Public Comment 8/3/18 Industry Input Session

SLA /CBLA are "unlicensed" group homes

We want the members and public to recognize that SLA /CBLA are "unlicensed" Group homes that are monitored and State certified through the regional centers and NRS 433/435 and are very different **from NRS 449 Licensed Group Homes.**

While both "unlicensed SLA / CBLA's and Licensed NRS 449 Group homes offer similar non-medical services of protective supervision, medication management, and caregiving, the critical difference is in monitoring, checks and balances, training, cost effectiveness, transparency in the community and most of all a 20-year track record of safe, cost effective care in Licensed Group Homes compared to the 5-year track record of "unlicensed" SLA / CBLA care that has exploded since the SLA services expanded to include Mental Health and other Chronic illness care.

These SLA/CBLA are state certified but "unlicensed" which allows them to avoid many safety regulations. Indeed, it is interesting that the State Fire marshal allows this "unlicensed" SLA / CBLA use of a single-family home providing the same non-medical care as a licensed home an exemption from requiring any sprinkler when Licensed care homes require sprinklers.

Those services were previously offered safely and cost effectivity in Licensed NRS 449 Group homes with the mental illness endorsement, until the state began moving those services to a new, "unlicensed" system of care supervised by the Regional Centers and operating under the regulations that were intended for Developmentally Disabled.

Developmentally disabled included those with Downs, Mental Retardation, and Autism and **REQUIRED** one of those conditions be the primary diagnosis and be made before age 22. Clearly many currently receiving SLA / CBLA care don't meet those criteria. The State did try to expand that qualifying definition in 2017 session by creating CBLA, but our industry was not able to adequately alert legislators in time to provide transparency and accurate information before passage of these expanded qualifications and levels of care under SLA regulations.

All negative TV news stories and the two negative internal state audits are about "unlicensed" SLA / CBLA group homes.

Two internal State audits from Dec 2016 on SLA/CBLA homes, which came out before the 2017 legislative session but may not have been adequately shared with legislators, suggested financial accounting irregularities. Another audit in Dec 2017 showed continuing issues with quality of care and inadequate, unchecked, coordination of care.

Beyond that we included a list of negative TV news stories of crisis after crisis, including the death of a caregiver who burned to death in an unlicensed and un-sprinkled SLA / CBLA home on 7/26/18. The State settlement of that case with the family also raised questions of less monitored labor practices including no workers comp, inadequate pay and staffing. We believe if the residents were in a much more monitored, sprinkled, Licensed RFFG setting the caregiver would still be alive today.

SLA/CBLA confusion over allowable patient types

SLA NRS 433/435 were created mainly for the Developmentally disabled. Developmentally disabled defined as having downs, mental retardation, or autism diagnosis before 22 yrs.

However, mental health and the regional centers over reached and created their own use of SLA which is new, and exceeded the original intent of SLA for the developmentally disabled. This allowed them to bypass all the licensed

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choices in Long Term Care including PCA, RFFG / group homes, and Nursing homes which have a required system of safety, checks and balances.

If you argue that the various 1915 waivers allowed the State to waive safety features like sprinklers, BELTCA certified administrators, transparency for the community, and much more; we believe the recent audits Dec 2016, Dec 2017 and news stories show that waiver and allowing the mentally ill and other types of residents who <u>are not</u> Developmentally disabled to get less monitored care has failed. We believe that having two parallel system of care for people who get the same protective supervision, help with medications and caregiving or combinations thereof is discriminatory by definition i.e., two groups with different sets of regulations <u>for the same non-medical care</u>. In this case the disabled individuals who are placed in SLA/CBLA are negatively affected when they need not be because there is a safer, more cost effective, Olmsted complaint community-based choice in Licensed NRS 449 care.

Many SLA/CBLA may be in violation of federal fair housing regulations by allowing <u>non-disabled</u> residents to stay there and using single family residential homes for "transitional or Independent" living which are not covered uses under Federal Fair Housing.

We have heard that placement agencies used SLA/CBLAs to house Homeless residents and use unlicensed placement services to help find these beds. In order to qualify for protection under federal fair housing regulations, residents in SLA/CBLA must be disabled. Any type of transitional housing, such as temporary housing for homeless individuals, does not qualify.

SLA continue to be safe and effective for the developmentally disabled but those are few compared to the expanded use of SLA/CBLA for the mentally ill and <u>anyone</u> who needs protective supervision, help with meds or caregiving. Dementia, Mental Illness, advanced age with many physical ailments all end up needing the same supported care of protective supervision, help with meds and caregiving. The decision to non-transparently separate these groups with the result of reducing safety, check and balances, and transparency needs to be reevaluated.

Lack of transparency which may violate Federal Fair Housing protections for residential home owners

We share homeowners' concerns about misuse of single family homes for some SLA/CBLA residents as a potential violation of Federal Fair Housing law for allowing individuals in an unprotected class to reside there, and for lack of transparency for the local home owners including: no list of locations, owner, or formal complaint system.

Complaints made to both HCQC and ombudsman often remains unanswered by regional centers. We know of no public list of complaints and their resolution and believe transparency should be part of monitoring.

No public list of locations for SLA / CBLA but clear list for all Licensed RFFG

We request Legislators ask for details of locations which have always been public for Licensed care. We believe the lack of transparency in location may violate federal fair housing laws and protections of the community residential single family home owner. RFFG are proud to protect the single-family home communities we live and operate in.

No clear complaint system for SLA / CBLA

When a community person has a complaint, they can't find any place to call. They often call the easily accessible choices of HCQC which monitors licensed care or the state ombudsman who will try to investigate. However, once HCQC or the ombudsman hear it is an "unlicensed" SLA / CBLA they have no jurisdiction to continue. They can't enter even if they wanted to. Instead, all they can do is call the Regional Center and try to share the complaint. Questions to Regional center about complaint resolution are not easy to get. This lack of complaint system for "unlicensed" SLA / CBLA care is

an issue the legislature can easily fix by having one set of regulations for similar non-medical care of protective supervision, help with medications and caregiving.

Patient shifting and illegal referrals

Having two systems of care allows and even encourages some providers who own both types of businesses (Licensed care and "unlicensed SLA / CBLA) to get patients into the Licensed home only to move them out the back door to the Unlicensed care. They are encouraged to do so for higher pay and less regulation. While the Licensed industry have repeatedly voiced concern about this practice we believe combining all settings that offer any combination of protective supervision, help with medications including as needed medications, and caregiving into the licensed 449 system of care would reduce patient shifting/illegal referrals and improve transparency for professionals in the community, families and Legislators.

The Licensed industry and BELTCA have continually tried to self-police the practice of illegal referrals. For example, a national referral chain "A Place for Mom" tried to get a variance to allow their agents to sell patients to a provider mainly based on an agreed placement fee. The industry objected because that process was not based on the patients' needs as accessed by a trained professional and for the direct benefit of the resident. The issue of not paying for the evaluation of a professional who was representing the patient but instead being paid by the facility for the financial benefit of the referral agent was unfair, which is why the industry has strict laws against illegal referral agencies. Unlicensed SLA / CBLA have no similar protections.

Recommendations

As the "unlicensed" SLA/CBLA system grows, our concern grows for resident safety, quality of care, cost effective funding allocation and community well-being. Also, the public image of the group home industry overall declines in the face of media coverage reporting financial impropriety, substandard care and deficient protective supervision in SLA/CBLAs which are in accurately called "Group Homes".

NRS 449 provides guidelines for A BEST IN THE NATION SYSTEM OF LICENSED CARE. We strongly recommend ALL non-medical group homes providing any elements of protective supervision, medication management and caregiving be required to follow NRS 449 guidelines.

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