

**COMMENTS BY SHAWN MCGIVNEY MD, RFA ON PENDING GROUP HOME
LEGISLATION.**

From Shawn McGivney MD, RFA

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I know my response is lengthy but I wanted to be sure all legislators had access to these ideas so they can make the best laws possible to improve our community during this stressful time of economic and health care crisis and to avoid increasing the Medicaid spending by legislation that might force group homes to close thus pushing those patients into the more expensive Medicaid SNF system while at the same time protecting individual, multi ethnic families, seniors and disabled Americans rights.

I have 8 concerns:

1. The Bureau of Health Care Quality and Compliance (HCQC) NEEDS MORE FUNDING AND GOVERNMENT SUPPORT IN ENFORCING THE RULES. HCQC does need more funding and that funding has to come from fee increases but also from HOA's, city governments and state government. Better funding HCQC allows home owners, existing licensed businesses, and seniors and their family's confidence in the entities that HCQC supervises. When facilities big or small have repeated violations and fail repeatedly to fix them the HCQC needs to have the power to enforce real penalties. Power that is supported by the legislature.

I believe that Home owner and HOA complaints are due to a lack of enforcement of current codes and not insufficient codes. Better funding HCQC and requiring a committee composed of HOA's, business that operate in single family residential homes, city zoning enforcement and community police departments are the most cost effective answer. While attending a city of Las Vegas public hearing on Group homes one of the community police officers noted the same thing -- he was not clear on what the rules were and how to enforce them.

2. UNFAIR FEE SCHEDULES for residential facilities for groups relative to big institutions like hospitals, SNF's and home care companies. As I stated in the HCQC hearing we need to add a metric of how much hospitals, nursing homes and home health company's bill to see the disproportionate burden of fees on residential facilities for group. When you see a hospital with 100 's of millions in gross revenue with a licensing fee of just 20, 000 dollars ($100,000,000 / 20,000 = 5000$) compared to a residential care home with 300 K dollars of gross income and a HCQC licensing fee of 5, 000 dollars ($300,000 / 5,000 = 60$). One can just begin to see the disparity of the HCQC licensing fees. Indeed, one can only wonder how that is possible. Group homes want to police the industry and want a strong HCQC but we feel strongly that hospitals, nursing homes and home health care companies, all of whom feed at the governmental financial trough need to pay their fair share.

3. HCQC SHOULD RAISE FEES ON RE INSPECTIONS MORE THAN INCREASING STANDARD FEES. The current policy of offering re surveys for just 500 dollars promotes non compliance and puts undue burden on those who comply and do not need are survey.

4. Law makers should know that residential care homes SAVE the state millions in MEDICAID costs a year. If residents on Medicaid did not choose to stay in residential care homes that accept the Medicaid waiver (35 dollars a day) those residents would be in nursing homes (100 dollars a day or more). Should your legislation tip the scales away from supporting residential facilities for groups you will see drastic increases in the cost for care of those Medicaid residents who currently CHOOSE to stay in group homes as opposed to Skilled Nursing Facilities (SNF's). From the table provided by HCQC there are 4,845 SNF beds and 4,123 residential facilities for groups beds in Nevada. I note that not all of the residential facility for group beds are Medicaid beds but you see that both snf and residential care settings are substantial. If Medicaid waiver group home beds were to decline those residents would be pushed into the much more expensive Medicaid state funded SNF system. Law makers should ethically favor choice for their constituents.

5. I feel strongly that we need to continue to define "single family residence" to include residential facilities for groups of 10 or less AS IS THE CURRENT REGULATION. See attached NRS 278.02386. If one is to drop that definition I feel that will lead to frivolous law suits by HOA's against residential care homes thus violating the rights of the disabled

to live in the same communities as the non disabled. Indeed, I am providing notice that frivolous law suits are currently occurring so that law makers cannot say they did not realize that. HOA's attempt to define family and single family home in direct violation of ADA and FHA and other state and Federal laws. Single Family Residence is a common term used in CC and R's and HOA doctrine and will always be an issue since that is the main verbiage in a HOA or CC and R. If they are left unchecked this will negatively impact seniors and disabled persons rights to live in those communities, communities that occupy 70% of all residential neighborhoods in Las Vegas.

We need to continue to define "single family residence" to specifically include residential facilities for groups of 10 or less and need to define Family so that cities and municipalities cannot define it in violation of federal and state law. If we do not protect the right of seniors and the disabled to reside in residential communities as we have done in the past by specifically defining terms like "single family residence" to include residential facilities for groups we will be limiting choice and promoting discriminatory policies. Be sure to support continuing the definition of "single family residence" to include residential facilities for groups of 10 or less.

6. DEFINE FAMILY SO THAT MUNICIPALITIES AND CITIES CAN NOT DO SO AND THUS THREATEN GOVERNMENT FUNDING STATE WIDE BY VIOLATING ADA AND FHA LAWS. State law need to set some clear guidelines as to the definition of

a family so as to prevent municipalities from promoting discriminatory legislation. Do not let city and municipalities define family so as to promote discrimination and frivolous law suits. Currently the city of Las Vegas wants to define single family to be no more than 4 unrelated persons. Does that include caregivers, maids, nanny's, butlers, as part of the "family"? How does one define two divorced people each with children who live together but are not married? Does a divorced women with 3 children who is living with a new male companion but who is not married to him have to move to a commercial unit since the unrelated man, guest, puts the house hold over the 4 unrelated person limit to qualify for a family? One might ask are we targeting Latino and Mexican American who commonly live in common law family settings when we define family to be only by a "formal" marriage. Are we to zone them out of all residential housing choices or 70 % of all home units in Las Vegas? While these are difficult decision we must define these terms "family" and "single family residence" so that others are clear that discrimination is not directly or indirectly supported by Nevada State law.

7. Homes for Individual Residential Care (HIC) homes are drastically under supervised, have relatively low fees, and need to have a budget that allows and encourages more supervision. While the HCQC has proposed to increase surveys of HIC homes from just once every 3 years to once every 18 months it is unclear where the funding for that is coming from. Moreover, why a HIC home is inspected just every 18 months when they have just a High school graduate as the administrator and have no regulations on the type of patients they take seems unbelievable.

Hic homes are a potentially unregulated entity if you consider that an administrator need not be BELTCA approved administrator but merely a high school graduate. Second, in this LESS SUPERVISED setting they allow the widest range of medical conditions including dementia care, diabetes care and care of complex tubes. If Assisted Living and Residential care Homes must meet special care guidelines for these more at risk patient groups (dementia, diabetes and tube care) how is it that Hic homes are able to care for those patients without those restrictions?

Finally, if group homes are to have a separation requirement one might also apply that to HIC homes to prevent investors and real estate developers from changing the nature of residential zoning thus affecting both disabled and non disabled residents.

8. REQUIRED RELIABLE WORKING FAX AND COPIERS. We need to require a working fax and copier at each care site and adequate redundancy of faxes and copier services at larger facilities.

I am open to feed back and idea sharing on these comments. My ideas are short summaries on each point and not exhaustive discussions of each topic. I remain willing to help clarify my understanding of these issues with our legislators.

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