

Meeting Notes

Assisted Living Licensure Rulemaking Advisory Committee Meeting

Date: November 14, 2019

Time: 1:30 – 3:30 PM

Location: Minnesota State Retirement Systems Building, 60 Empire Drive, St. Paul

Attendees

Advisory council members: Doug Beardsley (Care Providers of Minnesota), Sean Burke (Minnesota Elder Justice Center), Aisha Elmquist (Office of Ombudsman for Long-Term Care), Ron Elwood (Mid Minnesota Legal Aid), Mary Jo George (AARP Minnesota), Beth McCollum (Alzheimer's Association), Rajean Moone (Minnesota Leadership Council on Aging), Roberta Opheim (Office of Ombudsman for Mental Health & Developmental Disabilities), Karen Peterson (Minnesota HomeCare Association), Kristine Sundberg (Elder Voice Family Advocates), Kari Thurlow (LeadingAge Minnesota)

Minnesota Department of Health: Michelle Larson, Anne Peterson, Linda Prail, Toni Malanaphy-Sorg, Marilyn Etzbach, Lea Bittner-Eddy

Updates

Meeting rules and housekeeping

Lea Bittner-Eddy, MDH facilitator, led this discussion.

- Ground Rules and housekeeping for meeting attendees

Assisted living rules process scope and direction

Michelle Larson, MDH Director Health Regulation led this discussion.

- Scope, direction and process
 - Legislation for next year
 - Want transparency in process
 - Reality is that the timeline is extremely tight and volume is very high
 - Dec 2020 deadline for 13 topics in legislation
- Food Code friends are here, time to do rules
- We have no expedited rulemaking authority for this process
- Governed by Administrative Procedure Act and it requires many groups to look at it and give feedback, with different processes along the way

M E E T I N G N O T E S :
A S S I S T E D L I V I N G L I C E N S U R E
R U L E M A K I N G A D V I S O R Y C O U N C I L

- Groups have time to review and comment as we progress
- At the Revisor's Office by March 2020
- The ALJ can request public hearings throughout the state
- We are focused on the 13 topics in the statute plus key definitions
- I will be bringing in more MDH staff, hiring a legal secretary in our division, expert in rules, etc.
- What is approved will be sent on to the governor's office
- We did request an extension
- Marie will set up a stakeholder meeting for December so we can address the technical fixes and the other vulnerable adult language
- Specific questions and answers on rulemaking?
 - Current legislation only allows us to work on rules through Dec 2020, so need legislative request for extension; this is a large comprehensive program that we are implementing, and surveyors and providers will require extensive changes - Extension will be pursued for 2021 session
 - if extended, would the Advisory Committee continue to meet? Yes
 - providers do need time to integrate; right now 8 month timeframe, from January to August, to implement what is passed.
- March deadline is an internal deadline to get first draft to the Office of the Revisor

Review phase 1 topic areas

Anne Peterson led the discussion.

- Phase 1 topics identified on the tentative list for us to work on through March; 13 topics in statute, mandated, you are familiar with this list
- Thank you for your input on emergency disaster and preparedness, we will be meeting tomorrow to talk about that draft and then put out a draft rule;
- for serious injury, we are having conversations with DHS internally;
- for transition language, be aware that this is an area we recognize we needed to start for statute to get the conversion process going
- #3, License application renewal, we might not need anything from you
- Definitions: Facilities operating without a license, resident, physical plant are on the list
- Many of us submitted comments on Emergency Preparedness, will you post drafts on website for us and public to see? Yes
- Your comments have been collated to show where there is consensus etc.
 - Mary Jo: nervous about the process of either or sending it to you, I am overwhelmed with email and I might miss them, so I would love some consistency -- great coming from HRD

M E E T I N G N O T E S :
A S S I S T E D L I V I N G L I C E N S U R E
R U L E M A K I N G A D V I S O R Y C O U N C I L

- You can consult each other without having it posted; you can have self-forming workgroups, voluntary committees that produce recommendations, etc.
- Last month we asked you to prioritize and rank topics; these are what emerged as top concerns:
 - #3 Staffing
 - #9 Discharge planning procedures, connected to procedures and timeline for termination appeals
 - Assessments
 - Uniform checklist disclosure of services
 - Operating without a license
- definitions are foundational to a lot of this; the definition of a resident is foundational to being clear
- Definitions will be added to the high priority list
- definition of serious injury is foundational for the entire statute; I propose conformity with other statute and rules

BREAK

- Do you have ideas about how you would like to organize the work going forward?
- Some of us talked about the need to have a workgroup on definitions to have a deeper dive since it is foundational
- what would be most helpful is that we have an advisory group in our own membership, so if we can know upcoming topics, they can be brought to group for input
- the uniform checklist is a big issue that really is the umbrella to what services are provided in AL and staffing is tied to that
 - We do have some ground to work with for uniform consumer guide to inform the discussion
 - Staffing is important discussion as well
- Has the department considered what constitutes operating without a license? Also being clear about Assisted Living residents versus independent residents
- It would be helpful if the definition workgroup gets together prior to the December meeting
- the assessment piece is also fundamental
- What is MDH working on internally?
 - Emergency disaster
 - Serious injury
 - scoping language on the 13
 - Procedures to transfer housing with services to the new Assisted Living
 - Physical plant definitions
 - We meet internally weekly and we will keep pushing through, we are working behind the scenes

M E E T I N G N O T E S :
A S S I S T E D L I V I N G L I C E N S U R E
R U L E M A K I N G A D V I S O R Y C O U N C I L

- Rules will be drafted by the next meeting; they will go on the website and they will be on the agenda for the next meeting; the website address and toll-free number are also available
- First address technical amendments and then see if there is consensus
- At the December 13 meeting we will react to the department's draft on emergency preparedness
- workgroups will work on uniform checklist and staffing
- Definitions are needed for all rules

Public comments

- Uniform checklist services are defined in statute, how much detail is needed?
- Those with comments and suggestions to submit, please email or go to website to submit

Next meeting

Next meeting date December 13th to review progress

Minnesota Department of Health
Health Regulation Division
PO Box 64900
St. Paul, MN 55164-0900
www.health.state.mn.us
Phone: 651-201-4101

To obtain this information in a different format, call: 651-201-4101