

9/21/18

**Electronic Monitoring Workgroup
Summary of Meeting 1 (9/19/18) and Next Steps**

September 19, 2018

2-4pm

Minnesota Elder Justice Center office

In Attendance: Shelli Bakken, Doug Beardsley, Josh Berg (phone), Anna Burke, Sean Burke, Rebecca Coffin, LaRissa Fisher, Sheryl Hogg, Jonathon Lips (phone), Liam Monahan, Cassandra Moore, Anna MacIntyre, Alicia Munson, Toby Pearson, Kathy Pontius, Mark Laliberte, Mark Schultz (phone), Kris Sundberg, Lisa Thimjon, Dan Tupy (phone), Kari Thurlow (phone), Rick Varco (phone), Amanda Vickstrom

The electronic monitoring workgroup is using a discussion document to work through issues related to electronic monitoring. That document has been updated as of 9/21/18 with a summary of the conversations and issues we discussed at the first meeting (9/19/18). Refer to that document to understand the detailed arguments at issue in this workgroup. You may also want to consult the version of SF 3437 that has been circulated to this workgroup, as we are using several areas of language developed in that bill to work from.

This document is a summary of possible points of consensus and issues for you and/or your organization to consider. It also includes a to-do list for certain items such as research or gathering of more information for our next meeting.

- **Who can install a camera? Definition of legal representative**
 - Consider possible points of consensus:
 - Resident, Guardian, and health care agent can install camera
 - Resident representative from federal law can provide roadmap for identifying other people who can install a camera on behalf of the resident
 - Consider where your organization stands on these issues
 - Whether it should be required that a “person chosen” by the resident is documented somewhere in resident file
 - Next steps:
 - Develop language that incorporates concepts from federal definition of resident representative

- **Definition of the Monitoring Device**
 - Consider how the definition deals with each of these issues
 - The type of device
 - Broadcast ability
 - Intent/purpose
 - Next Steps:
 - Consider whether the language of 3437 is close to something your organization could support and if not what changes might you consider? How can we get at the intent/purpose part of the statute?

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- Consider how different states have already defined this in their laws regarding electronic monitoring and if those definitions are worth borrowing from.
- **What facilities are covered by these electronic monitoring provisions**
 - Consider
 - Whether there are some HWS settings that should be excluded from these electronic monitoring regulations
 - If so – why exclude them? (i.e. The setting has so few services that it’s more like an apartment, and this regulation would actually decrease rights of resident to install whatever they want, just like any other tenant.)
 - If so – what is the best way to exclude them?
 - Should swing beds be added to the list of covered facilities?
 - Next Steps:
 - Do we have better data from MDH/DHS to drill down to exactly how many, and what type of HWS settings should be excluded?
 - Is there another way to approach these electronic monitoring rules from the right to privacy and corresponding provider duties related to that right? What would that approach look like?
- How a resident representative gets consent from resident
 - Consider whether the language in 3437 subdivision 3(a) provides the best approach (see SF 3437 lines 3.23 to 3.32)
 - Consider whether there should be an additional requirement in 3437 subdivision 3(b) (see SF 3437 lines 4.1 to 4.13) that a resident representative explains to the resident the purpose of installing the camera
 - Consider if your organization has a position on whether there should be a “witness” requirement for the consent provisions.

Housekeeping – The group will meet again in two weeks, and two weeks after that – meetings will be 2 hours in length. Goal of group is to determine a framework for legislation that has input and agreement/consensus from all interested parties.

Next meeting agenda – Continue where we left off on the Issues for Discussion document – Page 8, Section V – Roommate Consent and Withdrawal of Consent

To be added to the Electronic Monitoring Workgroup e-mail list, contact Amanda Vickstrom, Executive Director at Minnesota Elder Justice Center – Amanda.vickstrom@elderjusticemn.org.

Notes Prepared by: Sean Burke, Policy Director, Minnesota Elder Justice Center