ILLINOIS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF HEALTH CARE REGULATION
LONG TERM CARE FACILITY ADVISORY BOARD MEETING
February 15, 2018 ● 10:00 AM – 12:00 PM

APPROVED MINUTES

I. CALL TO ORDER AND INTRODUCTIONS

Darlene Harney called the meeting to order at 10:01 a.m. Board members, Guests, and Department Staff were asked to introduce themselves. Tena Horton was introduced to the group as she is assisting Jason Grigsby while on military leave.

MEMBERS PRESENT: Candice Moore, Mark McCurdy, Pamela Blatter, Terrence Sullivan, Dr. Alma Labunski, Dale Simpson, Jamie Freschi, Mike Bibo, and Dr. Albert Maurer

MEMBERS NOT PRESENT: George Bengel, Martin Gorbien, Robert Roiland

IDPH REPRESENTATIVES: Darlene Harney, Andrew Schwartz, George Logan, Sean Dailey, Daniel Levad, Kevin Fargusson, Lisa Griffith, Dennis Schmitt, Elaine Huddleston, Connie Jensen, Jody Gudgel, Michelle Millard and Tena Horton

GUESTS: Bill Bell, Kevin Taylor, Karen Christensen (proxy for Robert Roiland), Andrew Proctor, and Bethany Brown

A quorum was established. Darlene Harney asked the Board members that in their absence they should assign a proxy and advise IDPH of the absence.

II. APPROVAL OF MEETING MINUTES

The drafted meeting minutes for November 16, 2017 were distributed for review. There were no comments or amendments regarding the minutes. Darlene Harney stated the minutes shall be considered approved.

III. MEMBERSHIP UPDATE

A. Darlene Harney announced that the Board has all of their vacancies filled, with the exception of one. A candidate has applied for the vacant position and their application is pending approval.

IV. UNFINISHED BUSINESS

A. Rulemaking – (Skilled Nursing and Intermediate Care Facilities (77 IAC 300) Sheltered Care Facilities (77 IAC 330) Illinois Veterans' Homes Code (77 IAC 340):
Sean Dailey informed the Board that Social Security Amendments, Parts 300, 330, and 340, have all been adopted. There were no questions or comments.

B. Rulemaking – (Skilled Nursing and Intermediate Care Facilities (77 IAC 300) Sheltered Care Facilities (77 IAC 330) Illinois Veterans' Homes Code (77 IAC 340) regarding PA 96-1372 with regard to Distressed Facilities.
Darlene Harney requested a motion to discuss. Mike Bibo motioned to discuss; seconded by unknown.

1. Mike Bibo informed the Board that the law was previously passed eight (8) years ago. At that time, there were minimal distressed facilities. Illinois Health Care Association (IHCA) requested time to file the changes. IHCA has the legislation at a representative's office today to be filed. IHCA proposes to work on the legislation this Spring. The language would term the State name as Distressed Facilities and at the federal level it would be named as Special Focus Facilities. As soon as it is posted, IHCA will make it available to the Board. Andrew Schwartz inquired as to who the representative is on the House side; he was informed it is Gable.

   No comments on 300.185.

C. Informed Consent (IC) for Psychotropic Medication Form:

1. Darlene Harney stated any that comments/recommendations were to be sent by 12/29/17. The Department did receive comments/recommendations which are included with the attachments. Darlene Harney opened for discussion.
2. Mike Bibo cited 210 ILCS 45/2-106.1 which indicates that the Department must adopt by rule a protocol specifying how an informed consent for psychotropic medication may be obtained or refused. Section 300.686 would need to be reviewed, updated and would serve as the protocol. Sean Dailey stated that last version is from 1996 and should be updated. Darlene Harney indicated it was last updated in 2010.
3. The IC is nearing finalization. 210 ILCS 45/2-106.1 states that a standardized consent form should be developed by the Department. It should 1) be written in plain language; 2) downloadable from Department's website; 3) shall include information on psychotropic medication for which consent is being sought and 4) shall be used by every resident for every psychotropic medication prescribed.
4. Mike Bibo informed the Board that an example of Wisconsin's Informed Consent Form was included in the attachments and a link was sent to out to Wisconsin's IC was provided. Although Wisconsin's IC is complicated, the concept is there for what Illinois' IC should entail. An individual would click on the medication name and the IC would be mostly populated specific to that particular medication.
5. Darlene Harney indicated that she thought it was a good idea for Mike to bring up the protocol and the fact that it does need to be addressed. The group should focus more on the protocol. Discussion was open to the Board.
6. Dr. Maurer stated that he liked the intent and is in favor of the IC. He addressed a couple of concerns on the drafted IC dated 02/08/2018. One of his concerns was that fact that the form states "possible side effects". He felt this was an all-inclusive connotation. Felt there was no basis for "test and procedures are required for safety and effectiveness; possible alternatives to taking the medication; and consequences to me if I don't take the medications" included on the IC. Mike Bibo reminded Dr. Maurer that it is the Department's responsibility to find the source. Dr. Maurer did a thorough investigation with various agencies and found that the IC could be a good basis.
7. Although the Board members did not receive the drafted IC (02/08/2018), the 01/26/2018 version was very similar. Dr. Maurer indicated that he made small changes. He bolded the phrase "Additional supporting documentation may be attached" and added "Dosage and timing of administration of this medical may be subject to practitioner adjustment". Darlene Harney clarified the changes made to the new IC (02/08/2018).
8. Dr. Labunski had a major concern about the verbiage "intended to treat". She recommended that the verbiage should read "provides therapeutic assistance" but should not indicate "treatment".
9. Terry Sullivan stated that one of the attempts of legislation was not only does IL have a standardized form but also standardized information. When filling out the form, what is the source that practitioners are going to be using? Feels that Wisconsin is a better form as it is specific and has standardized information, and is not a "fill-in the blanks" form.
10. Mike Bibo stated if the Board uses the form developed by Dr. Maurer, and make Dr. Labunski's recommendations, the Department would then fill in all the detailed information and make the source available, as well. Terry Sullivan's concern is that he can't visualize individual facilities completing the present IC form.

11. Dr. Maurer stated the completion of the form depends upon the level of medical education. Darlene Harney asked what other facilities are doing now to complete the IC. Dr. Maurer indicated that facilities have sheet gives a name of the medication and gives the common side effects. These side effects pertain to that drug. IL should list the common side effects and inform the patient. Darlene Harney advised that the Act states "possible risks and benefits of the recommended medication". Dr. Maurer also advised that "a physician can neither prescribe or administered until consent is formed".
12. Darlene Harney clarified by reading the Act "in addition to any other penalty described by law, a facility that is found to have violated this subsection or the federal certification requirement that an informed consent shall be obtained before administering a psychotropic medication shall thereafter be required to obtain the signatures of two (2) licensed healthcare professionals on every form reporting to give informed consent to the administration of psychotropic medication".
13. Darlene Harney advised the Board that there were other recommendations received. She thanked Dr. Maurer and all the Boards member for all of their hard work on the IC. No further comments/recommendations. Discussion closed.

D. Specialized Mental Health Rehabilitation Facilities 77 IAC 380.530 Rule Change Proposals:

1. Terry Sullivan sent out a proposal for rule changes to 380.530. There are two (2) reasons they are proposing a rule change. The original intent of the rule was to track consistently with the Department of Mental Health (DMH) and have an ability to compare incidents with clients. Second is the categories are duplicative to reports already being sent to the Department. He felt giving reports that are not critical on a monthly basis is not necessary. The second submission will make it a lot simpler than the first one.
2. Changes made:
    a. Changed incidents back to "serious".
    b. Added Suicide Attempts to item #4 as it should be a 24-hour reporting item. Deleted "Medication errors that result in a consumer's unstable vital signs or referral to an emergency room".
    c. Changed number 8 to read after 24 hours versus "an extended period of time".
    d. Separated Assault and Battery into two different items. Sean Dailey asked if Assault and Battery different under the law? Andrew Schwartz stated that they should be separated as they are two different citations. He, also, asked if DMH has them as one. IDPH will talk with DMH about altering theirs. Terry Sullivan agreed to keep them separate.
    e. Did not agree that "other interaction with police" is a 24-hour reporting incidence.
    f. Deleted numbers 11 and 12. These are already reported on a monthly basis.
    g. Added 11. Fires to include as all fires will be reported.
    h. Paragraph (b) deleted "situations" and in paragraph (a).
    i. Paragraph (g) is report of non-serious incidents kept in a log at the facility. Number (g)1 was changed from "perpetrator to consumers involved. Line (g)2 was deleted. Revised as it seemed like stigmatization.

3. Darlene Harney asked in the new Line 9 why other interaction with police was marked out. If other incidents could be considered a misdemeanor, where would these misdemeanors show up? Terry Sullivan stated it would be in the resident's record. The main reason why he is striking "interaction with police" as not every interaction is criminal conduct or results in an arrest. Darlene Harney wanted to know how "criminal conduct" is defined. It is defined by misdemeanors. Darlene Harney's concern is that the Department would not know if there were a lot of incidents with police interaction at a specific facility. She asked are the people arrested or returned to the facility. Terry Sullivan indicated that the individuals are returned back to the facility. Again, Darlene Harney expressed the concern that IDPH would not be included or informed and asked for an explanation as to why he took the verbiage out of Line 9. Terry Sullivan stated that if the Department wants to know about all incidents then they can change the verbiage back to its original content.

4. George Logan wanted to know why Line 12 was struck out. Terry Sullivan stated that it was for all emergency department visits including x-rays and labs versus reportable accidents or injuries. At one time, this was data that was going to be collected by the DMH. There is another section of DMH rules where all hospitalizations

on a monthly basis. Therefore, the Department is provided a long of all hospitalizations. On a 24-hour basis, the only hospitalizations that would be reported are accidents and injuries.

5. Terry Sullivan clarified the recommended changes from the Board. In paragraph A, take out the word "situation". In A6 and A7, separate the words "Assault and Battery" into two categories. In A9, would stay the same to say "criminal conduct and other interaction with police".
6. Darlene Harney wanted to discuss the topic of "missing persons within 24 hours" where there is an injury. Connie Jensen inquired as to why the time frame of 24 hours in A7 was taken out. Terry Sullivan stated it is only reportable on situations where the resident returns with an injury and that it is Public Health's standard of missing persons where there is an injury. Connie Jensen inquired if there is a point at which the resident went home and returned would not be reported if resident is gone for an extended period of time and the facility is unware of their location. Terry Sullivan indicated that Connie Jensen just quoted DMH's definition which is "missing persons for an extended period of time where there is concern about their life". No, there is no "missing person" definition on DMH side and on the Public Health side this is the only code that requires the 24 hours.
7. Darlene Harney asked if someone is missing, does DMH report it to anyone. Terry Sullivan replied no. For clarity, Darlene Harney states the person is not in the facility, they are not utilizing the services and it is not reported to anyone. Connie Jensen asked if there was any type of police involvement after a period of time where you don't know the location of the missing person. Terry Sullivan stated after 30 days it is considered a self-discharge. Darlene Harney indicated that some of these patients could have mental health issues and be taking medications. It concerned her that no one is reporting these patients missing. Terry Sullivan stated depending on the individual and their condition yes the police are contacted if there is some concern. Connie Jensen inquired as to when the police are contacted does the incident become a reportable. Darlene Harney stated that these patients would have to meet a certain criteria of "ifs" in order to report it to the police. She was concerned about the person that has severe mental illness, are being housed in a SMHRF, are on medication and are now missing and it is not going to be reported and no one is not looking for them. Terry Sullivan stated that since IDPH has concern about the verbiage to A7 that he will withdraw and will keep it as it is. It will read "missing persons within 24 hours". Michelle Millard gave a couple of examples of reports received by the Department regarding this issue. Terry Sullivan stated that the types of examples given by Michelle Millard would be reported in 24 hours as it is out of the ordinary. Connie Jensen clarified that these types of incidents would be considered reportable under serious injuries.
8. Andrew Schwartz indicated that the first paragraph needed to be corrected. The word situation needs to be taken out for consistency.
9. George Logan asked Terry Sullivan if he wanted to review his recommendations on the Psychotropic Informed Consent (IC). Darlene Harney asked if there were any other comments on 380.530. She moved to go back to the IC for review. Darlene Harney asked for a motion to vote for changes with amended recommendations; Terry Sullivan made the motion; seconded by Dr. Labunski. Vote taken; unanimously approved; board recommends changes to be made to 380.530.

E. Returned to Informed Consent (IC) for Psychotropic Medication Form:

1. Terry Sullivan agreed with all of the previous discussion. Stressed the issue that IL have a standardized form either developed by IDPH or a Pharmacy in which an identifiable medication form is attached. Between Dr. Maurer's recommendation and the Wisconsin concept, it is his opinion that the Board is on the right track.
2. Darlene Harney asked the Board if anyone has any objections to Dr. Maurer's new IC which was sent on February 8, 2018. Mike Bibo reminded the Board that Dr. Labunski recommendation to change the verbiage to read "provides therapeutic assistance". The Board recommended this change. There were no objections. Terry Sullivan recommended that the Board change "I" and "me" to be replaced with "he/she" on the IC. However, Dr. Labunski indicated it could still be utilized to read "I".

V. <u>Other Business</u>

1. Terry Sullivan addressed the Board and informed them of his retirement. He had been on the board since 1987. He was the longest serving member. Darlene Harney thank him for his years of service. He has recommended his replacement to finish his term. If recommendation has not been approved by the next meeting, Mike Bibo asked that Terry Sullivan have a proxy.

2. Tena Horton reminded the Board members that they are required to complete the 2018 Ethics Training due May 31, 2018. The Sexual Harassment Training due in May 1, 2018.

Terry Sullivan moved that the meeting be adjourned. The meeting was adjourned at 11:38 am.