PROPOSAL TO "SURVIVE AND THRIVE" UNDER THE MEDICAID ACCESS (80/20) RULE

Now that the Medicaid Access Rule has been approved and is on the horizon, the Personal Care Association of Nevada (PCAN) has developed a series of proposals to allow our state to survive while growing and improving the industry. These proposals will enable our state to function under the Medicaid Access Rule and significantly improve the access and quality of personal care services provided.

These proposals are intended to address the following areas:

- Creating career paths for caregivers.
- Development of safeguards for caregivers to ensure personal care attendants receive the benefits, protections, and support they are entitled to.
- Creating reimbursement tiers to address complex and hard-to-service clients.
- Creating a program to address personal care needs in rural areas.
- Creating a program to address the issue of socially isolated seniors and disabled care recipients.
- Creating a portal available to agencies, caregivers, care recipients, and other stakeholders to provide information on services and agencies.
- Personal care services (currently a part of medical facilities and other related entities) will be removed from the current NRS and developed into a new NRS for the personal care industry. This will allow flexibility, streamlining of operations, and the ability to design a chapter that addresses the needs of the personal care industry.
- Jump-start compliance with the Medicaid Access rule so we operate proactively instead of reactively as we work to change and create programs to become compliant.

Importantly, these proposals are cost-effective but also straightforward and practical to understand and implement. They have the potential to generate significant cost savings through reduced hospitalizations, improved operational efficiency, and increased service accessibility, providing a clear path forward for our industry.

There's an awful lot of handwringing and doom and gloom regarding the new rule; here are a couple of statements that have come out this month from leading organizations regarding this rule:

The Partnership for Medicaid Home-Based Care Found that if the 80/20 proposal is finalized:

- 35% of providers would narrow geographies served or service offerings
- Over 93% would be limited in taking on new referrals
- Over 90% of providers would face challenges in serving rural populations
- Providers indicated that the proposal would cause cuts to clinical oversight, training, and non-direct care staff

The Home Care Association of America found that If the 80/20 proposal is finalized:

- A majority of providers serving Medicaid beneficiaries would exit the Medicaid program and focus on other revenue sources
- Over 64% of providers would be reduced in their ability to provide services for underserved or primarily minority populations

The Home Care Association of America found that average operating expenses for personal care agencies run from 20% to 32% of revenue.

- If operating costs at agencies continue to increase, most, if not all, will operate at a loss when the Medicaid Access Rule is implemented.
- A significant overhaul or change in how agencies operate is required to continue providing services under the Medicaid Access rule.

Instead of succumbing to the prevailing pessimism, we have initiated the development of these proposals that aim to bring about positive change. These proposals are designed to enable care recipients, caregivers, and agencies to survive and thrive under the new rules, instilling a sense of hope and optimism in the industry.

Proposals:

Five proposals are included; they all build on each other and, in combination, move the industry in the direction it will need to move to survive under the Medicaid Access Rule.

1. Personal Care Attendants are to be classified as W2 employees, with access to benefits and career paths not available for independent contractors.
2. Personal Care Agencies are to operate under a chapter of 449 dedicated to personal care in the home.
3. Creating a pilot program called "The Remote Care Recipient, Caregiver Management System" will allow agencies to remotely service care recipients in rural areas.
4. Creating a tiered series of reimbursements tied to the care recipient's needs, allowing higher reimbursement for difficult-to-staff and service cases.
5. Create an information portal for personal care services (PCS) that everyone can access. This portal should allow agencies, care recipients, and caregivers to find information on available services, training, job boards, and agency reviews.

These proposals should allow the following:

- Improved service to rural areas.
- Improved service for challenging and difficult-to-service cases.
- Improved communication and service to elderly care recipients who are socially isolated.
- The creation of career paths for Personal Care Attendants.
- Elevated knowledge and training of Personal Care Attendants.
- Reduction in overall healthcare costs through the reduction or delaying of hospitalizations, readmissions, and admission into institutions.
- Improved and streamlined operations for agencies.
- Transparent communication and information between agencies, caregivers, care recipients, and various state entities.
- Development of clear and defined expectations
- Movement away from aggressive accountability (or little to no accountability) towards supportive accountability.

The PCS program can do an incredible amount of good in this state. We all need to be on the same page and have the same agenda. Considering we're a small state, it's not out of the question that we can create one of the best PCS programs in the country, a PCS program that other states will want to emulate.

PROPER EMPLOYEE CLASSIFICATION OF PERSONAL CARE ATTENDANTS AS EMPLOYEES INSTEAD OF INDEPENDENT CONTRACTORS

There's a strong argument for classifying personal care attendants (PCAs) who work for agencies as employees, not independent contractors. Here's why:

- **Control:** Agencies dictate work schedules, tasks, and service delivery. This level of control over daily work activities is a hallmark of an employer-employee relationship.
- **Economic Dependence:** PCAs typically rely on the agency for work and income. Unlike independent contractors, they don't set their rates or build their client base.
- **Equipment and Supplies:** Agencies often provide the necessary equipment and supplies for PCAs, while independent contractors typically furnish their tools and materials.
- ***Benefits and Protections:** As employees, PCAs would be entitled to minimum wage, overtime pay, unemployment insurance, and workers' compensation. These benefits provide financial security and protect them from workplace injuries.

Misclassifying PCAs as contractors hurts them in several ways:

- **Lower wages and no overtime:** They lose out on potential earnings and protections.
- **Lack of benefits:** They must cover their health insurance, which can be a significant expense.
- **Increased tax burden:** They become responsible for paying employer and employee portions of Social Security and Medicare taxes.

For the agencies, proper classification ensures:

- **Compliance with labor laws:** Avoiding penalties and legal issues.
- **Qualified workforce:** Offering competitive wages and benefits attracts and retains qualified PCAs.
- **Improved client care:** Stable, well-compensated PCAs are more likely to provide quality care.

The Trend Towards Employee Classification

Several states have already passed legislation requiring PCAs to be classified as employees. Additionally, the Department of Labor has taken a stricter stance on worker classification, making it more challenging to misclassify PCAs as contractors.

Classifying PCAs as employees protects their rights and ensures a more stable, qualified agency workforce. According to labor laws, it's the right thing to do and benefits both caregivers and the home care industry.

THE ETHICS OF MISCLASSIFYING PERSONAL CARE ATTENDANTS AS INDEPENDENT CONTRACTORS

There are several ethical concerns surrounding the misclassification of personal care attendants (PCAs) as independent contractors:

- **Fairness and Worker Exploitation:** PCAs often rely heavily on agencies for work and income. Misclassifying them denies them minimum wage, overtime pay, and benefits they

deserve for their labor. This can lead to financial hardship and a situation where they're effectively underpaid for their work.

- **Vulnerability and Risk:** PCAs provide essential care to individuals who may be dependent on them for daily activities. Without proper worker protections like unemployment insurance and workers' compensation, PCAs face financial insecurity if they lose their job due to injury, illness, or agency closure.
- **Shifting Responsibility:** Misclassifying PCAs puts the burden of taxes and benefits on them, which they can ill-afford. This undermines the employer's responsibility to provide a safe and secure work environment with proper compensation.
- **Damage to the Profession:** A system that undervalues PCAs discourages qualified individuals from entering the field. This can lead to a shortage of qualified caregivers and, ultimately, a decline in the quality of care provided.
- **Deception and Broken Trust:** Agencies that misclassify PCAs essentially mislead them about their employment status and rights. This undermines trust in the employer-employee relationship and may cause PCAs to be unaware of the protections they're entitled to.

Ethical Considerations for Agencies:

Beyond the legal implications, there are strong ethical arguments for home care agencies to classify PCAs as employees:

- **Treating Workers with Dignity:** Providing fair wages, benefits, and a secure work environment shows respect for the vital role PCAs play in caregiving.
- **Building a Strong Workforce:** Offering competitive compensation and benefits attracts and retains qualified PCAs, leading to a more stable and dependable workforce.
- **Promoting Quality Care:** Well-compensated and secure PCAs are more likely to be invested in their work, leading to better quality care for clients.

This is a quote from the current acting Secretary of Labor of the United States discussing the new Employee/Independent Contractor Classification under the Fair Labor Standards Act.

> ***"Misclassifying employees as independent contractors is a serious issue that deprives workers of basic rights and protections," Julie Su, acting secretary of labor, said in a statement. "This rule will help protect workers — especially those facing the greatest risk of exploitation — by making sure they are classified properly and that they receive the wages they've earned."***

Ultimately, ethical business practices require home care agencies to recognize PCAs as valued employees and ensure they receive fair compensation and protection for their essential work. This will also help grow and expand the number of caregivers in the state, allowing for improved service delivery.

REMOVAL OF PERSONAL CARE SERVICES FROM NR449, MEDICAL FACILITIES, AND OTHER RELATED ENTITIES INTO AN NRS DEVOTED TO PERSONAL CARE SERVICES IN THE HOME.

The personal care industry has operated under a section of NRS 449 called Medical Facilities and Other Related Entities for years.

While it might have seemed appropriate at the time, placing the personal care industry under an NRS designed for Medical Facilities and Other Related Entities has caused problems after each legislative session as the industry tries to grapple with legislation designed for (as the name suggests) Medical Facilities and Other Related Entities.

One of the critical components of making the required changes to survive the Medicaid Access Rule is to get out in front of regulatory and reporting changes that also come with the new rule. We are ready and willing to adapt to these changes for the betterment of the industry.

Often, the industry struggles to comply with new legislation well-intended for a medical facility that doesn't add value to the personal care industry, causing the industry to expend precious resources on activities that add no value.

The appendix of this document contains information regarding the new infection control legislation for unlicensed caregivers. This addition is intended to give a current example of legislation the personal care industry is currently dealing with that isn't appropriate for the industry.

Cleaning in the home is an essential part of a caregiver's training. However, the value of having over 10,000 personal care attendants undergo regular training on how to fit test a respirator or disinfect a hospital room to prevent the spread of disease is unclear. Despite this, the industry is committed to ensuring its caregivers are well-trained.

There's an opportunity cost to training; being forced to undergo unnecessary training because of our location in NRS 449 means we sacrifice training that would be valuable to care recipients, caregivers, and agencies. We are committed to providing quality care and believe this commitment should be reflected in the regulatory framework.

Having our section of NRS 449 would allow the development of training that could be targeted to address specific issues that could drive down the total cost of healthcare. This could be done in the following areas:

- **Specialized training for PCAs and agencies on methods and best practices for reducing hospital admissions.**
- **Training in dementia care in the home.**
- **Training on nutrition and healthy meal planning, emphasizing addressing issues with diabetes and pre-diabetes.**
- **Advance Directives training intends to have caregivers and agencies use the information with care recipients, friends, and family.**

Personal Care Attendants undergo eight hours of training annually. Given the number of caregivers in the state, that's well over 100,000 hours of training a year that we could customize for the best return on investment for care recipients, caregivers, agencies, and state entities.

It's an opportunity to create impactful training programs that can elevate the entire industry.

Other reasons to make the move to our section of NRS 449:

- **PCA-centric cultural competency (there's a resolution in the appendix from the SB340 board requesting cultural competency training designed for the needs of personal care attendants).**
- **PCA-centric training. As mentioned above, there's an opportunity to address issues through training that aren't being taken advantage of.**
- **Waivers for family members who want to be PCAs but have non-violent convictions will grow the workforce and give people who want to be caregivers a path to redemption (this is in effect in some other states; it's an example of taking best practices from other states and incorporating these practices into our industry).**
- **Review of the way we handle TB. Some states require a baseline two-step, followed by an annual screening form. If this change were to be incorporated, we would eliminate over 20,000 annual visits to a medical facility for TB shots and readings).**
- **We should review how we do fingerprinting (why do we have to do get re-fingerprinted after we've done it once?). Our fingerprints don't change; why do we have to go through the expense of fingerprinting more than once? This is also an SB340 resolution that should be addressed.**
- **The ability to change rules for training and managing caregivers (for the rural, remote workforce). Many rules and regulations must be modified and created to implement the Remote Care Recipient, Caregiver, Management system. It doesn't work when we need to make the changes under an NRS chapter we share with Medical Facilities.**
- **This is probably unpopular for agencies (but we can't ask everyone else to change if we don't); minimum capitalization requirements for agencies so they are less susceptible to missing payroll (Certified Agencies only).**
- **Related to the bullet above, the creation of Certified (for lack of a better word) Personal Care Agencies. Certified Agencies would be allowed to deal with the higher-end care recipients on the tiered reimbursement proposal. They could also operate the Remote Client Recipient Caregiver Management System.**
- **Allows for creating regulations that are appropriate for the industry, based on transparent communication, clear and defined expectations, and supportive accountability vs. aggressive accountability.**

REMOTE CARE RECIPIENT, CAREGIVER MANAGEMENT SYSTEM

The creation of a pilot program called “the Remote Care Recipient, Caregiver Management System” is intended to address the difficulty of providing service in rural and difficult-to-reach locations.

Since the pandemic, entities nationwide have adapted to working remotely. Using the lessons learned over the last few years, many of us have become accustomed to working and managing a remote workforce.

Instead of hiring yet another round of consultants to tell us what we already know (that we need to do a better job of serving our rural care recipients), we should get a group of people together who are interested in knocking down barriers and removing the silos that exist in this state and solving the problem.

We can hire and interview remotely, train caregivers using electronic training platforms, and use technology for video visits with care recipients. We can figure out how to get caregivers CPR and physicals using local resources, and the same goes for background checks. This program can be run out of a centralized office and serve the entire rural community, but we need a group interested in solving the problem, not ignoring it and hoping it will go away.

Jobs made available in rural areas through the PCS program not only offer opportunities for good jobs in rural communities but also lay the groundwork for recruiting young people from rural communities, giving them stable jobs, and serving as an excellent introduction to careers in health care.

When asked, “What percentage of children in rural communities should receive an education?” The answer is ALL of them. Even if we can’t quite get there, that should be the goal.

When asked, “What percentage of our aged and disabled rural care recipients should receive personal care service if they need it?” the answer should be that we try to serve all of them.

The answer should be the same when the question is: "What percentage of difficult-to-service care recipients should we serve?” “What percentage of care recipients on waiver waiting lists should be served? Or “What percentage of socially isolated elderly “potential recipients” should get service.”

With today’s technology, including cell phones, the electronic visitation system (EVV), robust agency operating systems, electronic caregiver training platforms, and the ability to have video communication, the time has come to take these tools and address service shortfalls throughout the state and allow agencies to serve and manage care recipients and caregivers remotely.

The other proposals will impact the program's success; hiring employees with benefits instead of independent contractors provides stability. Implementing the tiered reimbursement system rewards caregivers who can handle complex cases, creates a career path for personal care attendants, and opens a pathway into healthcare careers (as an incentive, the state could create a program that provides tuition reimbursement for young caregivers who work a specific number of hours and are interested in pursuing a healthcare career). Moving the personal care industry

from its current 449 location to a separate section will allow flexibility in making the necessary changes to provide this service efficiently.

A SERIES OF TIERED REIMBURSEMENTS TIED TO CARE RECIPIENT NEEDS

Like other industries, it's essential to reimburse agencies and pay caregivers based on a series of tiers that allow higher reimbursement and hourly rates for care recipients requiring higher levels of care.

Caregivers who take on the additional demands of serving a care recipient with higher, more complex needs deserve to be paid for the additional skills and training required to address the needs of these care recipients appropriately.

This isn't a new concept; the example below shows reimbursement tiers in Provider Type 57, Wavier for Elderly in Adult Residential Care:

	Provider Type 57 Waiver for Elderly in Adult Residential Care Reimbursement Schedule Division of Healthcare Financing and Policy (DHCFP)				
	*Rate review refers to a comprehensive review of all the rates associated with this provider type. In 2017 the NV Legislature passed Assembly Bill 108 which, starting in 2018, requires NV Medicaid to perform a comprehensive rate review for each provider type at least once every four years. These reviews may or may not result in changes to reimbursement amounts.			This schedule reflects rate data as of :	07/2024
Notes					
	Procedure codes with a rate of $0.00 are reimbursed at 62% of Usual and Customary charges unless noted otherwise in Nevada Medicaid policy. CPT codes, descriptions and other data only are copyright © 2008 American Medical Association. All rights reserved. Applicable FARS/DFARS apply. CPT is a registered trademark ® of the American Medical Association.			provider type was last subject to a rate review* on :	2024

Proc	Desc	Mod	Enhanc	Rate	Rate Begin Date
S5126	ATTENDANT CARE SERVICES; PER DIEM	U1	DEF	$34.50	01/01/2024
S5126	ATTENDANT CARE SERVICES; PER DIEM	U2	DEF	$78.00	01/01/2024
S5126	ATTENDANT CARE SERVICES; PER DIEM	U3	DEF	$103.00	01/01/2024
S5126	ATTENDANT CARE SERVICES; PER DIEM	U4	DEF	$124.50	01/01/2024

In the example above, if the reimbursement rate of $34.50 was for all levels of care, the natural result is for entities to focus on care recipients at the U1 level, investing in additional staff and/or skills to fill care recipient needs at levels U2-U4 go unmet since there is no additional reimbursement for the additional expense of filling those needs.

This is the situation the Medicaid Personal Care industry finds itself in today. It also explains why it's so difficult to fill the needs of care recipients requiring a higher level of service. There is no upside today for an agency or a caregiver to take on a complex case requiring multiple visits or significant hands-on work when taking care of an ambulatory recipient with no behavioral problems is reimbursed at the same amount.

The creation of tiered reimbursement moves the industry and the state from looking at single hourly and reimbursement rates (in this case, we use the $20 minimum wage and $30 reimbursement that's been proposed).

A minimum wage of $20 with a flat reimbursement rate of $30 leaves the state with the same issues we're currently faced with: it's hard to find caregivers to service difficult and complex cases when it's easier and more profitable to concentrate on care recipients who require less hands-on work, less training, and are less complicated.

A slight alteration in the language, changing the proposal to an AVERAGE of $20 per hour, with an AVERAGE reimbursement of $30 per hour, will address many of the current issues without requiring additional funding.

Understanding how the upcoming Medicaid Access Rule impacts these proposals is simple:

A minimum wage of $20 an hour with a flat reimbursement rate of $30 is the Medicaid Access Rule at an individual caregiver level. Since agencies will already be close to the 80% requirement at an individual caregiver level, there is no room to reward caregivers who want to make a career out of Personal Care, and there is no room to pay caregivers more when they acquire additional skills to take care of care recipients requiring those skills. It doesn't reward caregivers who want to make caregiving a career, it doesn't reward caregivers who wish to earn more by taking care of difficult care recipients, and it makes it difficult for agencies to be flexible enough to spend additional resources when needed to ensure care for a challenging care recipient.

Moving away from minimum wages that bring agencies close to the Medicaid Access Rule and towards averages of $20 and $30 an hour for hourly pay and reimbursement costs the state the exact amount and, at the same time, allows for the tiered reimbursement rates that will draw more caregivers and agencies to challenging care recipients, both in rural and urban areas. It meets the Medicaid Access Rule requirements while allowing us to address multiple areas of need in this state.

Moving to a series of tiered reimbursement rates, along with corresponding, tiered hourly caregiver rates, helps accomplish the following:

- Caregivers are rewarded for their additional effort in dealing with challenging cases.
- Caregivers are rewarded for acquiring the additional skills required for dealing with challenging cases.
- Agencies are reimbursed for the additional training and office time needed to deal with challenging cases.
- The state healthcare system can target these challenging, often high-risk cases with caregivers and agencies that have undergone an approval process that ensures that additional resources are being brought to these cases, thereby reducing overall health system costs.
- This will lead to the development of agencies whose business models target challenging, complex cases, finally addressing a "care gap" in the system and reducing overall healthcare system costs.
- Creation of a career path for personal care attendants where they can be rewarded for time spent in the program. This would not only address chronic caregiver shortages but also introduce healthcare as a potential career choice for young people, some of whom will choose careers in healthcare, addressing yet another area with chronic shortages.

AN INFORMATION PORTAL, OPEN TO ALL STAKEHOLDERS, ALLOWS FOR TRANSPARENT COMMUNICATION AND ALLOWS CAREGIVERS AND CARE RECIPIENTS TO SEARCH FOR AGENCIES, SERVICES, AND INFORMATION THAT BEST FITS THEIR NEEDS

- This is a long-range proposal. We spent the last legislative session hearing about what agencies aren't doing; it's a restatement of issues that have existed for years. Most of the complaints are valid, but the response to them has been lacking. A significant problem is that if an agency is following rules set by HCQC and the state, it still looks like it is not following the rules.

This issue is created by agencies deciding what they can do (within the statutes), and clients and caregivers cannot know how an agency runs or what it offers.

The solution to this issue is to create a system that increases the information available to care recipients, caregivers, agencies, and the state.

We've made a mock-up of a public display of an agency's offerings as an example (this is only one tab of many).

In this example, the Care Recipient, or Caregiver, accesses the system, punches in the services and benefits they seek, and gets a return list of agencies that best fit their needs.

Agency	Agency A	Agency B	Agency C	Agency D	Agency E
PCA pays for intial training	✗	✗	✓	✓	✓
Agency pays for initial training	✓	✓	✗	✗	✗
PCA pays for annual training	✗	✗	✓	✓	✓
Agency pays for annual training	✓	✓	✗	✗	✗
PCA paid to attend annual training	✓	✗	✗	✗	✗
Agency provides PPE	✓	✗	✓	✗	✓
Agency provides paid time Off	✓	✗	✗	✓	✗
Agency pays for background checks	✓	✓	✗	✓	✓
Agency pays for CPR/First Aid	✓	✓	✗	✗	✗
Agency pays for TB/Xrays	✓	✓	✗	✓	✗
Agency pays for Physicals	✓	✓	✗	✓	✗
Agency offers qualified health insurance	✓	✗	✗	✗	✓
Agency accepts Medicaid	✓	✓	✗	✗	✓
Agency accepts Medicaid waivers	✓	✓	✗	✗	✓
Agency accepts Private Pay	✗	✓	✗	✓	✓

We would collect the data through the online licensing portal at HCQC during our annual re-licensure. Once the data is collected, the facility lookup could be modified to allow a consumer (client/caregiver) to access agencies and compare them side by side (like the Amazon comparison you see when looking for something). This puts everything out in the open; if agencies are losing business because they aren't offering benefits (even if the statutes don't require them to), they can decide whether to offer the benefit.

There is no reason a client or a caregiver should pick an agency that isn't supplying them with what they need; they should move to an agency that does. The problem is that there's no easy way for a consumer to get this data unless they start calling agencies. Since the data is refreshed yearly during re-licensure, the data should stay somewhat current.

You would also use this system to affirm compliance with minimum wage laws; there's no reason to create a department at the state level to track it.

Now, if you want to look at individual items and discuss how to improve them or go after agencies that are required to offer a benefit but don't, you've got the info. Agencies must attest during the licensing process, and they would be attesting that this information is accurate. The Labor Commissioner then also knows what agencies are required to offer (they know the total number of employees) and allows them to go after large agencies that aren't following the rules.

This seems important enough that we could apply for grant money (not sure what you call it, a "demonstration project"?) and roll this out.

As the portal is established and populated with agency data, long-term expansion of the portal could include the following:

- A job board for caregivers to list their contact information and experience if they seek new opportunities.
- A help wanted section for agencies to post vacancies
- A caregiver training section
- Access to Medicaid manuals.
- Access to state announcements
- The ability to call an agency directly from the search results
- The ability to go directly to the agency website from the portal
- The ability to access HCQC survey data from the portal
- PCS FAQ section
- The ability to post questions and have them answered by an appropriate party

The creation of this portal and its continued growth and maintenance are the kind of proactive, forward-thinking projects that states throughout the country will be asking us for information on and wishing they had started earlier.

This project gives the power to where it belongs, to Care Recipients and Caregivers.

In conclusion, adopting these proposals, along with the resolutions unanimously passed by the SB340 board, will fundamentally alter personal care in the Medicaid system and put us on a path to being leaders in the country when it comes to meeting the requirements of the Medicaid Access Rule.

Additionally, benefits derived from these changes include creating a career path for PCAs, addressing service gaps in rural and urban areas, growing a well-trained, professional PCA workforce that also serves as an introduction to a career in healthcare, and removing unnecessary rules and regulations and replacing them with efficient, cost-effective regulations that lift the quality and service levels of the entire industry.

It will also make it easier to justify rate adjustments in the future. There is no denying the value of personal care in the home and the potential for a well-run personal care program to reduce overall

healthcare system costs while improving service delivery and quality measures that are also part of the Medicaid Access rule.

Most importantly, we can do this while ensuring that our most vulnerable citizens are receiving the care they need in the comfort and dignity of their own homes.

APPENDIX

Attachment

Infection Prevention for Unlicensed Caregivers

One option that the state has provided to comply with personal care attendants is to attend training through Nevada eLearn (note: a second option presented requires the personal care attendant get an account with CDCtrain, watch 14 videos, and print off 14 certificates of completion).

To be compliant, the caregiver watches two videos: part one and part two of an infection workshop for unlicensed caregivers. Together, these two videos are over four hours in length.

After watching the videos, the personal care attendant takes a thirteen-question test; upon passing the test, the attendant complies with infection prevention.

These are the test questions given to the personal care attendant to answer:

1. *Candida auris* (C. auris) is highly resistant to antifungals?
   True
   False

2. Humans can serve as a reservoir for a pathogen. Which option is ***not*** a port of exit for humans?
   a. Circulatory system
   b. Urogenital system
   c. Respiratory system
   d. GI tract

3. Which of the following statements is ***not*** true about the chain of infection?
   a. The process has five links/steps.
   b. Each step of the chain is required to effectively transmit infectious disease.
   c. It is the process by which a pathogen spreads from one host to the next.
   d. Breaking any one of the links can slow the spread of infection.

4. Which action ***does not*** help to prevent outbreaks?
   a. Alerting visitors and staff when there is a suspected or confirmed outbreak
   b. Appropriate use and disposal of PPE
   c. Hand hygiene
   d. Surveillance

5. Failure to report is a misdemeanor and may be subject to an administrative fine of $1,000 for each violation as outlined in Nevada Revised Statues 441A.920.
   True
   False

6. Which of the following antibiotic classes are impacted by carbapenemases?
   a. Sulfonamides

b. Tetracyclines
c. Beta-lactams
d. Fluoroquinolones

7. Suspected or confirmed outbreaks must be reported within 24 hours of identification.
   True
   False

8. How does a healthcare professional break the chain of infection?
   a. Receiving vaccinations, performing appropriate hand hygiene, wearing appropriate PPE, and alerting ill staff to stay home.
   b. Wear appropriate PPE, perform appropriate hand hygiene, and receive vaccinations.
   c. Wear appropriate PPE and perform appropriate hand hygiene.

9. What are the modes of transmission?
   a. Droplet, contact, airborne and bloodborne
   b. Droplet, airborne, bloodborne and vector
   c. Droplet, airborne and bloodborne
   d. Droplet, vector and bloodborne

10. How many classes of antifungals are available for treatment of *C. auris*?
    a. 5
    b. 3
    c. 2
    d. 8

11. Environmental Protection Agency (EPA) List P or List K products should be used to clean and disinfect a room if the patient has *C. auris*.
    True
    False

12. Which patients are high risk for *C. auris*?
    a. People who are very sick, have invasive medical devices, or have long or frequent stays in health care facilities are at increased risk for acquiring *C. auris*.
    b. People who have underlying health conditions are at increased risk for acquiring *C. auris*.
    c. People who have traveled to states or countries with outbreaks of *C. auris* within health care facilities are at increased risk for acquiring *C. auris*.
    d. People who live in a home or share a room with a person who is infected or colonized with *C. auris* are at increased risk for acquiring *C. auris*.

13. Which of the following is a type of Beta-lactams?
    a. Cephalosporin
    b. Macrolide
    c. Tetracyclines
    d. Penicillin

Steve Sisolak
Governor

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIRECTOR'S OFFICE

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

Richard Whitley, MS
Director

July 18, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that the Department of Health and Human Services (DHHS) request a hearing on the Medicaid manuals that affect personal care to make a change that requires personal care agencies to only be permitted to hire W2 employees and ban the hiring of independent contractors by personal care agencies.

The motion calling for this recommendation passed by the Board during the June 28, 2022, HCESB meeting and fulfills Section 16.2(a) of SB 340:

> *A The adequacy of wage rates and other compensation policies of home care employers to ensure the provision of quality services and sufficient levels of recruitment and retention of home care employees;*

The realization of this recommendation would ensure workers under a personal care agency have access to the benefits and stability being an employee offers, as well as prevent misclassifications of workers as independent contractors by personal care agencies.

Thank you for your time and consideration.

Sincerely,

Cody Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

Steve Sisolak
Governor

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIRECTOR'S OFFICE

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

Richard Whitley, MS
Director

September 1, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that the Department of Health and Human Services (DHHS) require that all related expenses that are: (1) required by the State of Nevada to be a home care worker, or (2) are necessary to perform home care duties, are paid by the employer.

It is also recommended that DHHS direct the Bureau of Health Care Quality and Compliance (HCQC) to look for opportunities for regulatory relief that does not compromise health and safety. Some recommendations from HCESB include:

Ease tuberculosis (TB) test requirements;
Ease fingerprinting requirement by rerunning the fingerprints rather than reprinting individuals; and
Ease statement of good health requirement.

The motion calling for this recommendation passed by the Board during the August 23, 2022, HCESB meeting and fulfills Sections 16.2(a) and (d) of SB 340:

> *A The adequacy of wage rates and other compensation policies of home care employers to ensure the provision of quality services and sufficient levels of recruitment and retention of home care employees;*
>
> *The adequacy and enforcement of training requirements for home care employees;*

The realization of these recommendations would lessen the financial burden of training and hiring requirements on both the worker and employer.

Thank you for your time and consideration.

Sincerely,

Cody Phinney

Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

Steve Sisolak
Governor

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Richard Whitley, MS
Director

November 2, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that the Bureau of Health Care Quality and Compliance (HCQC) work on specific standards for the home care industry related to the required cultural competency training. Members of the Board have asserted on the fact that home care workers tend to be of a marginalized demographic, the training should incorporate coping skills and how to address situations they may encounter while caring for a client, as it would be better for caregivers to get training that is directed towards their experiences.

The motion calling for this recommendation passed by the Board during the October 25, 2022, HCESB meeting and fulfills Sections 16.2(d) of SB 340:

> *The adequacy and enforcement of training requirements for home care employees.*

Thank you for your time and consideration.

Sincerely,

Cody Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

Steve Sisolak
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Richard Whitley, MS
Director

November 2, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that the Bureau of Health Care Quality and Compliance (HCQC) work on specific standards for the home care industry related to the required cultural competency training. Members of the Board have asserted on the fact that home care workers tend to be of a marginalized demographic, the training should incorporate coping skills and how to address situations they may encounter while caring for a client, as it would be better for caregivers to get training that is directed towards their experiences.

The motion calling for this recommendation passed by the Board during the October 25, 2022, HCESB meeting and fulfills Sections 16.2(d) of SB 340:

> *The adequacy and enforcement of training requirements for home care employees.*

Thank you for your time and consideration.

Sincerely,

Cody Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

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Richard Whitley, MS
Director

November 2, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that the Department of Health and Human Services (DHHS) require all Nevada Medicaid Functional Assessment Service Plans be made available to personal care agencies in a timely manner and distributed to clients as called for in functional assessment instructions for Medicaid.

The motion calling for this recommendation passed by the Board during the October 25, 2022, HCESB meeting and fulfills Sections 16.2(e) of SB 340:

> *The impact of home care programs, the larger system for long-term care in this State and any efforts to reach the goal of rebalancing long-term care services towards home and community-based services on the wages and working conditions of home care employees.*

Personal care agencies and recipients having access to this information will improve the working conditions of home care employees by allowing them to develop an adequate care plan.

Thank you for your time and consideration.

Sincerely,

Cody Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

Steve Sisolak
Governor

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Richard Whitley, MS
Director

April 13, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that NAC 449.3973, detailing the duties and responsibilities of administrator, be updated so that required trainings must be paid for by employers.

The motion calling for this recommendation passed unanimously by the board during the March 8, 2022, HCESB meeting and fulfills Section 16.2(d) of SB 340:

> *The adequacy and enforcement of training requirements for home care employees;*

Current language of NAC 449.3973 regarding personnel training consists of the following:

> *2. The administrator of an agency shall represent the licensee in the daily operation of the agency and shall appoint a person to exercise his or her authority in the administrator's absence. The responsibilities of an administrator include, without limitation:*
>
> *(a) Employing qualified personnel and arranging for their training;*
>
> *(b) Ensuring that only trained attendants are providing services to a client of the agency and that such services are provided in accordance with the functional assessment of the client, the service plan established for the client and the policies and procedures of the agency;*

By updating the language to require employers to pay for necessary trainings, home care professionals would no longer personally shoulder the costs of essential courses, such as:

1) Cardiopulmonary Resuscitation (CPR) and First Aid, which in accordance with NAC 449.3976, must be completed within 6 months after the attendant began working for the agency;

2) Not less than eight (8) hours of training annually related to providing for the needs of the clients of the agency pursuant to NAC 449.3975; and

3) If performing a task described in NRS 449.0304, such as taking vital signs or using an auto-injection insulin device, the training pursuant to NAC 449.39775.

Currently, Personal Care Agencies (PCAs) are only responsible for costs related to the trainings to recognize and prevent abuse of older persons per Nevada Revised Statute (NRS) 449.093. The update to NAC 449.3973 would extend this responsibility to other necessary trainings in the profession.

Thank you for your time and consideration.

Sincerely,

Cody L. Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health

Steve Sisolak
Governor

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Richard Whitley, MS
Director

November 2, 2022

Director Richard Whitley, MS
State of Nevada
Department of Health and Human Services
400 West King St, Suite 300
Carson City, NV, 89703

Dear Director Whitley:

On behalf of the Home Care Employment Standards Board (HCESB) created by Senate Bill (SB) 340, it has been recommended that the Department of Health and Human Services (DHHS) commission a study on the savings to Nevada Medicaid due to home and community-based services.

The motion calling for this recommendation passed by the Board during the October 25, 2022, HCESB meeting and fulfills Sections 16.2(e) of SB 340:

> *The impact of home care programs, the larger system for long-term care in this State and any efforts to reach the goal of rebalancing long-term care services toward home and community-based services on the wages and working conditions of home care employees.*

Thank you for your time and consideration.

Sincerely,

Cody Phinney
Chair of the Home Care Employment Standards Board
Deputy Administrator
Nevada Department of Health and Human Services, Division of Public and Behavioral Health