomed and thanked everyone for attending the meeting.

II. Public Comment (No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. Public comment at the beginning and end of the agenda may be limited to three minutes per person at the discretion of the chairperson. Members of the public may comment on matters not appearing on this agenda or may offer comment on specific agenda items. Comments may be discussed by the Board but no action may be taken. The matter may be placed on a future agenda for action)

Ms. Balderson gave an update to the Commission on the Subcommittee on Communication Access. It has been a year since the subcommittee started meeting on a regular basis.
- The subcommittee now has enough members to establish a quorum.
- Bylaws were finalized.
- The subcommittee worked on recommendations that were made to the Legislative Committee on Seniors, Veterans, and Adults with Special Needs.
- Workgroup committees were set up to discuss interpreter issues and wireless devices.
- The Subcommittee will meet quarterly on the second Wednesday of each quarter.
- The Subcommittee is still looking for membership and, with the help of the CSPD, to find someone who has expertise or is themselves speech impaired or deaf blind or low hearing low vision.

Mr. Daviton commented that he has concerns about the difficulty finding interpreters for the upcoming Legislative session. He would like the opportunity to discuss the interpreter issues individually with Legislators. The opportunity does not present itself often because of the lack of interpreters in the north.

Ms. Greenwald is the Director of Positive Behavior Support Nevada, which provides training and technical assistance to families in the community of individuals with disabilities that are in need of behavior support or increase in self-sufficiency in many life areas. She commented on her concern about the termination of funding from the State of Nevada Aging and Disability Services Division (Attachment A).

Ms. Helms, outreach manager for the Deaf and Hard of Hearing Advocacy Resource Center (DHHARC) commented on behalf of Ferrall Cafferata that the Governor has included in his budget a line item for the interpreter pool to be paid for with surcharge dollars. The Governor is aware that there will be some focus placed on the interpreter issues.

Ms. Manning, Executive Director of the Nevada Governor's Council on Developmental Disabilities stated that the Governor's Council has a committee that will be following all of the issues in intellectual and developmental disabilities bills. The committee would like to work closely with the CSPD during the legislative session. The next committee meeting will be February 11th at 1:30. Renee Portnell is the Chairperson for the Legislative Committee.
Mr. Gold from AARP informed the Commission on a bill called the CARE Act, (Caregiver Advise, Record, Enable) a lifespan bill that helps family caregivers they care for when the care recipient is hospitalized. (Attachment B).

Mr. Mark Olsen, a parent of a daughter with autism, provided information to the Commission regarding the ABLE Act that was recently signed into law. The ABLE Act is a new subsection under 529 under the internal revenue code that provides an opportunity for people with disabilities to put money into a savings account that is shielded from being considered as income from SSI and Medicaid. The IRS has to write rules and the states have to take legislative and administrative action. Mr. Olsen is asking for the Commission’s help to get the language into the current session that would make the ABLE accounts available in the State of Nevada as quickly as possible.

Ms. Crandy, member of the Nevada Commission on Autism Spectrum Disorders, commented that the Commission completed its five year strategic plan and it is available on the ADSD website. She also stated that Melissa Woodbury is carrying BDR 34 that pertains to all students with disabilities. The Nevada Department of Education is required to do a college and career assessment for all students. BDR 824 is being carried by Assemblyman Armstrong regarding specialized training for Job Connect people to address individuals with autism. Bill AB6 is trying to address insurance barriers on the insurance mandate.

III. Approval of Minutes from the November 17, 2014 Meeting (For Possible Action)
   Brian Patchett, Commission Chairperson

Mr. Sasser made a motion to accept the minutes with corrections made. Ms. Bryant seconded the motion. Motion passed.

IV. Discussion and Possible Approval on Recommendations Made by the CSPD Nominating Subcommittee for Filling Vacant CSPD and Subcommittee Membership Positions (For Possible Action)
    Bill Heavilin, CSPD Nominating Subcommittee Chair

Mr. Heavilin stated that the Nominating Subcommittee received two applications for membership on the CSPD, Jim Osti and David Daviton. Mr. Olsen made a motion to recommend to the ADSD administration to appoint Jim Osti to the CPSD. Mr. Sasser seconded the motion. Motion passed.
Mr. Sasser made a motion to recommend to the ADSD administration to appoint David Daviton to the CSPD. Mr. Olsen seconded the motion. Motion passed.
Mr. Heavilin commented that he would like more information from the SOCS on criteria they would like the Nominating Subcommittee to consider when recruiting membership for SOCS. Mr. Olsen commented that the SOCS would like to change the procedure from the Nominating Subcommittee recommending membership on behalf of the SOCS.
Discussion and Possible Approval on Recommendations to Update CSPD Bylaws (For Possible Action)
Bill Heavilin, CSPD Nominating Subcommittee Chair

Mr. Heavilin stated that the discussion on updating the CSPD bylaws took place at the last CSPD Nominating Subcommittee with Laura Valentine who is unable to attend the CSPD meeting today. She is currently looking at updating or changing the current bylaws that regard membership and process. Once the Subcommittee can meet again to discuss those changes, they will bring information back to the Commission.

V. Presentation on Current and Future Changes in State Medicaid
Betsy Aiello, Deputy Administrator, Division of Health Care Financing and Policy

Ms. Aiello stated that caseloads have almost doubled in the last year with close to 600,000 enrollees in the program. She started with the Home and Community based rules had a regulation finalization last February. The federal government is giving five years for states to come into regulation compliance. Federal guidance leaves a lot of ambiguity. The home and community based rules are redefining what is considered home and community based. Settings should allow the ability to age in place.
Ms. Aiello expressed concern on the accessible space apartment complexes. They are segregated so that the only individuals who live there have disabilities. She stated that she does not know if the federal government based on the regulation if you are allowed to have entities segregated by everyone with similar needs in one location. That would be big for Nevada, if Medicaid could not continue to fund those things. Nevada as a state needs to look at certain issues regarding group home regulations. A transition plan has been created and is on the Division of Health Care Financing and Policy website. The plan needs to be to the federal government by March 17th. Some of the jobs and day trainings settings may or may not be considered community based.
Ms. Hendren asked if CMS (Centers for Medicare and Medicaid Services) has indicated when they will provide guidance on these issues. Ms. Aiello stated that they have released guidance and checklists and forms to look at of what can be done, but nothing is 100 percent specific. They also say that states do have some leeway and but cannot isolate any class of people in a setting together.
Jennifer Frischmann, Chief of long term support services; Tammy Ritter, ADSD and Rosie Melarkey, ADSD have been the three key leaders in developing the transition plan through the public workshop process. Every individual will have a person centered plan that is developed with the supports they need in the Community and community based regulation changes.
Ms. Aiello also discussed that one of the Governor’s major budget initiatives is adding autism services and strengthening them. Part of that is in the Medicaid plan. In the governor’s request budget, there will be 51 new waiver slots for independent Nevadans with physical disabilities. There are 93 slots for the IID
Waiver (individuals with intellectual disabilities) and 173 new slots were requested for the home and community based waiver. Part of the budget will be transitioning the waiver operations staff for the waiver for persons with physical disabilities from DHCFP to ADSD. Currently ADSD has the state funded only program for persons with physical disabilities but doesn’t have the Medicaid waiver options.

Ms. Aiello stated that the change in the guidance from the federal government that now under EPSDT (Early and Periodic Screening, Diagnostic, and Treatment), DHCFP can administer rehabilitation and autism services. CMS just released four actual billing codes that cover applied behavior analysis. Building a new provider type, setting billing codes, establishing rates, developing medical policy around it has been occurring through different workshops.

Mr. Sasser stated that the issue at the moment is that the federal government has only directly said in its guidance that ABA must be available to somebody with an autism diagnosis. They have not taken the next step and said specifically about any other diagnosis receiving ABA.

Ms. Aiello stated that in all Medicaid services there has to be medical based evidence that it is the correct service or it has been shown to be a service that provides outcomes.

Mr. Sasser stated that there is growth in the ID Waiver but the waiting period is still out a year and the budget doesn’t address that. Other waivers show that the waitlist for the waivers must meet the 90 day Olmstead requirements.

Ms. Aiello stated that the waiver is operated and the budget analysis is written by ADSD, and that is a question to ask them.

VI. Presentation on the Statewide Independent Living Report for Federal Year 2014

Vicki Kemp, Aging and Disability Services Division

Ms. Kemp presented a report on ADSD’s Statewide Independent Living Council end of the year federal 704 report. It summarizes the demographics of who is served and the funding that is utilized for the State’s Independent Living Program (Attachment C).

Ms. Bryant brought up concern about that funding that was taken away from PBS.

Ms. Kemp stated that the agency had worked with PBS and funding was erroneously removed at one point from another funding area and put into independent living program. The agency is looking at where the funding for PBS should come from. The IL program is for home and vehicle modifications. The PBS funding was under the state general funds.

Ms. Hendren stated that the $305,000 part B funds flow through Voc. Rehab. It is a grant Voc. Rehab receives through RSA department of Education. It is then sub granted to ADSD because of their independent living program.

Ms. Taycher asked for clarification on what happened to the recommendations made for the blind population. There is no restriction on the part B funds that says it can only be used for home and vehicle modifications.
Ms. Kemp stated that a summary report has been developed but she is unsure which agency is taking that forward.

VII. Update and Overview, Including Any Recommendations for Further Action
On Budget and Bill Draft Requests (For Possible Action)
Brian Patchett, Commission Chairperson
Jon Sasser, Commission Member

Mr. Sasser stated the current taxes we have generate 6.3 billion dollars for the biennium and the agency requests that went in are about 7.7 billion dollars, leaving a 1.4 billion dollar gap. In the Governor’s State of the State and tax proposal, proposed to not sunset the taxes that expire at the end of the term. He proposed a large tax increase the mostly around the business license fees. His revenues came up about 400 million dollars short of the agency requests, so they were cut. This budget requires new taxes. It will take two thirds vote of each house to pass the tax increase and or the continuation of taxes that are planning to sunset. The biggest increase in the budget is autism; everything else in the budget is flat or minimal increases.

The Aging and Disability Services Budget was pretty flat line as well. ADSD received $100,000 of the $200,000 requested in the budget to update the plan for seniors and the plan for people with disabilities.

The Public Utilities Commission (PUC) denied the request from ADSD to fund the advocacy activities of the Deaf and Hard of Hearing Resource Centers. ADSD appealed the decision and it is now at the Supreme Court. As an insurance plan, the agency included $600,000 in the budget request in case the Supreme Court case was lost and in case there was no change in legislation. That requested $600,000 did not make it in the Governor’s budget.

The base budget for ADSD includes the expenses for the CSPD to continue to meet.

Ms. Bryant stated concern about the PBS (Positive Behavioral Supports) funding that was taken out of Independent Living budget. Secondly, the Commission recommended to ADSD that the Fund for Healthy Nevada three disability categories be evened out. In the budget the categories are evened out and have increases. At the orientation for the Fund for Healthy Nevada, the old amounts were in there. Ms. Bryant asked where that increase of funding is coming from. ADSD will follow up with Ms. Bryant’s question at a later time. Ms. Sasser suggested someone from the Commission join the meeting on February 6\textsuperscript{th} to hear the Directors budget. Ms. Bryant stated she will attend and represent the CSPD.

Mr. Olsen stated that he heard the PUC has 1 million dollar surplus from the surcharge and the intention of the Governor is to put that money in his budget. Ms. Balderson stated that the 1 million dollars is not a surplus, it is money in a reserve and is not allowed to be spent and is not returned to rate payers. It is being intended to be spent down within three years.
Mr. Osti commented that the combination of Mental Health and Public Health into a new Division has made the budget more complicated. Medicaid is discussed frequently as a source of revenue for that particular Division in the future. He does not know if there will be a reduction in general revenues to that Division. Looking at the budget presentation, they do not talk about the budget decrease in overall funds for the coming biennium. The big budget item that is discussed is a forensic hospital being implemented in southern Nevada.

Ms. Hendren shared that there are no increases for the vocational rehabilitation budget with very few enhancement units. None of the positions that were requested were included. March 18th is the tentative date for Vocational Rehabilitations budget hearing. As more third party cooperative agreements are created, because of WIOA (workforce innovation and opportunity act), fifteen percent of federal funds have to be reserved for pre-employment transition services. As more funds are being brought in, that fifteen percent reserve grows. As that reserve grows, it pulls funding from general client services. That fifteen percent is currently 2.6 million dollars. Any third party cooperatives that are entered into now will have an element of employment transition services.

Mr. Sasser shared a list of BDRs that he is tracking with the Commission. There were three mental health related bills that were heard on February 4th.

Bailey Borderlin shared with the Commission what happened at the bill hearing:

- The first bill heard by the Senate Committee was SB7. She stated that the Committee may want to make a few amendments to the bill, but there was little opposition.
- The second bill was SB15 which had little opposition as well.
- The third bill discussed was SB35, with little opposition.

SB13 is a bill put in by the State School Board to replace the word "feasible" with "adequate" under the IDEA individual education plan. The bill has not been scheduled for a hearing yet.

Ms. Taycher commented that what is unclear in IDEA is the parent's having a preference; she would like to make sure that piece stays in.

Mr. Sasser made a motion to oppose SB13. Mr. Olsen seconded the motion. Motion passed.

Mr. Sasser stated the Commission recommended some specific language to the interim committee on Seniors Veterans and Adults with Special Needs regarding the activities of the Independent Living centers. The Commission agreed that the Agency and the Legislature should decide the funding and the programs. The PUC's role would be to set a rate. Those recommendations did not make it into a bill from the Committee. The only piece that came out of the Committee was the piece on advocacy.

Mr. Patchett commented that he spoke to staff at the Assembly who suggested that the Commission work with the new staff to bring these issues forward. Mr. Patchett will be meeting with Assemblyman Oscarson because he is now the Chairperson of the Committee.

Ms. Balderson commented that the Division works closely with the SOCS to determine what the needs are and will develop budgets appropriately, but when
hands are tied by the PUC’s extra oversight when they don’t understand social
services is the problem.
Mr. Sasser made a motion to support the bill and give authority to the Legislative
Subcommittee to negotiate as much above and beyond the bill as we can get.
Mr. Olsen seconded the motion. Motion passed.
Ms. Bryant would like the Commission to keep an eye on AB5 that gives
preference to job and day training programs to providers that pay minimum
wage. She commented that her Bill 13-418 is not yet a bill.
Ms. Bryant made a motion to support BDR 512. Mr. Sasser seconded the motion.
Motion passed.
Mr. Patchett asked if Ms. Bryant and Ms. Taycher could read more about the
language used in the bill presented by Mark Olson and report the information
back to the CSPD Legislative Subcommittee.

VIII. Discussion and Possible Determination of Issues and Agenda Items to be
Considered or Deliberated at the Next Meeting (For Possible Action)
Brian Patchett, Commission Chairperson
-budget and bill information and updates
Representatives from department of education, mental health and ADSD

IX. Confirm Dates for Future Meetings (For Possible Action)
Brian Patchett, Commission Chairperson
The Commission would like to start meeting monthly. The next meeting is
scheduled for March 5, 2015

X. Public Comment (May Include General Announcements by Commissioners) (No
action may be taken upon a matter raised under public comment period unless the matter itself has been
specifically included on an agenda as an action item. Public comment at the beginning and end of the
agenda may be limited to three minutes per person at the discretion of the chairperson. Members of the
public may comment on matters not appearing on this agenda or may offer comment on specific agenda
items. Comments may be discussed by the Board but no action may be taken. The matter may be placed
on a future agenda for action)

Mr. Sasser commented that he received an e-mail from Jan Crandy that the
hearing for AB6 will likely be scheduled on March 6th.
Mr. Sasser made a motion to support AB6. Ms. Bryant seconded the motion.
Motion passed. Becky Harris is the Chair of the Senate Committee on Education.

Mr. Olsen commented that he has been in touch with Rick Combs about
interpreters. There are two people in charge of coordinating interpreter services
for the Senate and the Assembly.

Mr. Heavilin commented that he would like the topic of Olmstead to be added to
a future agenda.
XI. Adjournment

Brian Patchett, Commission Chairperson

Meeting adjourned at 12:30 pm.

Commission on Services for Persons with Disabilities Members

Brian Patchett (Chair), Mary Bryant (Co-Chair), Bill Heavill, Gary Olsen, Jodi Sabal, Jon Sasser, Karen Taycher, Nicole Schomberg, Jennifer Pharr, Shelley Hendron

NOTE: Agenda items may be taken out of order, combined for consideration, and/ or removed from the agenda at the Chairperson's discretion. The public body may combine two or more agenda items for consideration. The public body may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. The public body may place reasonable restrictions on the time, place, and manner of public comments but may not restrict comments based upon viewpoint.

NOTE: We are pleased to make reasonable accommodations for members of the public who have disabilities and wish to attend the meeting. If special arrangements for the meeting are necessary, please notify Desiree Bennett at (775) 687-0586 as soon as possible and at least five days in advance of the meeting. If you wish, you may e-mail her at dabennet@adsd.nv.gov. Supporting materials for this meeting are available at: 3416 Goni Rd, D-132, Carson City, NV 89706 or by contacting Desiree Bennett (775) 687-0586 or by email at dabennet@adsd.nv.gov

Agenda Posted at the Following Locations:

1. Aging and Disability Services Division, Carson City Office, 3416 Goni Road, Suite D-132, Carson City, NV 89706
2. Aging and Disability Services Division, Las Vegas Office, 1860 East Sahara Avenue, Las Vegas, NV 89104
3. Aging and Disability Services Division, Reno Office, 445 Apple Street, Suite 104, Reno, NV 89502
4. Aging and Disability Services Division, Elko Office, 1010 Ruby Vista Drive, Suite 104, Elko, NV 89801
5. Nevada Community Enrichment Program, 6375 West Charleston Boulevard, Ste. L200 Las Vegas, NV 89146
6. Southern Nevada Center for Independent Living, 6039 El Dorado Street H-8, Las Vegas, NV 89101
7. Disability Resource Center, S. E. Greg St., Suite 102 Sparks, NV 89431
8. Nevada State Library and Archives, 100 North Stewart Street, Carson City, NV 89706
9. Desert Regional Center, 1391 South Jones Boulevard, Las Vegas, NV 89146
10. Sierra Regional Center, 605 South 21st Street, Reno, NV 89431
11. Rural Regional Center, 1665 Old Hot Springs Road, Carson City, NV 89706
12. Northern Nevada Center for Independent Living, 999 Pyramid Way, Sparks, NV 89431
13. Dept. of Health and Human Services, 4126 Technology Way, Carson City, NV 89706
14. Early Intervention Services, 2667 Enterprise Road, Reno, NV 89512

Notice of this meeting was posted on the Internet at: http://www.adsd.nv.gov/ and https://notice.nv.gov
As you're aware, since its inception in 1999, the state-wide Positive Behavior Support-Nevada (PBS-NV) consortium has been funded by the Aging and Disability Services Division (ADSD) and The Fund for a Healthy Nevada (FHN), with administrative support from the University of Nevada. In 2009, PBS-NV was accidentally removed as a budgetary line item from ADSD's developmental services. But this error was rectified by incorporating PBS-NV in the independent living (IL) budget where the $100,000 funding line, which provides services to 50 focus individuals annually, has remained. However, on February 4, 2015, we were informed that this funding through IL would end as of FY15, with the rationale that PBS is funded by FHN anyway.

However, FHN allocations for PBS over the years have been reduced by almost 50%, and going into FY16, despite the recommendation of the Commission on Services for Persons with Disabilities (CSPD) to allocate available restorative funds equally across the 3 FHN disability categories, PBS is being considered for only 5% of these restorative funds. The reason cited, in part, for such an inequitable share was that PBS is also funded by ADSD.

So, the PBS consortium is being squeezed from both sides. It is difficult to understand the logic of these funding decisions in light of the ongoing urgency for behavior supports for individuals served by Developmental Services and the Statutory mandates for PBS (e.g., NRS 433.5506).

If ADSD's support is lost, PBS-NV faces a 24% reduction in FY16 funding. Nevada communities, in particular the rural communities, will face potentially devastating effects with regard to availability of behavior support services. The state of Nevada has recognized and prioritized the need for adequate and quality behavior support services to children with autism and other developmental disabilities, yet the one statewide resource easily accessible to all families of children with various disabilities is in danger of being significantly reduced. The PBS-NV project currently employs Board Certified Behavior Analysts to oversee all services in each of three regions across the state (Reno, Las Vegas, and Elko) and the project cannot effectively operate on less than the current allocated funding.

PBS-NV is a unique community resource that provides quality behavior support services exclusively to families of children and individuals with disabilities. PBS works to reduce
challenging behavior, increase quality of life and reduce need for more intensive services, helping to keep children and families in our state. In a time of prioritization based on definitive community need for behavior support services, we urge ADSD to continue its funding share for this effort. We are of course open to discussing what ADSD budgetary category the PBS consortium should be in, or other funding formulas, and we would be pleased to provide more information on the impact of PBS-NV's behavior support for Nevada families.
Here is some information on the CARE Act. It will help family caregivers and those they care for when the care recipient is hospitalized.

The CARE Act will help caregivers provide better care and prevent readmissions by three simple components:

When someone is admitted into a hospital, they will ask if they have a family/unpaid caregiver and if they do – it will be noted in the record.

Before the patient is discharged the hospital will need to notify the designated family caregiver (get the information to the right person)

If the patient is going home – the hospital will need to demonstrate/explain the medical tasks the family caregiver will need to do at home – medications, wound care, etc. (show me what to do)

Simple and common sense. This is a lifespan bill and would cover caregivers taking care of aging parents/spouses, adults with disabilities or chronic illness, or children with chronic illness or disabilities. Family caregivers are providing the majority of care for Nevadan’s that need help at home. I am also attaching a summary of a report detailing the complex medical tasks they perform often with little or no training.

The CARE Act is currently BDR 512 and will be a Senate Health Committee bill. A similar bill passed unanimously in Oklahoma and New Jersey in 2014. If anyone needs more information or wants to talk more about the bill please have them contact me.

Barry Gold