COMMISSION ON MENTAL HEALTH AND DEVELOPMENTAL SERVICES SEPTEMBER 16, 2009

SIERRA REGIONAL CENTER, 605 SOUTH 21ST STREET, ROOM 122, SPARKS, NV

SPECIAL WORK SESSION MEETING MINUTES

COMMISSIONERS PRESENT AT THE RENO LOCATION:

Kevin Quint, SAPTA, Chair Alistar Barron, M.D., Vice Chair Julie Beasley, Ph.D. Gretchen Greiner, Ed.D. Barbara Jackson Joan McCraw, MSN, APN, Registered Nurse

COMMISSIONERS ABSENT:

Eric Albers, Ph.D. - excused Toni Richard – excused Lee Derbyshire, Marriage and Family Therapist - excused Johanna Fricke, M.D. – excused

CALL TO ORDER

Chair Quint called the special work session meeting to order at 9:03 A.M. Chair Quint determined that a quorum of the Commission was present. Chair Quint stated that this meeting was scheduled for the Commission to discuss collaboration and increase communication between the various stakeholder groups.

OPEN MEETING LAW PROVISIONS AND REQUIREMENTS AS THEY APPLY TO THE COMMISSION

George Taylor, Deputy Attorney General, provided a power point presentation regarding Nevada's Open Meeting Law requirements and how the Open Meeting Law applies to boards and commissions.

Mr. Taylor answered questions regarding quorum requirements. The Commission is required to have a simple majority of the members in order to take action and make decisions. A "constructive quorum" includes any series of gatherings of members of a public body at which less than a quorum is present; the members of the public body attending one or more of the gatherings collectively constitute a quorum; and the series of gatherings was held with the specific intent to avoid the provisions of the Open Meeting Law. "Constructive quorum" may also be achieved through serial communications such as telephone, fax, or e-mail and may not be used to circumvent the spirit or letter of the Open Meeting Law in order to discuss or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory powers. In regards to having lunch/dinner together and the possibility of having a quorum at lunch/dinner, Mr. Taylor advised that the law states that a social function is not a

meeting if the members do not deliberate towards a decision or take action on any matter.

Mr. Taylor stated that meetings are to be open and public and properly noticed with all individuals permitted to attend; this includes subcommittee meetings.

The Commission expressed concern and wanted to know the best way to be more responsive and provide a quick response to issues during the legislative session. Mr. Taylor suggested that the Commission designate one Commissioner to be responsible for responding to legislative issues and/or inquiries and/or appoint a subcommittee to address legislative issues. It was reiterated that a subcommittee is required to meet Open Meeting Law requirements which includes posting an agenda at least three days prior to the meeting. Mr. Taylor suggested that the Commission could post one agenda to discuss legislative issues with numerous subcommittee meeting dates and times listed.

Upon questioning, Mr. Taylor stated that the Commission is not violating the Open Meeting Law when holding an agenda setting meeting. This meeting includes the Chair, Vice Chair, Commission Secretary and staff to review and finalize the next meeting agenda.

Mr. Taylor reminded the Commission that their meetings require an agenda which must be posted at least three days prior to the meeting.

The Commission thanked Mr. Taylor for is information presentation on the Open Meeting Law requirements.

A break was granted at 10:07 A.M. The meeting reconvened at 10:16 A.M.

OVERVIEW OF ADVISORY STRUCTURE TO DEPARTMENT OF HEALTH AND HUMAN SERVICES AS A RESULT OF LEGISLATIVE CHANGES AND THE ROLE OF THE COMMISSION

Mary Liverati, Deputy Administrator for the Department of Health and Human Services (DHHS), stated that during the last legislative session, DHHS wanted to streamline the number of boards and commissions under DHHS. SB 79 streamlined the process and combined three different main areas: 1) disability services; 2) health boards and committees; and 3) mental health and developmental services commission.

Ms. Liverati stated that under the disability section, a new Commission on Disability Services was created and a new Department of Aging and Disability Services.

Ms. Liverati stated that Mike Willden, Director of DHHS, wanted the Department to deal with issues on a broad basis and not be directly involved with direct service provision and delivery. This included combining boards and commissions and improving communications between those boards and commissions. There was a combination of the Health Division advisory boards, as there was a need to flow information and recommendations through one entity and then report to the State Board of Health.

Ms. Liverati stated that the Mental Health and Developmental Services Commission responsibilities were amended, per SB 79, to address co-occurring disorders and collaborate with the Co-Occurring Disorders Committee with regard to substance abuse and mental health illness. The Co-Occurring Disorders Committee has no funding source and is required to provide a report directly to the Legislature; they must also develop a strategic ten year plan for children and collaborate with the MHDS Commission. The Co-Occurring Disorders Committee is now under the MHDS Commission and includes individuals from corrections, judges, and parole and probation areas.

Commissioner Greiner expressed that she would like to see the Block Grant Funding continue and be included in the Commission's biennial budget.

The Commission discussed forming a subcommittee to collaborate with the Co-Occurring Disorders Committee and it was stated that the subcommittee must consist of only MHDS Commissioners and a general public individual(s) could not be appointed to a subcommittee.

There was discussion on how to integrate the systems to help individuals, not shift individuals from one organization to another, and how to fold the corrections system into the co-occurring conversations and make peace with the Co-Occurring Disorders Committee. The Commission was advised the Dr. Dixon is the current Chair of the Co-Occurring Disorders Committee.

Commissioner Greiner expressed that she would like for the Commission to become more proactive when it comes to working with the Legislature in concert with MHDS and DHHS. Commissioner Greiner expressed frustration with the Commission not being active and involved with legislative issues/actions and would like for the Commission to be informed of ALL mental health issues to help the Commission determine what bills to track and provide testimony during the legislative session.

Ms. Liverati offered the services of her office to keep the Commission updated in such activities of legislative tracking with all bills that DHHS tracks and the progress and outcomes of those bills.

Ms. Liverati advised that SB 23 passed, which transferred the responsibility of the appointment of the MHDS Administrator to the Director of DHHS. This was requested by DHHS in order to have consistency in that all agency administrators are appointed by the DHHS Director. Ms. Liverati stated that it is the intention of DHHS for the Commission to be involved in the MHDS and DCFS Administrator selection process in future appointments.

REVIEW COMMISSION MEMBERSHIP, TERM LIMITS AND VACANCIES

Mrs. Harper stated that there are currently three positions on the Commission in which terms have expired (a physician, a marriage and family therapist, and current or former recipient of mental health services provided by the State or an agency thereof) and await notification from the Governor's office for either a re-appointments or new appointments. Commissioner Jackson has submitted her application to be reappointed.

Mrs. Harper reviewed NRS 232A.020 Residency requirement for appointment; terms of members; vacancies; qualification of member appointed as representative of general public.

- 1. Except as otherwise provided in this section, a person appointed to a new term or to fill a vacancy on a board, commission or similar body by the Governor must have, in accordance with the provisions of NRS 281.050, actually, as opposed to constructively, resided, for the 6 months immediately preceding the date of the appointment:
 - (a) In this State; and
- (b) If current residency in a particular county, district, ward, sub district or any other unit is prescribed by the provisions of law that govern the position, also in that county, district, ward, sub district or other unit.
- 2. After the Governor's initial appointments of members to boards, commissions or similar bodies, all such members shall hold office for terms of 3 years or until their successors have been appointed and have qualified.
- 3. A vacancy on a board, commission or similar body occurs when a member dies, resigns, becomes ineligible to hold office or is absent from the State for a period of 6 consecutive months.
- 4. Any vacancy must be filled by the Governor for the remainder of the unexpired term.
- 5. A member appointed to a board, commission or similar body as a representative of the general public must be a person who:
- (a) Has an interest in and a knowledge of the subject matter which is regulated by the board, commission or similar body; and
- (b) Does not have a pecuniary interest in any matter which is within the jurisdiction of the board, commission or similar body.
 - 6. The provisions of subsection 1 do not apply if:
- (a) A requirement of law concerning another characteristic or status that a member must possess, including, without limitation, membership in another organization, would make it impossible to fulfill the provisions of subsection 1; or
- (b) The membership of the particular board, commission or similar body includes residents of another state and the provisions of subsection 1 would conflict with a requirement that applies to all members of that body.

Mrs. Harper stated that notification has been sent to the Nevada State Medical Association and the Nevada Association for Marriage and Family Therapy requesting a submission of three candidates to the Governor's office per NRS 232.361. All of the candidates are required to complete the Board and Commissions Application, which is an extensive process.

REVIEW COMMISSION SUPPORT PROJECT AND BUDGET A. Discuss Sustainability of Project after June 30, 2010

Cody Phinney, Director of Program and Planning for the Division of Mental Health, provided information regarding the Commission support project, as the staff person who manages the Community Health Services Block Grant program. This project is collaboration between the Mental Health Planning Advisory Council (the Council is mandated in order to receive the Block Grant funding) and the MHDS Commission. The FY 2010 funding allocation for contract services, currently being provided by Dr. Kevin

Crowe, but not including the clerical support is funded at \$35,235. There are measurable deliverables included in the original sub grant.

The Commission questioned if is the Division committed to continuing this project. Ms. Phinney responded that the Division is supportive of collaboration between the Commission and the Planning Council. Upon questioning by Commissioner Greiner regarding the commitment on behalf of the Planning Council, Ms. Phinney responded that the Planning Council is a public body and an advisory council which advises the Division on how to spend the Block Grant funding and on the Mental Health State Plan. The Planning Council does vote on the administrative section of the budget which includes this project. The Planning Council has held discussion relative to this funding and there has been some opposition, but the votes have supported the budget as submitted. The Division has the authority and final determination on how the funds are allocated and spent.

Commissioner Greiner stated that the funding from the Block Grant is necessary in order to support staff to provide research and administrative functions to the Commission.

Ms. Phinney stated that there are measureable deliverables for Dr. Crowe's position and stated that the funds are distributed in a federal fiscal year.

Roger Mowbray, contractor and representative for the Planning Council, stated that the Block Grant process and budget planning has begun for next year. The Council reviews a portion of the budget at every quarterly meeting with action on the budget for the next fiscal year taken in April.

Commissioner Greiner suggested that if the Commission wants to be a part of the Block Grant budget needs to develop a proposed budget with goals, priorities with measurable deliverables.

Chair Quint stated that he made a presentation to the Planning Council at their August meeting regarding potential collaboration between the Council and the Commission.

A lunch break was granted at 11:36 A.M. The meeting reconvened at 1:05 P.M.

REVIEW COMMISSION STATUTORY RESPONSIBILITIES

Dr. Crowe reviewed the Commission statutory responsibilities outlined in NRS 433; specifically NRS 433.314 and 433.316 which outline the duties and powers of the Commission.

NRS 433.314 states: Duties. The Commission shall:

1. Establish policies to ensure adequate development and administration of services for persons with mental illness or mental retardation and persons with related conditions, including services to prevent mental illness and mental retardation and related conditions, and services provided without admission to a facility or institution;

- 2. Set policies for the care and treatment of persons with mental illness or mental retardation and persons with related conditions provided by all state agencies;
 - 3. Review the programs and finances of the Division; and
- 4. Report at the beginning of each year to the Governor and at the beginning of each odd-numbered year to the Legislature on the quality of the care and treatment provided for persons with mental illness or mental retardation and persons with related conditions in this State and on any progress made toward improving the quality of that care and treatment.

The Commission discussed the reports to be generated and submitted to the Governor and Legislature on the quality of the care and treatment provided; and how to generate a more comprehensive review in a short summary included in the letter.

NRS 433.316 states: Powers. The Commission may:

- 1. Collect and disseminate information pertaining to mental health and mental retardation and related conditions.
- 2. Request legislation pertaining to mental health and mental retardation and related conditions.
- 3. Investigate complaints about the care of any person in a public facility for the treatment of persons with mental illness or mental retardation and persons with related conditions.
 - 4. Accept, as authorized by the Legislature, gifts and grants of money and property.
- 5. Take appropriate steps to increase the availability of and to enhance the quality of the care and treatment of persons with mental illness or mental retardation and persons with related conditions provided through state agencies, hospitals and clinics.
- 6. Promote programs for the treatment of persons with mental illness or mental retardation and persons with related conditions and participate in and promote the development of facilities for training persons to provide services for persons with mental illness or mental retardation and persons with related conditions.
- 7. Create a plan to coordinate the services for the treatment of persons with mental illness or mental retardation and persons with related conditions provided in this State and to provide continuity in the care and treatment provided.
- 8. Establish and maintain an appropriate program which provides information to the general public concerning mental illness and mental retardation and related conditions and consider ways to involve the general public in the decisions concerning the policy on mental illness and mental retardation and related conditions.
- 9. Compile statistics on mental illness and study the cause, pathology and prevention of that illness.
- 10. Establish programs to prevent or postpone the commitment of residents of this State to facilities for the treatment of persons with mental illness or mental retardation and persons with related conditions.
- 11. Evaluate the future needs of this State concerning the treatment of mental illness and mental retardation and related conditions and develop ways to improve the treatment already provided.
 - 12. Take any other action necessary to promote mental health in this State.

Dr. Cook suggested that the Commission develop a State Mental Health Plan.

The Commission outlined the following Parking Lot Items: 1) Revisit the notion of authorization over private psychiatric facilities; 2) Use of state biostatistician (employed by the health division) to compile statistics on mental health.

ESTABLISH PRIORITIES BASED UPON COMMISSION RESPONSIBILITIES OUTLINED IN STATUTE

Commissioner Jackson stated that she would like to see more interaction and collaboration between the Commission and Planning Council.

Vice Chair Barron stated that he would like to see the Commission have a better relationship with the Nevada State Health Division; and requested for Richard Whitley, Health Division Administrator, present an overview regarding the results of surveys and what transpires during the facility licensure process.

Commissioner Beasley would like to see integration with other Boards and Commissions.

Commissioner McCraw expressed concern over confidentiality of patients when attending court appointed commitment hearings.

MOTION: Following discussion, Vice Chair Barron moved to form a Subcommittee to develop Commission priorities, measureable deliverables, and timelines, seconded by Commissioner Jackson. The motion passed unanimously.

The Subcommittee members include: Chair Quint, Vice Chair Barron, Commissioner Greiner, and Commissioner McCraw.

REVIEW CURRENT NCMHDS BYLAWS AND REVISION OF BYLAWS

Dr. Crowe reviewed the current Commission Bylaws and stated that the Bylaws are almost a direct repeat of NRS 433. Dr. Crowe provided a handout with suggested revisions to the Bylaws, and suggested that the Bylaws be revised to reflect the roles and responsibilities of the Commission.

The Commission reviewed the Bylaws and suggested amendments for inclusion into the Bylaws for review and possible approval at the next Commission meeting.

ACTION: Dr. Crowe will incorporate the proposed amendments and provide a draft of the revised bylaws for review and possible approval at the next meeting in November.

OUTLINE LEGISLATIVE PLANNING ACTIONS FOR 2011 LEGISLATIVE SESSION

Dr. Crowe provided an overview of the timelines for the 2011 legislative session from September 2009 until March 2010; The Commission needs to determine if there are any activities it wants begin to be effective during the legislative cycle. In March 2010, agencies construct their budgets and submit to DHHS by August 15th with submission to the Governor in September 2010. The Governor releases his budget in January 2011 and then the 2011 Legislative Session begins.

Dr. Crowe stated that from now until March the Commission should be discussing who are the Commission's stakeholders, possible bill draft requests, and what activities the Commission undertakes for this legislative process.

Commissioner Greiner suggested that the Commission develop a plan in order to recommend bill draft requests and submit to DHHS for consideration and possible submission to the Legislature.

ACTION: Commissioner Greiner suggested Commissioners e-mail Chair Quint with issues they feel were not addressed during the last legislative session and want to consider in 2011 for review at the next Commission meeting and then appoint a subcommittee or one Commissioner to pursue and identify what supports would be required to address the issues and concerns.

MOTION: Commissioner Greiner moved for Commissioners e-mail the Chair Quint with issues they feel were not addressed during the last legislative session and want to consider in 2011 for review at the next Commission meeting and then appoint a subcommittee or one Commissioner to pursue and identify what supports would be needed to address the issues and concerns, seconded by Commissioner McCraw. The motion passed unanimously.

OVERVIEW OF MENTAL HEALTH PLANNING AND ADVISORY COUNCIL AND FY2010 BLOCK GRANT

Roger Mowbray provided a copy of the Abridged Version of the CMHS Block Grant Application for Federal Fiscal Year 2010 and reviewed the Block Grant application process and stated that there are three major areas of the application: 1) Overview – Executive Summary; 2) Administrative Requirements; and 3) State Plan divided into three sections to include: 1) description of the state service system for both the adult and child systems; 2) identification and analysis of the service system strengths, needs, and priorities; and 3) performance goals and action plans to improve service systems.

Mr. Mowbray stated that the plan provides a good review of the service systems and addresses the unmet needs for adults and children; and could be used in the development of the State Plan. The application includes sections on the reorganization of Rural Clinics and the Children's Behavioral Health Consortium, created by SB 131, an overriding statewide consortium for the development of the children's state plan. Mr. Mowbray stated that in the application it is stated that the MHDS Division is projected to provide services to 24,360 Nevadans, which is down 3,000 to 4,000 from the number served last year, which is a direct impact of the budget shortfall. There is a section devoted to state worker furloughs and staff vacancies as this affects service delivery.

Mr. Mowbray briefly reviewed the funding distribution and stated that the next Council meeting is scheduled for November 6, 2009. Mr. Mowbray highlighted that the Council performed a rural monitoring visit in January 2009, in Pahrump, and describing the visit and meetings held with clients and identified areas for improvement. Numerous improvements have been made as a result of that visit.

A break was granted at 3:06 P.M. The meeting reconvened at 3:20 P.M.

DISCUSSION AND PLANNING OF MENTAL HEALTH PLANNING AND ADVISORY COUNCIL COLLABORATION

Chair Quint stated that he, along with Dr. Crowe, attended the Planning Council's August 12, 2009 meeting and were well received. The Commission was informed that there are twenty-one positions on the Planning Council and the Planning Council is an advisory group to the Mental Health and Developmental Services Division. Chair Quint posed the question, "How does the Commission want to interact with the Council?"

There are four areas in which the Commission and Planning Council's responsibilities overlap and it was discussed that it would be a good idea to collaborate on these issues and areas.

It was discussed that no one individual has been authorized to speak on behalf of the Council to the Commission or vice versa. It was discussed that the Commission should appoint a liaison from the Commission to attend Planning Council meetings.

Commissioner Greiner suggested working with the Council in concert on common goals and collaborate on the overall delivery system.

Upon questioning by Commissioner Greiner, Mr. Mowbray responded that the Council is interested in legislative advocacy and lobbying efforts with the Commission in an effort to avoid duplication of efforts and to present a stronger single voice for mental health.

MOTION: Vice Chair Barron moved for Dr. Crowe to represent the Commission at the Planning Advisory Council meetings to promote discussion and collaboration, seconded by Commissioner Beasley. The motion passed unanimously.

ACTION: In an effort to promote further collaboration, Dr. Crowe will request an agenda item on the Council's next agenda to present and discuss the Commission ideas, request the Council's ideas for inclusion into the letter to the Governor and request an on-going discussion between the Council and Commission.

DISCUSSION AND PLANNING TO STRENGTHEN DEPARTMENT OF CHILD AND FAMILY SERVICES AND STAKEHOLDER COLLABORATION

Dr. Crowe led the discussion and stated that one of his responsibilities is to strengthen collaboration with stakeholders. Dr. Crowe posed the question as to who the Commission's stakeholder are. Dr. Crowe suggested possible stakeholders to include: children coalitions, NAMI, Advisory Planning Council, PEP, provider groups such as Sierra Regional Center, Disability Services Group, and Health Service Board. Other stakeholders suggested were groups with regard to service delivery, grant funded groups, anyone interested in service delivery, and elderly/dementia issues.

ACTION: Following a discussion, Dr. Crowe was directed to e-mail Commissioners requesting input as to stakeholders. Dr. Crowe will develop a list of MH and DS adult stakeholders and groups for the next meeting.

DISCUSS SB 79 AND HOW TO ADDRESS THE REQUIREMENTS OF SB 79 – CONSORTIUM/SUBCOMMITTEE PROCESS AND STRUCTURE

Dr. Crowe stated that SB 79 includes new language affecting the Commission and placing the Co-Occurring Disorder Committee under the Commission. Dr. Crowe suggested that the Commission may want to develop a subcommittee on co-occurring disorders to discuss how to build upon the work already performed in this area by the Co-Occurring Disorder Committee and to collaborate and work with the Committee.

Dr. Dixon, Chair of the Co-Occurring Disorder Committee, provided the history of the Committee which originated in 2007. The Committee is appointed by the Governor and answers to the Legislature via a report.

In the January 31, 2009 Committee report it states that the Committee has addressed the following issues:

- 1. Established three subcommittees to conduct committee work; evaluation and needs, systems integration and workforce development.
- Analyzed current level of services available in Nevada for co-occurring disorders at state funded agencies and discovered vast discrepancies in the application of integrated services.
- Established a "Welcoming Statement" to be enacted through legislation as a statewide policy statement on the treatment of individuals with co-occurring disorders in Nevada.
- Conducted one day TIP 42 training sessions in Las Vegas and Reno.
 Approximately 400 treatment professional attended. Dr. A.J. Ernst conducted the training.
- 5. Solicited testimony from the Nevada Department of Corrections regarding treatment programs for inmates with co-occurring disorders.
- 6. Solicited testimony from the Honorable Jackie Glass and Specialty Court Administrator Steve Grierson of the 8th Judicial District Mental Health Court.
- 7. Solicited testimony for the Department of Public Safety, Division of Parole and Probation on the supervision of offenders with co-occurring disorders; and
- 8. Recommended enhancement of SB 2 to increase membership to include representatives from Vocational Rehabilitation, Department of Corrections and local law enforcement.

Dr. Dixon stated that the Committee has provided training to approximately 400 individuals and there continues to be a need to train individuals to deal and treat individuals with co-occurring disorders.

Dr. Dixon stated that the Committee has committed to working with the Commission and the Committee's next meeting is scheduled for October 14, 2009 and will be video conference with sites in Carson City and Las Vegas.

DISCUSSION OF OPTIONS ON HOW TO SIMPLIFY DOCUMENTATION FOR SECLUSION/RESTRAINT AND DENIAL OF RIGHT FORMS

Dr. Crowe provided a handout which provides information on the use seclusion and restraint form and how to best make use of that information. Dr. Crowe stated that per NRS 433.534, the Commission has the responsibility to receive reports and may investigate apparent violations of the rights guaranteed by NRS 433. Dr. Crowe stated that there has been discussion regarding the issue of the time spent in reviewing each form and should there be more of a general review of forms. Dr. Crowe outlined some of the issues expressed in the review of the forms are: 1) the review is too laborious; 2) burdensome amount of paper involved; 3) incomplete submissions, usually physician signature; 4) impact and utility to agencies and what actions does it trigger at the agency level; and 5) reports are dated and more than 90 days old when the Commission receives for review.

Commissioner Greiner stated that the focus, in reviewing the forms, should be on patient rights and not question the medications prescribed or question the time subtraction errors.

Commissioner Beasley questioned if the comments made on the forms directly affect and improve the quality of client care.

It was discussed that the main purpose of the review is to determine if there is a pattern of patient abuse in the care of that patient. There was a discussion if there is a way to funnel information to the Commission other than via the forms; maybe a summary report.

ACTION: Julie Slabaugh offered to research the legislative intent for the review of the seclusion/restraint and denial of right forms and report at the November meeting.

FUTURE AGENDA ITEMS

The following items were noted for the November meeting agenda:

- JHACO Presentation Barbara Qualls and Cody Phinney;
- Review of draft Bylaws Dr. Crowe;
- Report from Subcommittee on Priorities, Legislative Issues;
- 2011 Legislative Ideas and Activities;
- Approval of the Annual Letter to Governor;
- Update of the Advisory Planning Council collaboration;
- Presentation from Richard Whitley, Health Division, on how they see mental health based upon facility licensure;
- New Member Orientation:
- Report from State Biostatistician on what information and statistics that could be provided to the Commission;
- Review of Stakeholder list; and
- Report on legislative intent of seclusion/restraint and denial of right forms.

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT OF SPECIAL MEETING - WORK SESSION

MOTION: Chair Quint adjourned the meeting at 5:00 P.M.

Respectfully submitted,

Christina Harper Recording Secretary