ENGAGING WITH AGING

Presentation

Three Challenges the Personal Care Industry Faces

Three Proposals to Address the Challenges

A plan to survive under the Medicaid Access Rule while increasing quality and service

“Experts” are already predicting the failure of the Medicaid Personal Care industry.

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

“Experts” are already predicting the failure of the Medicaid Personal Care industry (continued).

- **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.

  Agencies must significantly overhaul or change their operations to continue providing services under the Medicaid Access rule.

Instead of succumbing to the prevailing pessimism, we have initiated the development of 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.

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**.

Three issues along with three proposals to stabilize the industry under the Medicaid Access Rule while addressing service issues and workforce issues

- **Issue: A need to enhance oversight of the industry, a need for transparent communication between stakeholders, a need to develop clear and defined expectations, and a need to move from aggressive accountability (or minimal accountability) to supportive accountability.**
  - **Solution: Personal Care Agencies are to operate under a chapter of NRS 449 dedicated to personal care in the home.**
- **Issue: Service "gaps" in rural areas, lack of agencies and caregivers in rural areas.**
  - **Solution: Creating a pilot program called "The Remote Care Recipient, Caregiver Management System."**
- **Issue: Difficulty in finding correct information, resources, and guidance for clients, caregivers, agencies, and other stakeholders.**
  - **Solution: Creation of 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.**

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.

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

- For years, the personal care industry has operated under a section of NRS 449 called Medical Facilities and Other Entities.
- 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 grapples with legislation designed for (as the name suggests) Medical Facilities and Other Entities.
- One critical component of making the required changes to survive the Medicaid Access Rule is to proactively anticipate regulatory and reporting changes that come with the new rule. This proactive approach will ensure we are prepared for the changes and adapt swiftly. 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 little 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.
- There's an opportunity cost to training; being forced to undergo 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.

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

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. Some examples:

- 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.
- PCA-centric cultural competency (the appendix includes a resolution 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.

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

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

- 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 process, followed by an annual screening form. If this change were incorporated, we would eliminate over 20,000 annual visits to a medical facility for TB shots and readings.
- We should review how we do background checks (why do we have to 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 laws and regulations must be modified and created to implement the Remote Care Recipient, Caregiver, Management system. It's challenging to make this 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.
- It allows for creating regulations appropriate for the industry based on transparent communication, clear and defined expectations, and supportive vs. aggressive accountability.

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

- Other reasons to make the move to our section of NRS 449
- Classify Personal Care Attendants as W2 employees, with access to benefits and career paths not available for 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.

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

- Other reasons to make the move to our section of NRS 449:
- **A SERIES OF TIERED REIMBURSEMENTS TIED TO CARE RECIPIENT NEEDS**

Like other industries, the personal care industry must implement a tiered reimbursement system offering higher reimbursement and hourly rates for care recipients with more complex needs. This approach can significantly improve the quality of care and overall efficiency.

- 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
- A flat reimbursement rate is why filling the needs of care recipients requiring a higher level of service is challenging. There is no upside today for an agency or a caregiver to take on a complex case requiring multiple daily visits or significant hands-on work when caring for an ambulatory recipient with no behavioral problems is reimbursed at the same amount.
- The creation of tiered reimbursement will move the industry and the state from looking at single hourly and reimbursement rates (in this case, we use the proposed $20 minimum wage and $30 reimbursement).
- 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 and an average** reimbursement of $30 per hour, will address many of the current issues without requiring additional funding.

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

- **A SERIES OF TIERED REIMBURSEMENTS TIED TO CARE RECIPIENT NEEDS (continued).**

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.

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

- **A SERIES OF TIERED REIMBURSEMENTS TIED TO CARE RECIPIENT NEEDS (continued)**.

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 address chronic caregiver shortages and 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.

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.

- 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 centralized offices and serve the entire rural community
- 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.
- 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.
- 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.

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 follows rules set by HCQC and the state, it may still look 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.
- One proposal is to collect and submit 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.
- 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.
- This seems important enough that we could apply for grant money (not sure what you call it, a "demonstration project"?) and roll this out.

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 (continued)

For example, we've made a mock-up of a public display of an agency's offerings (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	✗	✓	✗	✓	✓

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 (continued)

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 as 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
- Allows for various entities to post unfilled cases that are available for everyone to see and accept if deemed appropriate
- 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 of information to where it belongs, to Care Recipients and Caregivers.

Conclusion

Benefits derived from these changes include the following:

- 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.
- Remove unnecessary rules and regulations and replace 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.

With the adoption of the proposals presented, including creating tiered reimbursement rates, agencies and caregivers won't have to hope that rate increases, based on history, will be wholly or partially rescinded. Reimbursement rates will be much more challenging to cut when the industry can demonstrate the cost savings and value a proper rate structure can offer. Reimbursement rate increases can be justified and backed up with empirical data supporting the increase.

Most importantly, we can do this while ensuring that our most vulnerable citizens receive the care they need in the comfort and dignity of their homes. This approach not only provides necessary care but also respects the dignity and independence of these individuals.

QUESTIONS?

- Contact Information:
  - Robert Crockett – Advanced Personal Care Solutions
    - rcrockett@apcslv.com

APPENDIX

1. Infection Prevention for Unlicensed Caregivers
    - This is the test for the new infection prevention training for unlicensed caregivers. It is taken after watching four hours of video.
2. SB340 letter dated July 18, 2022, recommending the Medicaid Manuals that affect personal care to make a change that requires personal care agencies only to be permitted to hire W2 employees and ban the hiring of independent contractors by personal care agencies.
    - This topic was reviewed and discussed during the SB340 meetings and is waiting to be implemented.
3. SB340 letter dated September 1, 2022, recommending 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. The letter also recommends that HCQC look for regulatory relief opportunities that do not compromise health and safety. Among these recommendations is a suggestion to review how we perform TB testing, fingerprinting, and background checks (among other items).
4. SB340 letter dated November 2, 2022, recommending HCQC work on specific standards for the home care industry related to the required cultural competency training. Board members have asserted that home care workers tend to 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 directed towards their experiences.
5. SB340 letter dated November 2, 2022, recommending that DHHS require all Nevada Medicaid Functional Assessment Service plans to be promptly made available to personal care agencies and distributed to clients as called for in the functional assessment instructions for Medicaid.
6. SB340 Letter dated April 13, 2022, recommending that employers pay for required training.
7. SB340 letter dated November 2, 2022, recommending that DHHS commission a study on the savings to Nevada Medicaid due to home and community-based services.
8. A copy of the current DETR tax rate schedule showing the ranges entities pay for unemployment insurance.

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

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

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

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
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

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

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

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

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

Tax Rate Schedule 2024

The administrator, by regulation, establishes a reserve ratio schedule to apply to each of the tax rates for each calendar year. The tax rate schedule for 2024 is as follows:

When Reserve Ratio is ...		
At Least	**But Less Than**	**UI Rate**
17.2	9,999,999.99	0.25
15.60	17.20	0.55
14.00	15.60	0.85
12.40	14.00	1.15
10.80	12.40	1.45
9.20	10.80	1.75
7.60	9.20	2.05
6.00	7.60	2.35
4.40	6.00	2.65
2.80	4.40	2.95
1.20	2.80	3.25
-0.40	1.20	3.55
-2.00	-0.40	3.85
-3.60	-2.00	4.15
-5.20	-3.60	4.45
-6.80	-5.20	4.75
-8.40	-6.80	5.05
-9,999,999.999	-8.40	5.40

Personal Care Attendants are to be classified as W2 employees, with access to benefits and career paths not available for independent contractors.

The acting Secretary of Labor of the United States discussed 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.

The SB340 meetings discussed and addressed caregiver protection. An approved recommendation emerged from the SB340 meetings that Medicaid agencies be permitted to hire only W-2 employees and ban the hiring of independent contractors.

A Review of Outputs From Annual Authorization Renewals for Personal Care Services (PSC) using Form FA-24

To be included in the analysis, the authorization must be a renewal and not a new client or an authorization renewal based on a significant change of condition. Renewal authorizations prior to 10/31/24 until the sample size was reached are included.

Sample size: 200 authorization renewal requests	
Number of requests processed with no change:	192
Percentage of authorization requests with no change:	96%
Requests where the unit authorized moved up or down:	8
Total units prior to authorization request:	13,524
Total units after authorization request is processed:	13,518
Net change in total units over all 200 renewal requests:	-6
Total units before vs after percentage:	99.96%