

**Long-Term Care Facility Advisory Board Meeting  
August 17, 2017 • 10:00 a.m.**

**APPROVED MINUTES**

**I. Call to Order**

Members present: Pamela Blatter, Mike Bibo, Dr Albert Maurer (Proxy Ashley Snavely), Terrence Sullivan, Dr. Alma Labunski, Robert Roiland (Proxy Dwight Miller), Martin Gorbien, George Bengel, Mark McCurdy, and Jamie Freschi

Members Absent: Lydia Hemrich, and Dale Simpson

IDPH Representatives and Guests: Sean Dailey, Lisa Griffith, Connie Jensen, Darlene Harney, George Logan, Elaine Huddleston, Dwight Miller (proxy for Robert Roiland), John Cirn, Jason Grigsby, Erin Davis, Dennis Schmitt, Henry Kowalenko, Andrew Schwartz, Garth Reynolds, Sherry Barr, Christopher Vemagiri Marbaniang, Rukhaya Alikhan, and Bill Bell.

**II. Introductions**

Darlene Harney called the meeting to order at 10:00 am. Board members, guests, and Department Staff were asked to introduce themselves and a quorum was established at this time.

**III. Approve meeting minutes**

The draft minutes of the May 18, 2017 meeting were reviewed and discussed by the Board. A motion was made to approve the minutes as presented, 2<sup>nd</sup> and motion was unanimously carried.

**IV. Membership Update**

a. Membership vacancies

One (1) Public Members – vacancy

One (1) Advocacy or legal Assistance Member – vacancy

Darlene Harney covered this section on Board Membership vacancies update for this Board.

1. Dr. Labunski commented that she provided a name of a candidate/nominee to the Department for one of the vacancies on this Board
2. Darlene Harney explained that the Board recently experienced a vacancy for Public member from newly appointed board member Rosemarie Hilger who resigned effective 8/16/17.
3. The Department has received a Board Membership application from a candidate for this position that is with our Legal/Governmental Affairs Office for further processing/approval.
4. Board is still needing a nominee/candidate for the Advocacy or legal Assistance member.

b. New Member

The Board recognized new member Lydia Hemrich for Resident Advisory Council Member – voting member who was not able to make it to this meeting.

Members were reminded to contact the Department with any names and contact information of candidates to help fill the vacant position listed on the Agenda and Board Membership list.

**1) Rules Update**

- a) Social Security Number Rulemaking Part for Section 300, 330 and 340

- b) Sean Dailey presented this information on the status of the SSN requirement for Rulemakings Part;
- c) Rulemakings seek to remove the requirement for SSN of applicants who have 5% financial interest in the operation and ownership of a facility;
- 2) Sean Dailey commented
- 3) No intent to change the requirement of the ownership section
- 4) Change in proposed rules is to remove the SSN requirement for applicants that have 5% or less financial interest/ownership
- 5) Include information on application for anyone that has 5% or more financial interest/ownership
- 6) "no objection" vote from JCAR July 18, 2017
- 7) Pre-filling of rules - pending adaption
  - 1. 2) Mike Bibo expressed some other concerns
    - (2) Make sure nothing else is changed to this section on concept of ownership
    - (3) Status to have SSN requirement removed from forms
      - (a) Licensure Renewal application
      - (b) Administrative forms
    - (4) Need to redevelop form to remove SSN requirement
    - (5) SSN required for 5% or more ownership
    - (6) Renewal application not contain information
    - (7) Discussion and vote on later
      - (a) Administrator SSN not listed on licensure/application form
      - (b) Requirement not in Regulations; will adopt
  - ii) Sherry Barr commented on the QA Licensure side
    - (1) Currently get SSN off of application/forms
    - (2) Even get the Administrative SSN for ownership
    - (3) Currently required under the program; not until removed from rules will adapt then to change the application/forms
  - iii) Darlene Harney shared additional comments
    - (1) Addressed at last Board Meeting
    - (2) Plan to make changes to licensure/application forms
    - (3) Changes made to program after rules go into effect or when adopted
  - iv) The Board had no other comments or questions

**8) Unfinished Business**

- i) Skilled Nursing and Intermediate Care Facilities (77 IAC 300) Sheltered Care Facilities (77 IAC 330) Illinois Veterans' Homes Code (77 IAC 340). This rulemaking implements PA 96-1372 with regard to distressed facilities.
- b) A handout was presented to the Board with comments from the Illinois Health Care Association (IHCA) regards to the Draft IDPH proposed regulations for Distressed Facilities (pursuant to PA 96-1372) for discussion.
- c) A motion was made to open up for discussion by the Board; motion granted.
- d) Mike Bibo gave a brief review of the hand out that was submitted from Bill Bell from IHCA to address to the Board
  - (i) Comments addressed will focus on the Skilled Nursing Code; same for other two codes
  - ii) Problem within statutory language
  - iii) Data from GAO Report; holds the problem
    - (1) 47 facilities in State of Illinois
    - (2) Decade old GAO Report
    - (3) GAO report set the number for the formula
  - iv) Association suggested last meeting
    - (1) Reconfigure GAO report; need new run on the GAO criteria
    - (2) Old report; not relevant today
    - (3) Let Association pass legislation changes
      - (i) Other concerns – underlined in handout.
        - 1. Section 300.170 a)3) -
          - a. statutory language change; pattern of noncompliance;
          - b. recommend change to insert the word "substantially" before the word "comply"
        - 2. Section 300.170 a)4) –
          - a. insert the word "substantially" before the word "conform"
        - 3. Section 300.170 a)7) –
          - a. questioned purpose of section;

- b. no statutory language included;
- c. why necessary; language of words not listed in rules
- d. Quarterly distressed facility on list of violators
  - i. Change sentence wording;
  - ii. Redundant and confusing;
  - iii. Need to meet 1 or 2 criteria to get license , or
  - iv. Strike this section al together
- 4. Section 300.178.4 –
  - a. similarity with statutory language change; recommend insert word “substantially”; conform pattern; variance in numbers
- 5. Section 300.185 a)1) –
  - a. point value scale needs to be reevaluate/recalculated using current data;
  - b. IDPH formula inaccurate/outdated;
  - c. shows query in law not regulations;
  - d. how quarterly list of distressed facilities distribution list of violators was developed ;
  - e. Same criteria outlined in Section 300.165; redundant
    - i. listed in regulations ;
    - ii. not need to repeat criteria outline in this section
- 6. Section 300.185 a)2) –
  - a. Questioned time frame (36 months?);
  - b. reduce timeframe to possible 12-18 months;
  - c. 36 months-accumulate large # of patients; minor violation;
  - d. 30 months later; throw over patient threshold
- 7. Section 300.185 b)1) –
  - a. Need to change independent consultant criteria
    - i. possess at least a Baccalaureate degree;
    - ii. Registered Nurse (RN) license or above, or
    - iii. Nursing Home Administrator (NHA) license
- 8. Section 300.185 g) –
  - a. Who is responsible for future deficiencies when IDPH places a temporary manager in LTC facility?
  - b. 36 month timeframe noted here too; needs to be changed pursuant to comment in 300.185 a)2)
- 9. Section 300.185 i) –
  - a. no qualification of a risk manager; goals of instruction or, specifically who should receive instruction
- 10. Section 300.185 j) –
  - a. Statement is too broad;
  - b. Requirement could probably force facility to close down;
  - c. create wide spread panic, and
  - d. Have a great impact on public/facility
- 11. Section 300.185 k) –
  - a. point values and timeframe need to be redone based on current data;
  - b. IDPH formula inaccurate/outdated;
  - c. Concern with point value and timeframes
- e) Board Members shared additional comments/discussion to this section on distressed facilities
  - i) Mike Bibo further commented
    - (1) Need to work changing wording throughout regulations
    - (2) Laws written based on past GAO Analysis
    - (3) GAO report came up with 47 facilities
    - (4) Goal is to not have facility on the report forever
    - (5) Reach 65-70 points three years ago
      - (a) Put facility into B Violations; 3 months
      - (b) Three (3) years appropriate time; open for discussion
        - a. Language/verbiage is different under the ID-DD Community Care Act
- 9) George Logan made some suggestions
  - (1) Makes sense to harmonize with other rules
  - (2) Need to re-define language in same manner; be consistent

- (3) Conditional license issued: 120 day/90 day
  - i. Facility have Initial License – 2<sup>nd</sup> probationary period
  - ii. Not get probationary/conditional License; covered under another section
  - iii. Facility not get an option to get distressed
- (4) Another way to handle/address some changes
  - i. Table whole rule or what's on the list.
  - ii. Wait until Law goes into effect
  - iii. Agreed with wording substitution; JCAR did not like original wording
  - iv. Last meeting minutes; Questioned statement made by Bill Bell and Terry Sullivan at last meeting minutes to Section 300.170 7)a)
- 2. Terrance Sullivan commented
  - a. Three(3) year period; not recognize how long ago violator points accumulate
  - b. Decrease how much three (3) pts; recent violation counted more severely
  - c. Three (3) year ago- 3 %; change 100% all three years;
  - d. Keep 3 year-reduction value of points (2 or 3 years) prior to current year
  - e. Like concept; pattern of conformity; IDPH regulation determine severity
  - f. Look at CON process; application and background history
- 3. Darlene Harney commented
  - a. Agreed with some suggestions made by IHCA
  - b. Warrants other issues to look at and need for further discussion
- 4. Other Members comments
  - a. Questioned the formula process; recalculate based on current data
  - b. Need to review finalized rules
  - c. Look at distressed facility pattern; history
  - d. Develop a more uniform system; suggest base on federal issue; reference special focus facility - 18 months; get clean survey
    - i. 36 months too long;
  - e. CMS implemented S&C Memo; make changes; new guidelines
- 5. Sean Dailey commented
  - a. Working on rules since 2010
  - b. Look at research; idea-large changes
  - c. Apply for new license when facility is ready to open
  - d. Not open a new facility if already has a Licensed facility that is in stressed status
  - e. CON -Application-time line
    - i. Submit CON; when start construction
    - ii. Two year CON Issue
    - iii. Facility is up and running to get license
    - iv. When corporation become distressed home; problem begins
  - f. Next meeting declare complete review
  - g. Process - public notice time line
- 10) Board members agreed to table and bring back to the Board for further discussion.
  - 1. Sean Dailey commented not to vote on yet; still open for discussion.
  - 2. Mike Bibo commented will send Language changes to Department
  - 3. Darlene Harney instructed members to send other comments/suggestions to the Department
    - a. Comments/suggestion will be brought back to the Board for review
    - b. Request comments/suggestion submit at least 3-2 weeks prior to meeting in order to be included on agenda for discussion
- (b) 7. The Board hand no other comments or questions

Meeting:

Next Board Meeting is November 16, 2017 at 10:00am

- 1. Agenda items to Darlene Harney at [darlene.harney@illinois.gov](mailto:darlene.harney@illinois.gov) by October 26<sup>th</sup>, 2017
- 2. Confirm attendance (or designated proxy) via email to Elaine Huddleston, [elaine.huddleston@illinois.gov](mailto:elaine.huddleston@illinois.gov) and Jason Grigsby, [Jason.grigsby@illinois.gov](mailto:Jason.grigsby@illinois.gov) by November 2, 2017.
- 3. Agenda will be sent to the committee 2 weeks prior to the next meeting date.

Meeting adjourned