



Meeting Notes April 16, 2018:

Home Care and Assisted Living Program Advisory Council

Notes prepared by: Lari Anne B. Mazzitello

Location: Orville Freeman Building, 625 Robert Street North, St. Paul, MN 55164-0975

Attendance

- Council members: Rene Cronquist (By Phone), Samantha Drost (by Phone), Cheryl Hennen (By Phone), Susan Morgan, Jarrod Peterson, Melissa Plachecki (By Phone), Suzan Sinna
- MDH, Health Regulation Division: Jeri Cummins (By Phone), Cathy Griffin, Lari Anne Mazzitello, Cindy Vargas (By Phone)
- Public Attendees: (Unknown due to conference line)

Agenda

- Welcome and introductions
- Council interim terms
- Council's recommendations to legislature
- Enforcement actions
- Background studies
- Licensing question
- HCALP legislative updates
- Questions and comments

Next HCALP Advisory Council Meeting

Date: Monday, June 4, 2018

Time: 2:00 – 4:00 pm

Location: The Wellstone Center, 179 Robie Street East, St. Paul, MN 55107

Meeting Notes

Council Interim Terms (Lari Anne Mazzitello, HCALP, MDH)

Susan Morgan, Suzan Sinna, and Melissa Plachecki were recently appointed to interim terms. The Ombudsman term expires in October 2018 and is the final seat that will have terms reset. Then, half of the council seats will begin when the governor is seated in January every 4 years, and the other half of the seats will begin the following January per statutes.

Council's First Annual Recommendation to the Legislature (Jarrod Peterson, HCALP Council)

Minnesota Statutes [144A.4799](#), subdivision 3 (7) (c) requires the Council to submit annual review the balance of funds collected from fines issued to home care providers who are not found in compliance at the time of a

survey. The Council recommends to the legislature and the legislature can choose to appropriate funds from the account to improve home care in Minnesota. The Council submitted their recommendations to the appropriate legislative chairs on January 16, 2018 with four recommendations:

- Develop make available education to prepare prospective licensees for a successful survey of their temporary license
- Conduct desk audits for all level 1 and level 2 correction orders
- Develop and provide training for existing licensed home care providers that is targeted to new management and supervisory personnel
- Demonstrate leadership to encourage students to pursue home care as a vocation or career

The Council did not receive a response from any of the legislators that received the recommendations.

Enforcement Actions (Jeri Cummins, HCALP, MDH)

In 2015, the Department took two enforcement actions. To date, in 2018, there are nine enforcement actions. Actions are split between temporary and established license types. The Department is using conditional licenses reached with a stipulated agreement. It is a collaborative process in which providers are tasked to improve the quality of care by following the statutory requirements and using a nurse consultant. Typically, MDH conducts one or more monitoring visits during each conditional license period, which allows MDH to provide technical assistance. The council agreed that there are benefits with this type of collaborative partnership with providers.

Background Studies (Cathy Griffin, HCALP, MDH)

The Department of Human Services (DHS) conducts required background studies for MDH license applicants and licensees. Historically the studies were conducted using NetStudy (NS) 1.0, which recently upgraded to 2.0. The upgrade provides improved features for continued tracking of owners, managers and employees. However, there is a challenge for licensed home care providers who combined licenses from the previous license structure of classes A - F and continued to serve clients under a single comprehensive license. NS 1.0 conducted a single point background study when employees were initially hired. NS 2.0 continually monitors for occurrences that may alter the status of a background study. When the DHS transitioned to NS 2.0, employees of licensed providers were transferred into the new system if the provider's licenses was still active. For providers that closed one license and transferred employees to a different license, employees who had background studies under the closed license were not transferred into NS 2.0. The resulting impact is on the potential of current (veteran) employees who did pass a study in NS 1.0 but who will not be active for continued monitoring in NS 2.0.

There are two options going forward:

1. Accept the background study from NS 1.0 for employees who remained employed by the same provider but started working under a different license for that same provider; or
2. Require a new background study under NS 2.0 for employees who remained employed by the same provider but started working under a different license for that same provider.

After weighing the risk of employees who do not have an updated background study that continues to monitor and update the employee's status and cost and effort of providers, and possibly employees, to obtain a background study and fingerprinting as required in NS 2.0, the Council recommends to:

April 16, 2018

1. Conduct new background studies under NS 2.0 for affected employees; and
2. Establish a grace period allowing employees to continue to work during the transition process.

Licensing Question (Cathy Griffin, HCALP, MDH)

Recently, a couple providers questioned MDH's decision to not renew the license because they had not provided home care services, as required by statute, during the past 12 months as required for renewal in Minnesota Statutes [144A.472](#), subdivision 3.(a)(3). One provider was a PCA provider and the other an adult foster care provider. Based on the definition of home care services in Minnesota Statutes [144A.43](#), subdivision 3., the types of activities provided by PCA providers and some adult foster care providers can meet the definition of home care service.

Current statute exempts PCA providers and excludes adult foster care providers from home care licensure. Under the former classes A – F licensing structure, providers could decide to incorporate home care services like PCA into the class A license. If they chose not to include the PCA services they provided, the provider was required to separate the two businesses into distinct components. It appears that at least some home care providers prefer to maintain a home care license even if only providing PCA services, which, by definition, are also home care services. MDH is seeking recommendations from the Council regarding if:

1. Providers who are exempt or excluded from licensure can choose to have a home care license and follow home care standards for the exempt or excluded services they provide.
2. MDH should disallow exempt and excluded providers from holding a home care license for exempt or excluded services.
3. Licensed providers who also deliver exempt or excluded home care services should separate the various business components.

The council will review these issues and discuss them in the near future.

Legislative Updates (Cathy Griffin, HCALP, MDH)

To date, there are around 22 bills regarding how to protect vulnerable adults. Many are similar in nature. Proposed language includes dementia care certification, assisted living licensing, an assisted living report card and the ability for MDH to cite housing with services entities for bill of rights issues identified during the survey of an arranged home care provider in a housing with services setting. The council is concerned about the likely increase of costs for licensed providers with each new regulation and statutory requirement because inevitably the costs are passed along to the consumer.

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05/21/2018

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HCALP Enforcement Actions

April 13, 2018

LISTED BY CALENDAR YEAR

Note: The information below is summary and does not represent all the facts about the situation or the violations.

2018: Enforcements Actions = 9 (*carryover from 2017)

- **Golden Horizons Aitkin – Comprehensive license issued conditional licensing with stipulated agreement**
 - Licensed since 2005
 - Complaint investigation completed June 2017 with five level 2 orders
 - Follow-up to complaint investigation with four orders reissued and one new level 3 order
 - July 2017 survey with 27 orders including one level 3 violation, 24 level 2 violations and 2 level 1 violations
 - Follow-up to complaint investigation in October 2017 with one violation reissued at a level 2
 - Survey follow-up in October 2017 with 15 orders reissued plus 4 new orders all at level 2
 - Follow-up to complaint investigation in January 2018 with 1 order reissued at a level 2
 - Follow-up to the survey in January 2018 with six orders reissued and 3 new orders including 7 at a level 2 and one level 3 violation
 - Conditional license with a stipulated agreement issued in March, 2018
- **The Wellstead of Rogers – Comprehensive license issued conditional license with stipulated agreement**
 - Licensed since 1999
 - Full survey in January 2018 with 26 orders including 1 level 3 violation
 - During the survey was a follow-up for three complaint investigations with 1 level 3 reissued and a second follow-up for three complaint investigations reissued 1 level 2 widespread order
 - In January there was also a follow-up for three complaint investigations with orders (1 level 4 widespread and 2 level 3 widespread) resulting in reissuing 1 level 3 isolated order
 - MDH concerns include lack of systems, staffing and training, a level 3 violation on the full survey and failure to totally correct OHFC orders
 - Conditional license with a stipulated agreement issued in February 2018
- **CSL Rose Arbor Wildflower Lodge – Comprehensive license issued conditional license with stipulated agreement**
 - Licensed since 2001
 - Full survey November 2017 with 29 violations all at a level 2 but 15 were widespread
 - In November there was also a follow-up for two complaint investigations resulting in the reissue of 1 level 2 widespread violation
 - Complaint investigation in May 2017 for a client in memory care who fell and died was substantiated maltreatment and not corrected at the time of OHFC follow-up

HCALP ENFORCEMENT ACTIONS BY CALENDAR YEAR

- Concerns include lack of systems, staffing, training and policies along with a lack of knowledge of home care statute. Continued concern about safety of clients in memory care with unprotected stairways.
 - Conditional license issued as part of a stipulated agreement in January 2018
- **Come Home Ingleside – Comprehensive license holder issued a conditional license with stipulated agreement**
 - Licensed since 1996
 - Full survey in February 2018 with 20 violations including 1 level 4, 18 level 2 and 1 level 1
 - Conditional license issued as part of a stipulated agreement in March 2018
- **Bridges – Temporary Comprehensive License issued a conditional license with stipulated agreement**
 - Initial full survey of temporary license resulted in 28 orders with 26 at a level 2 and 2 at level 1
 - Concerns include need to have a better understanding of the statutory requirements and more robust policies and systems in place
 - Conditional license issued as part of a stipulated agreement in February 20148
- ***Touch of Home – Comprehensive license holder issued a conditional license with stipulated agreement**
 - Licensed since 2007
 - Full survey in October 2017 with 38 violations including with 36 level 2 including 12 widespread and 2 level 1 violations
 - Concerns include overall lack of understanding about home care licensing requirements, inadequate systems and procedures, inadequate training and multiple medication errors
 - Conditional license issued as part of a stipulated agreement in December 2017
 - Follow-up survey in February 2018 with 18 orders reissued
 - Conditional license was extended
- **Edgewood Sartell – Temporary Comprehensive license issued a conditional license with stipulated agreement**
 - Initial full survey in February 2018 with 18 correction orders including 1 level 3 and 17 level 2 violations with 1 that was widespread
 - Concerns include a pressure ulcer that progressed because of lack of assessment and issues with service plans, medications, treatments and training
 - Conditional license issued as part of a stipulated agreement in March 2018
- **Brookdale Champlain – Licensed Comprehensive license issued a conditional license with stipulated agreement**
 - Licensed since 2010
 - Full survey in February 2018 with 28 violations including 26 level 2 (9 were widespread) and 2 level 1 violations
 - An OHFC investigation in November 2017 resulted in 2 level 3 violations and 1 level 2
 - Conditional license issued as part of a stipulated agreement in March 2018
- **North Oaks on Emerson – Licensed Comprehensive license voluntary closure**
 - Licensed since 1996
 - Financial issues causing inability to maintain safe housing and services
 - Voluntary closure, not an enforcement action
 - Relocation of 38 residents in a 30 day period
 - Closed effective March 30, 2018

2017: Enforcement Actions = 12

Note: On February 3, 2017, the MDH was upheld, following a lengthy multiple year hearing process, in its denial of the renewal of Unity's comprehensive home care license in.

- **Milestone: Comprehensive license issued conditional license**
 - Clients in a housing with services setting
 - Concerns mostly in memory care
 - Survey in March 2017 with 24 violations including one level 3
 - Two follow-ups to fully correct
 - Three OHFC complaint investigations
 - September 2016 with one order at a level 2
 - March 2017 with 2 level 4 orders resulting in death of client
 - May 2017 still open
 - Conditions lifted when in full compliance in late July 2017
- **N & V: Comprehensive license issued conditional license**
 - Clients in several small housing with services settings
 - Most clients with mental health diagnoses
 - Poor compliance since 2015
 - Multiple OHFC complaint investigations, but not all resulted with violations
 - September 2015 investigation with 1 order
 - March 2016 investigation resulting in 4 orders with 2 at level 4
 - April 2016 investigation resulting in 1 order
 - February 2017 investigation resulting in 8 orders with 2 at level 3
 - Survey October 2016 resulting in 38 orders with 6 at level 3
 - Three follow-ups to correct
 - Compliance came during the conditional license period
- **Serenity of Remer: T-comp – denied comprehensive license**
 - 17 orders resulting in 2 at a level 3 and one level 4
- **Rivers Edge Assisted Living: T-comp – denied comprehensive license**
 - 28 orders resulting in one level 3
- **MN Heritage House: Comprehensive license – Stipulated Agreement with conditional license to voluntarily transfer clients to new provider and close license**
 - Serving clients in three separate housing with services locations
 - Multiple surveys and complaint investigations during an 18 month period
 - Survey in December 2015 resulting in 25 orders with two at a level 3
 - Follow-up in February 2016 resulting in 15 orders not corrected
 - Follow-up in May 2016 with 6 orders not corrected
 - Follow-up in August 2016 with 7 orders issued including 4 new orders
 - Follow-up in November 2016 with 3 orders not corrected
 - Follow-up in February 2017 with 8 orders including 6 new orders
 - Follow-up in May 2017
 - Follow-up in June 2017 with 31 orders with one at level 3
 - Complaint investigation May 2016 with 1 order
 - Compliant investigation June 2016 with 1 order at level 4
 - Complaint investigation May 2017 resulting in 5 orders with two at level 4
 - Complaint investigation June 2017 with two orders both at level 3

HCALP ENFORCEMENT ACTIONS BY CALENDAR YEAR

- **Sanctuary West St. Paul: T-comp – License denied with Stipulated Agreement for conditional comprehensive license**
 - Survey of the temporary license resulted in 32 violations
 - HCALP not aware provider was serving clients as provider failed to inform MDH as required by statute
 - HCALP discovered provider was serving clients via a compliant investigation
 - Multiple investigations and surveys to date
 - March 2017 complaint investigations with four orders
 - June 2017 survey resulting in 32 orders
 - November 2017 follow-up survey with 11 orders
 - November 2017 compliant follow-up reissued two orders
 - Concern of lack of understanding about home care requirements for licensure in Minnesota
 - Through consultation with provider, denied license but agreed to conditional license
 - First follow-up to survey showed progress with 12 orders reissued
 - Conditional license extended but some conditions lifted
 - Second follow-up in January with 2 orders reissued
 - Comprehensive license issued in January 2018
- **Edgemont Place: T-comp – License denied with Stipulated Agreement for conditional comprehensive license**
 - Multiple complaint investigations and surveys
 - Concern of lack of understanding about homecare requirements for licensure in Minnesota
 - May 2017 complaint investigation resulting in 6 orders
 - June 2017 survey resulting in 34 orders
 - July 2017 complaint follow-up with four orders including 1 new order
 - November 2017 follow-up survey with one order
 - Through consultation with provider, denied license but agreed to conditional license
 - Belief that provider has the ability to be compliant
 - Must show progress and become compliant in short time period
 - Collaborative approach using consultant and MDH monitoring to bring into compliance
 - One follow-up showed remarkable progress with orders
 - Comprehensive license issued following November follow-up survey
- **Restoration: T-comp – License denied with Stipulated Agreement for conditional comprehensive license**
 - June 2017 survey resulting in 32 orders
 - October 2017 follow-up survey with 0 orders
 - Through consultation with provider, denied license but agreed to conditional license
 - Belief that provider has the ability to be compliant
 - Must show progress and become compliant in short time period
 - Collaborative approach using consultant and MDH monitoring to bring into compliance
 - One follow-up showed all orders corrected
 - Comprehensive license issued following October follow-up survey

HCALP ENFORCEMENT ACTIONS BY CALENDAR YEAR

- **Avinity: Comprehensive license – agreed to conditional license using stipulated agreement**
 - History of noncompliance discovered during investigations and surveys in 2016 and 2017
 - April 2016 complaint investigation with 3 orders
 - January 2017 survey resulting in 16 orders with a level 4 that impacted four different clients
 - April 2017 follow-up to survey with 13 orders including 4 new orders
 - June 2017 follow-up to survey with 15 orders including 4 new orders with 2 at level 3
 - October 2017 complaint investigation with 2 orders with one at level 3
 - November 2017 complaint investigation with 1 order
 - With a concern for the welfare of the clients served by Avinity, the provider agreed to a conditional license using a stipulated agreement
 - Currently operating under a conditional license since November 22, 2017
 - Using a collaborative process including a consultant and monitoring visits by MDH
 - Must show progress and ability to maintain progress in a short period of time
 - Conditional license ended on February 14, 2018 after a follow-up survey show the provider is in compliance
- **Watchen: T-comp – License denied with Stipulated Agreement for conditional license**
 - July 2017 survey resulting in 28 orders
 - December 2017 follow-up survey with 2 orders
 - Through consultation with provider, denied license but agreed to conditional license
 - Belief that provider has the ability to be compliant
 - Must show progress and become compliant in short time period
 - Collaborative approach using consultant and MDH monitoring to bring into compliance
 - One follow-up showed remarkable progress
 - Conditional license ended after December follow-up survey showing provider in compliance
- **Touch of Home: Comprehensive license – agreed to conditional license using stipulated agreement**
 - Licensed provider since 2004
 - October 2017 survey resulting in 38 orders
 - Concerned about lack of understanding about Minnesota home care licensure requirements and policies and procedures that adequately provide safe care for clients
 - Conditional license in place since December 2017 using a collaborative process that utilizes a consultant and MDH monitoring
 - Second conditional license issued following first follow-up survey. Some conditions lifted because of progress toward compliance.
- **Jennifer's: Comprehensive license voluntarily closed following CHOW survey**
 - Licensing specialist concerned with knowledge of new owner
 - October survey resulting in 25 orders
 - Concerns:
 - Owner is CNA and acting in some respects like an RN
 - RN reports inability to work with owner and contract being terminated
 - Consultation with owner
 - Owner voluntarily closed license

2016: Enforcement Actions = 4

- **Meadow Ridge: T-comp - denied comprehensive**
 - 3 clients in memory care with multiple falls, resulting in multiple fractures and injuries. Fractures of one client resulted in permanent limitations with mobility
 - Immediate correction order at level 4
 - Violations with failure to report maltreatment, medications, treatments and policies
 - Lacked overall systems and training of unlicensed personnel
- **Tru Touch of Glory: T-comp - denied comprehensive**
 - No clients had an RN assessment
 - Multiple problems with oxygen including not checking O2 levels as ordered. This was issued at a level 3 because O2 saturation levels were never checked. Client had shortness of breath and fell.
 - Advertised that they employed an RN, but they did not have an RN
 - Lacked an adequate number of staff to provide needed services
 - Problems with medications and treatments
 - Lacked policies and training of unlicensed personnel
- **Step Forward: T-comp - denied comprehensive**
 - Lacked training for unlicensed staff
 - Not enough staff to provided needed services
 - Served many clients with mental illness but not understanding how to provide for the needs of people with mental illness
 - Staff not trained to administer medication and client was hospitalized after a medication error to antipsychotic and Beta blocker. Issued at a level 4.
 - RN with forged license and license was never verified
 - No RN assessments
 - Problems with medications and treatments
 - Lacking policies and training of unlicensed personnel
- **Superior View: Comprehensive license immediately suspended and revoked**
 - Survey from January 25 – 28, 2016 with 36 orders, many widespread, and multiple level 3 violations, resulting in several follow-ups never reaching full compliance
 - Seven OHFC investigations from May 2015 through August 2016 by OHFC
 - All but one OHFC investigation resulted in orders

2015: Enforcement Actions = 2

- **Riverbend: T-comp denied comprehensive**
 - Client in memory care with a known history of falls and history of fractures with no initial assessment had 14 falls and sustained a fracture. No assessment for causal factors with the 14 falls/fracture. Level 4 immediate correction ordered.
 - Violations with medications and treatments, reporting maltreatment, lacking general policies and systems. Training concerns for unlicensed personnel
- **Salmi Home: Comprehensive license entered stipulated agreement to change to new ownership**
 - July 24 through 31, 2015 survey with 34 violations
 - Two OHFC investigations with one substantiated and one not