



ILLINOIS DEPARTMENT OF PUBLIC HEALTH
 OFFICE OF HEALTH CARE REGULATION
DEVELOPMENTALLY DISABLED FACILITY ADVISORY BOARD MEETING
August 8, 2018 • 10:00 AM – 12:00 PM

APPROVED MINUTES

I. CALL TO ORDER AND INTRODUCTIONS

Connie Jensen facilitated the meeting. The meeting was called to order at 10:02 a.m. There was difficulty in connecting to the Chicago Regional Office at the beginning of meeting.

MEMBERS PRESENT: Michael (Mike) Bibo, Jeff Stauter, Dr. Geunyeong Pyo, Lois Sheaffer-Kramer, Fabricio Balcazar and Dale Simpson (non-voting member).

MEMBERS NOT PRESENT: Deborah Kennedy

IDPH REPRESENTATIVES: Connie Jensen, Sean Dailey, Daniel Levad, Sherry Barr, Michelle Millard, Andrew Schwartz, and Tena Horton

GUESTS: Bill Bell, Marie Rucker and Sarah Myerscough-Mueller

A quorum was not established. Therefore, no official business could be conducted.

II. APPROVAL OF MEETING MINUTES

The drafted meeting minutes for May 9, 2018 were not approved as a quorum was not established.

III. MEMBERSHIP UPDATE

A. Membership Vacancies:

- (1) Physician Member
- (1) Resident Advisory Council Member
- (1) Public Member – Pending Appointment of Margaret (Meg) Cooch, ARC of Illinois
- (1) IL Department of Healthcare & Family Services (non-voting)

Connie Jensen asked the Board to assist with filling the vacancies for the Board.

B. Expired Terms – N/A

IV. OLD BUSINESS

None.

V. New Business

A. *Forming of a Workgroup to Discuss the Definition Sections of : Part 350 Intermediate Care for the Developmentally Disabled Facilities Code: Section 350.330 Definitions and Part 390 Long-Term Care for Under Age 22 Facilities Code: Section 390.330 Definitions*

Connie Jensen asked Sean Daily to address the Board with the proposed idea to establish a workgroup to discuss the Definitions Sections of Part 350 and 390. Sean Dailey informed the Board that they had previously established work groups before to review similar issues/rules. The work group meetings would be like former Board meetings. It is proposed to have as many people as possible (i.e., providers, advocates, and stakeholders) in order that every interest is represented. The work group would review the sections which need a lot of work. The goal would be to get the definitions up-to-date, and delete what is outmoded. It is Sean's goal is to finish the work by the end of September. Subsequently, he would submit to the Legal Department for review, and then onto the Governor's Office. The goal is to also have it on the Board's February agenda. Sean Dailey proposed to the Board that the work group could meet possibly every couple of weeks. Connie Jensen inquired if he was suggesting a face-to-face. He advised that it could be face-to-face, teleconferencing, or videoconferencing.

Mike Bibb stated that the revisions would have to come through the Board for approval. He inquired as to how these revisions would be completed by September if the Board doesn't meet until November 2018. Sean stated that the meetings would not be formal Board meetings; just work groups. Mike Bibb understood. He reiterated that in order for the revisions to go through to Governor's Office that it should go through the Board first.

Sean stated "no", and advised the Board that any rule that gets action for first notice has already been through Legal and the Governor's Office. Once the work group is in agreement with the changes, then they will begin a formal Legal review and Governor's Office review. Once this process is completed, it will be brought back to the Board for a formal vote. Sean emphasized that this has always been the procedure. Mike Bibb disagreed and Connie asked that Andrew Schwartz weigh in on the discussion. Andrew Schwartz stated that this has been procedure the entire Governor's Office administration. Mike Bibb stated he has been on the Board since its creation and that is not how it's been done. Again, he reiterated that the Board has to take action on any proposed rule changes and make a recommendation ("recognizing it is merely an advisory board), and after which, the rules go through the Department of Legal Review and the Governor's Office before it is published. Sean stated that when he brings a rule to the Board for formal action, similar to revisions approved in May, they had already been through Legal Review and the Governor's Office review. Sean stated that this is how it has been for as long as he has been with IDPH.

Mike Bibb asked if the language which was reviewed regarding psychotropic medications, restraints and informed consent was reviewed by Legal Counsel and the Governor's Office before presenting to the Board for review. Andrew Schwartz stated it was not in this instance as the forms were originated with the Board. It was not initiated by the Department. Sean stated "No". This is the process. The language had been approved by Legal and the Governor's Office for a Board vote. The Board had many concerns with the language. After several meetings, it fell by the wayside specifically the restraint language. It was realized that the language for restraints needs to be reviewed and the Department has not been able to complete (Sean apologized). He stated that following a formal Board vote (commonly are changes) the revisions go back to Legal for another review (not to the Governor's Office) prior to filing First Notice. Mike inquired if this would be a little more transparent

than the normal way regulations are proposed. Mike stated that regulations changes usually come from the Department. Sean stated that he wanted to have a lot of input into how these amendments to the sections are drafted. The Department wants to be transparent and iron out many problems as possible prior to First Notice. This will ensure that it does not get bogged down in Comments for Second Notice. Mike asked if it will come back to the Board for approval before it's sent for final approval with the Department and then published. Mike understood.

Connie Jensen informed the Board that Mike Bibo, Lois Sheaffer-Kramer, Dr. Pyo, Sarah Myerscough-Mueller, would like to be members of the work group. She also informed the Board that the Department will send out an email to Board members and interested parties who were unable to attend the meeting to see if they would like to be involved in the work group, as well as the Department representatives. Connie suggested that the Board should start looking at future dates. Sean suggested possibly having the work groups on Wednesdays. Group discussion on possibly having the first meeting the week of August 24th. The meeting was tentatively scheduled Tuesday, August 21, 2018 from 1:00 pm to 3:00 pm. Connie informed the Board that she would send out an e-vite. She inquired to Sean if the work group will be working on both, Part 350 and 390, simultaneously. He indicated "yes" only one (1) work group. She also inquired if the work group would need a certain number of people attending. The work group will plan on meeting every other week for two (2) hours. Connie confirmed that the first work group will be Tuesday, August 21, 2018 from 1:00 pm to 3:00 pm (e-vite will be sent out), every other week.

B. Audit Rips Oversight of Group Homes for Adults-State Auditor's Reports Rips Oversight of Group Homes (Expansive report warns failures put residents at risk)

Connie Jensen informed the Board that the aforementioned article was at the request of one of the Board members and it has to do with an article that she believes was in the Chicago Tribune. The article is about the audit and oversight of the group homes for adults. It was simply added as an agenda item as a "for your information". She asked if there was any discussion. Mike Bibo stated that he only saw where if DD was mentioned was more in the positive sense and about the transition from ICF/DD to CILAs. He thought it wasn't critical of ICF/DD and more focused on CILA. A Board member emphasized that the article was more focused on DHS systems. The article was considered as "FYI" only.

C. Anonymous/Non-anonymous Complaints – Advisory Board Role

Connie Jensen advised that the statistical report of complaints were provided for Board members. These reports are part of the meeting e-vite and provides the 2017 data. At the last meeting, it was discussed that this report was statutorily required because of the Nursing Home Care Act and ICF/DD Act. Asked if the Board had any input such as questions or reporting and if there is any discussion on the data presented/formatted. The Department took into consideration some of the comments made previously. One of the recommendations was to have the report broken down by regions. The report has been broken and information separated. Mike Bibo thought it was helpful as it has been reported. Connie stated the report was based on the long term care regions versus ICF/DD.

Dr. Pyo had a question regarding Regions 4, 8, 9. The data was very high incidence of complaints. She wondered that contrary to the Chicago area, whether it is proportionally high. Connie Jensen stated she could obtain the specific information. She stated it is the rule of thumb for Regions 8 and 9, when the Department is looking at that data it is all of Chicago proper and all of the collar counties. It tends to have a largest percentage of facilities in that area and generally have the larger number of complaints. Dan Levad indicated that Edwardsville has the most ICF/DD in the State (Region 4). The Department is seeing the number of complaints proportionate to the number of beds that are being served. Mike Bibo recommended for next year's report to include under the county, next to the region, the number of facilities and beds that are in the region. Dan Levad indicated that Marion is largest geographically. Connie informed the Board that the Department would take their under advisement.

Dr. Balcazar asked if there was a way to have a record of the type of interventions or step being taken to address the complaints. He wanted to know what type of steps the Department is taking and what type of training is being provided to reduce the complaints. Connie stated that the topic has gone beyond the scope of the report. She indicated that the report is simply to provide the number of complaints. The Department investigates the complaints and actions are taken to correct, if they are found, are the facility's responsibility. Dr. Balcazar would like to know more about how the Department is doing more to enforce the agencies to try to correct and reduce their mistakes. He wanted to know what the Department is doing to track the facility's training.

Connie Jensen stated respectively so, it is taken care of with the Department's enforcement process. The Department investigates if there is noncompliance with a Federal regulation or state rule. The appropriate regulation is cited and remedies imposed if warranted. Dr. Balcazar asked if a report could be provided to the Board. Connie indicated that the Department would not be providing specific details as they are not available.

D. No Reference to MC/DD Act

Mike Bibo informed the Board that the current By-laws don't take into consideration what has been done with creating the MC/DD Act. There is no reference to the Act in the by-laws in order to act upon that. The MC/DD Act says that this Advisory Board would review their regulations. But, the by-laws for this Board need to be inclusive. Where it talks about ID/DD Community Care Act, the MC/DD Act needs to be included.

Andrew Schwartz informed the Board that he will review all of the Board's by-laws. The by-laws also need to be updated regarding the ability of members to attend telephonically. There have been some changes to the Open Meetings Act (OMA). A quorum has to be established physically before members can be allowed to attend telephonically. Legal has been systematically reviewing all of the Boards' by-laws to update to include these changes, as well. Mike Bibo asked Andrew to clarify what he meant by physically (i.e. does videoconferencing count). Andrew stated "yes", so physically mandates that a quorum has to be established at the physical meeting locations. There could be three (3) and five (5) in Chicago, and 10 in Springfield and one (1) in Chicago, and then everyone else could attend telephonically. First, there has to be a physical quorum. The next scheduled meeting in November, Andrew should be able to get an updated draft of the by-laws with the changes and hopefully with the MC/DD changes, as well.

No further discussions.

VI. **Next Meeting**

Next Board Meeting is November 7, 2018 at 10:00 am

Agenda items and confirm attendance to Tena Horton, tena.horton@illinois.gov and Jason Grigsby, jason.grigsby@illinois.gov by November 1, 2018.

Meeting was adjourned at 10:38 a.m.