

Meeting Notes

Assisted Living Licensure Rulemaking Advisory Committee Meeting

Date: February 6, 2020

Time: 1:00 – 3:00 PM

Location: Hiway Federal Credit Union

Attendees

Advisory council members: Doug Beardsley, Maureen O’Connell, Mary Jo George, Lisa Harrison for Roberta Opheim, Karen Peterson, Kris Sundberg, Kari Thurlow, Sean Burke, Tetyana Shippee, Beth McMullen, Wendy Hulsebus

Not Present: Ron Ellwood, Aisha Elmquist, Dr. Rajean Moone

Minnesota Department of Health: Katherine Chickey, Ian Lewenstein, Anne Peterson, Linda Prail, Patricia Winget, Josh Skaar, Lea Bittner-Eddy, Toni Malanaphy-Sorg, Marilyn Etzbach

Members of the public: Stephanie Comelson, Nancy Haugen, Rachel Snyder (Homecare Consultants), Suzy Scheller (Scheller Legal), Jean Peters, Ann Sterner, Dustin Lee, Connie Ford (Elder Voice Family Advocates), Mark Schulz (MN Department of Human Services), Mike Tremple (BEWHA), Eric Jokinen, Kay Bromer, Maureen O’Connell, David Fenley (MN Council on Disabilities), Kay Bromelkamp (Elder Voice Family Advocates), Connie Ford (Elder voice member); Stephanie, Jane Peters, Anne S, Philip Jokaman Giddrich (MDH), Nancy Holmberg (Home Care and Assisted Living Council)

Updates

Rules writing progress

Katherine Chickey introduced Patricia Winget (attorney for rule making), who gave an update on rules writing progress.

- Rules currently being drafted and also working on the Statement of Need and Reasonableness (SONAR), which is rule development – when both are done, rules will be sent to the Revisor’s Office (mid-April goal), then it goes to the Governor’s office, and then we propose with a notice which will be published in the state register; There will then be a hearing, a comment period, and then the Administrative Law Judge (ALJ) will issue a report, which will finish the rules process. Final steps are to file with the Office of Administrative Hearings (OAH), who will file with the Secretary of State and then the Governor’s Office.
- During these actions Advisory Committee will continue to participate and can still submit comments which need to be in writing now; please be succinct in respect to timeframe. This is your time to use your power of persuasion.
- Topics already concluded will not be revisited. All will be posted on the website for reference.

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

- There will be a 30-day comment period after we post in the state register (that is when it shifts to formal comment period); there will be a hearing, you can testify and submit post-hearing comments, and then there is a rebuttal period, after which the record will close and the Administrative Law Judge (ALJ) will study it and determine if there are defects for us to address or if they are approved.
- Comments received to date are not part of the record; if you want comments on record, submit after the notice of hearing is published in the Register.

Staffing and Training Rules

Linda Prail and Ian Lewenstein led the discussion.

- Many requirements are already in statute, and will not be repeated in the rules.
- For Staffing, cross-reference the statute; adequate staff required, not specific staffing ratios
 - Sub 3, the Board of Nursing Home Administrators is doing two rules now; we will track what they are doing in terms of training for the Assisted Living Director, and include that as it impacts our rule
 - Sub 9 is not finished – if a facility needs more staffing, what is the enforcement mechanism that MDH has?
 - We are separating dementia care in terms of training, as it is in statute.
- Comments:
 - issue of acuity of individual residents in #3 subpart 1A , 144g.771 should also include subd 2, assessment process where the registered nurse (RN), is developing the assessment
 - Definition of “temporary personnel” and issue of third party contractor employees
 - page 4 sub 5c consider making 12 month period in line with 24 month survey period
 - work schedule - privacy considerations needed
 - Temporary staffing provisions must recognize the worker shortage
- three categories for training: orientation, initial training, annual training
- Comments:
 - Cost concerns
 - mentor requirement = double staff
 - must consider other forms of training, not just in-person – on-line, etc.
 - need person-centered training, appropriate for individuals
 - consider setting base level hours and using competencies rather than hours
 - address language barriers in competency training

Discharge Planning Procedures/ Appeal Rules Update

Anne Peterson led the discussion.

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- Third rule topic in the list of 13; 144G.09 subd 3c; this working draft is to flesh out prerequisite steps before and after a facility sends a notice terminating Housing With Services; this fills in the gaps for MN 144g .52
 - Sub 3, in addition to statute, at the meeting, the facility must explain the basis for the termination, and identify what the accommodations and alternatives are to address the issues to be memorialized after the meeting and must comply with laws
 - Sub 9-12, same coordinated move process for planned closures and relinquishing a license, to keep consistent between other rule parts
- Comments:
 - Transfer of medical records is covered in part of statute 144g.43
 - sub 10 and the relocation plan -- number 8 – explain how moving expenses be paid and by whom.
 - appeal services in rule topic number 9

Uniform Checklist

Anne Petersen led the discussion.

- not creating the actual checklist in the rule
- Statement that the resident may obtain outside services from another provider at their own cost
- Statement that services are subject to change in 60 days calendar notice
- Comments
 - UCIG too long, hence going away – keep this succinct
 - In Sub 12, more rule language around notifying the consumers of the changes
 - cannot be resident by resident
 - include leeway in the language for temporary service needs (i.e. resident returning from hospital)
 - annually renewable?
 - Difference between Elderly Waiver and Customized Living tool and coverage

Definitions subcommittee

Sean Burke gave the update that this subcommittee has not met.

- intent was to look at the definition of “Operating without a License,” “Assisted Living Facility” and “Resident.”
- comments about definitions still invited
- we don’t have authority to change statutory language

MEETING NOTES:
ASSISTED LIVING LICENSURE RULEMAKING ADVISORY
COUNCIL

Remaining Work Timetable

- Addressed in opening

Public comments

- Incorporated above

Next meeting

Next meeting date March 12 to review progress

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