



ILLINOIS DEPARTMENT OF PUBLIC HEALTH
OFFICE OF HEALTH CARE REGULATION
LONG TERM CARE FACILITY ADVISORY BOARD MEETING
August 16, 2018 • 10:00 AM – 12:00 PM

APPROVED MEETING MINUTES

I. CALL TO ORDER AND INTRODUCTIONS

Connie Jensen called to order at 10:04 a.m.

MEMBERS PRESENT: Patrick Baalke, Dr. Alma Labunski, Candice Moore, Mark McCurdy (proxy Rob Lewis), George Bengel, Mike Bibo, Dr. Albert Maurer, Jamie Freschi, Pamela Blatter, Dale Simpson, Karen Christensen, and Julie Harcum-Brennan (proxy Suzanne Courtheoux)

MEMBERS NOT PRESENT: Martin Gorbien

IDPH REPRESENTATIVES: George Logan, Sean Dailey, Sherry Barr, Connie Jensen, Tena Horton, Michelle Millard, Daniel Levad, Andrew Schwartz, Sara Wilcockson, and Henry Kowalenko

GUESTS: Andrew Proctor

A quorum was established.

II. APPROVAL OF MEETING MINUTES

Connie Jensen asked was there any discussion on the meeting minutes from the May 16th meeting. No discussion from the Board. She asked if the Board had a motion to approve the minutes as presented. Karen Christensen motioned and Mike Bibo seconded. Unanimously voted and the minutes were approved.

III. MEMBERSHIP UPDATE

Connie Jensen informed the Board that there were no member updates. There are no membership vacancies and the Board is very pleased.

IV. UNFINISHED BUSINESS

Connie Jensen stated that there is a misnomer on the agenda as far as rule updates. This discussion is related to rule updates. She requested that Sean Dailey provide information to the Board regarding these updates.

A. *Amendment to 77 Ill. Administrative Code 330 to Strike Subsection 330.910(f), which conflicts with admissions language in Section 330.720.*

Sean Dailey informed the Board that IDPH noticed that there is a conflict in Section 330.720(e), which indicates that “no person shall be admitted to or kept in a facility with serious mental or emotional problems based on a medical diagnosis. In 330.910 Section: Personnel, subsection (f), states Facilities that care for mentally retarded or discharged psychiatric residents shall be required to have a social worker who shall devote x amount of time to care for these people. This is a conflict. Rather than to create an amendment by deleting (f) the Department wanted to present to the Board and we were hoping that Bill Bell would be present. Bill Bell was with the

Department for a long time and he might be able to identify if it was an accident or was there a good reason why subsection (f) was published. Or, ask if subsection (f) already existed and then the Department inserted the 720 e)3) and people already in the facility were grandfathered in.

Mike Bibb asked that Sean read 910 f) again and then read 720 as he is not so sure there is a conflict. Sean agreed and stated that subsection 910 f) reads "Facilities that care for mentally retarded or discharged psychiatric residents shall be required to have a social worker who shall devote at least 40 hours per week providing that the facility cares for 75 or more residents. " Subsection 720 e)3) states "No person shall be admitted to or kept in the facility who has serious mental or emotional problems based on medical diagnosis". Mike Bibb stated that there is a partial conflict as 910 f) refers to both developmental disabilities and mental health psychiatric where 720 prohibits the mental health, but not the DD part.

Due to the many technical problems which occurred today, the teleconference parties were just dialed in. They are Jamie Freschi, Dale Simpson, and Pamela Blatter. Connie Jensen advised the callers that the Board had made introductions and approved the minutes as presented and are now on the rules discussion. The discussion is centering on Administrative Code 330 Section 330.910 f) which appears to conflict with admissions language in Section 330.720. One section makes a reference to psychiatric diagnosis as well as DD, and the other one references social service. The Board was trying to get some background to see anyone had history regarding this conflict.

Mike Bibb stated when Bill Bell returns next week, he will ask him to give Sean Dailey a call. Sean reminded Mike Bibb that it is only a partial conflict. Sean asked if Subsection e)3) since based on a medical diagnosis would just be MI, and that Section 910 mentions DD and MI. He suggested a fix could be to change mental retarded to developmentally disabled and strike the reference to discharged psychiatric residents. It would read "facilities that care for developmentally disabled residents shall be required to have a social worker". Sean asked Connie Jensen if it was appropriate. Connie asked Sean to repeat the area that would be stricken. Sean stated that the initial "idea" was to strike (f) as it appeared to be a conflict. Then, it was decided to bring it to the Board and get their advice. Connie Jensen asked if the bottom line is does it still allow for the admission of residents with serious mental illness into sheltered care. Sean stated "no". Connie Jensen wanted to ascertain that the Board was not switching that. Mike Bibb emphasized that it would allow developmentally disabilities to remain; not the serious mentally ill. Connie stated that the concern would be with the staffing of sheltered care. No further discussion.

B. *Amendment to 77 Ill. Administrative Code 300.110 g) regarding the Voluntary Closure of a Facility*

Sean Dailey indicated that these amendments are still being drafted and will be part of a larger packet with other amendments. Mike Bibb informed the Board that there is a conflict between the Federal law and the State law. Connie Jensen asked for clarification as to the reference of "60 day" versus "90 day". Mike Bibb stated that either Federal or State law has a "90 day" provision and that the Affordable Care Act has a different provision. Sean Dailey stated that if the State statute conflicts with the Federal statute, it is out of the State's hands. The Department could possibly get with Legal and try to figure out what could be done.

Andrew Proctor asked if the Department had a timeline as to when the packets would be completed. Sean stated the amendment for shelter care could possibly be through quickly and to the Governor's Office. We may possibly have it by the November Board meeting. Andrew also inquired as to when the larger packet would be completed. Sean stated possibly November and if not, definitely February.

No further discussion.

V. OLD BUSINESS

A. Facilities Use of Serious Injury Incident Report Form

Connie Jensen advised the Board that Bill Bell suggested this as a topic. Bill was researching to see what the facilities use as the Serious Injury Incident Report Form. This was the form the Board worked on for a long time and went to a standardized form. The Department made it available on the website. The form is not required. It was made available to ensure uniformity. Connie estimated that 2-10% of the facilities actually utilized the form. This form is not required in the language of the rules. The Department does allow the facility to email the form.

Mike Bibb stated that some facilities who have emailed the incident form have reported that during their survey the facilities are being questioned by surveyors who indicate the form must be faxed. Surveyors are indicating that the form must be faxed. The facilities are having to retrieve the old information. Mike asked if the email address for the form is on the website. Michelle and Connie stated that the Department would review the website as it could be a possibility that the email address is not on the website. Connie advised the Board that she would reach out to the surveyors and Explain that the option had been provide to allow for email submission of incident reports.

B. Status of Distressed Facility Rules and Proposed Legislative Revision

Connie Jensen advised that this topic was presented by Bill Bell. Mike Bibb reminded the Board members that this was a topic last year. This topic was about the distressed facilities and coming forward with the language. IL Health Care and other associations asked that they be given the opportunity to try to fix it. The intent was to make distressed facilities match special focus. Special focus would be used as the definition versus a 2008 report based on 2004 data, which would always require that there be 40+ distressed facilities in the State. The Department allowed the associations time to complete. However, the sponsor wanted Wendy Meltzer's (Illinois Citizens for Better Care) input. Wendy was unavailable and the timeframe lapsed. All of the associations decided to proceed next year (not during Veto session) and have explained to the sponsor that Wendy wasn't available. The group will have an opportunity to move forward without her input for it to be published as legislation. Subsequently, Wendy would have the right to review and make comment at that time.

Jamie Freschi informed Mike Bibb that she had been in contact with Wendy. Unfortunately, Wendy had family concerns. She is now available and is very interested in having conversations regarding the issue. Mike Bibb will inform that legislative staff and they will reach out to her during the Fall. Jamie agreed that there is a delay. Connie Jensen wants to ensure the Board has the correct contact information for Wendy.

Dr. Maurer wanted to know what was the finalization of moving from distressed to compliant or compliant to distressed. Mike Bibo indicated that the proposed rule had a three (3) year look back and get off the point system of having x number of points. What was drafted by the Associations in legislation would mirror the special focus on the Federal side. The intent was to follow the special focus criteria. If you are a special focus facility on the Federal side, you are distressed facility from the State side The State would have the ability to have more stringent requirements if warranted. Getting on and off the “distressed facility list would be similar to the Special Focused requirements.

George Bengel joined the conference via telephone.

Dr. Maurer asked if it is still possible for a facility in compliance to be moved to a distressed designation. Mike Bibo indicated that it is not possible as the regulations have not been adopted. Dr. Maurer commented that a physician would not understand distressed facility issues, as he didn't until being on the Board. Dr. Maurer asked if there is anyway the Board could keep the attending physicians involved in this process, and that legal could possibly have some comments regarding this issue. Andrew Schwartz stated if it is wanted to be included in the legislation it could be part. But, Andrew was unsure specifically what Dr. Maurer was referring to when stating “keeping physicians aware”. Dr. Maurer stated he is referring to the implementation on any rule or regulation with regard to physicians’ understanding. He could see where there would be a possibility where a resident in a distressed facility that is made a distressed facility might claim substandard care. Andrew Schwartz stated if the answer is “once the law gets amended to reconsider putting some physician information notification in the regulation that implement the law into effect”, then certainly the State can draft and bring to the Board for consideration. Mike Bibo advised current special focus facilities are obligated to notify the medical community, referring hospitals, family members and others (i.e., Medical Directors). From the same standpoint, this would be the same triggers.

Andrew Schwartz reemphasized that it is something to consider if the law is successfully amended and the State implements regulations. Dr. Maurer provided a scenario for the Board. Mike Bibo advised Dr. Maurer that the Board should wait until we have legislation drafted in order to provide such comments. Andrew Schwartz concurred that until legislation is active the Department would have a problem with engaging with IDFPR to let them know that there is new legislation. IDFPR would chose to inform, contact and educate how they deem appropriate for their licensees.

No further discussion.

C. Status of Informed Consent Form and Rulemaking

Connie Jensen advised the Board that there are not any updates on this topic.

D. Proposal of a rule change to Section 300.120 – Application for License:

Amend Section 300.120 e) by adding a new 6) “Each facility must have a facility specific email address that does not change.” This will allow for future electronic POC’s and address the IDPH SIREN and other notification needs.

Connie Jensen recapped where there was a discussion on the application for license that there was a possibility of amending Section 300.120 e). This Section would have added a requirement for facilities specific email addresses that did not change based upon administration changes. The Department moved forward with this process as they progress with the Electronic Plans of

Corrections (POCs), Siren and other methods of notification. At the last discussion on this topic, the Board did not want to move forward and to keep it at a discussion level. Mike Bibo stated that this was a discussion in the last Association meeting. It was deemed that they did not want to get too far out in front of the other. It was recommended that each facility set up an email or an administrator@ email, versus utilizing someone's name. IL Healthcare has recommended that its members set up these types of emails, as well as other associations. It is hard to explain to why they need to set up these types of emails when Public Health is not likewise moving forward with the role change. Since legislation takes six (6) months, Mike Bibo advises the Board that their recommendation be that Public Health proceed with rulemaking. Connie Jensen stated there could be more discussion at the next meeting, if needed.

E. Discussion of PA 99-822 and Rulemaking for New Dementia Requirement

Sean Dailey advised that the rule is in legal review and is a new part/act. Andrew Proctor inquired if that would take into consideration the trailer bill. Sean ensured it would. Andrew also wanted to know if it would take into consideration for the current training requirements that staff already have.

No further discussion.

F. Discussion of PA 100-0217 and Rulemaking for Nurse Waivers

Sean Dailey stated it is being drafted and will be included in the large packet that includes voluntary closures amended.

No further discussion.

VI. NEW BUSINESS

A. Discussion of a Change to the Emergency Medication Kits Requirement

Connie Jensen stated that there was discussion of a change to the emergency medication kits requirement. Bill Bell had background information which was submitted. Mike Bibo was unable to provide any background. Dr. Maurer wanted to comment. His comments were in respect to nursing aspects. He stresses that anytime one works with narcotics, one is dealing with a serious matter because of the nature of the care that those narcotics treat. It is a legal and practical carefulness. Dr. Maurer investigated as to what medications are included in an emergency box versus a convenience box. His concern is the mixing of the narcotics with the convenience box as it is opened more times than the narcotics box. If combined, the narcotics box contents are exposed and would create exposure to errors.

Dr. Labunski asked Dr. Maurer what are the contents of the convenience box. He informed her that the emergency box contains Scheduled Class II drugs. In the convenience box, there could be Class III, IV, V, and VI. Brief discussion on the difference between the two. Mike Bibo and Connie Jensen advised the Board to postpone the discussion until Bill Bell is present as he has been active in previous discussions. . This topic would be tabled until next meeting with Board agreement.

B. Anonymous/Non-Anonymous Complaints:

The Department wanted to bring attention to the anonymous and non-anonymous complaints, which had been forwarded to the Board members. Connie Jensen inquired if anyone had any comments. Mike Bibo asked for clarification that there was a different report for DD. The numbers were not included in the LTC report. Mike Bibo proposed to add two (2) more columns

to the report. One would have the number of facilities which are in each Region and the other would be how many beds. Connie Jensen advised that the Department would work on adding these two (2) columns.

No further discussion.

Connie Jensen asked if there was any other information which needed to be presented before the Board. Sean Dailey introduced Sara Wilcockson who is the new Rules Coordinator.

VII. NEXT MEETING

Next Board Meeting is November 15, 2018 at 10:00 am

Agenda items to Tena Horton at tena.horton@illinois.gov by October 29, 2018.

REMINDER:

Mike Bibo reminded Andrew Schwartz to discuss the telephonic issue versus the videoconference. Andrew stated that he was going to present updated bylaws to the Board in November. The Department is making an effort to update all of the bylaws with recent amendments to the Open Meetings Act. One of the new requirements is the way the quorum is called. Briefly, what it mandates is that the quorum must be created through the physical presence of members at actual meeting locations before you can have additional members appear telephonically or through videoconference. For example, today there are enough members at the three (3) sites, so this would qualify as a quorum. Then, the Board would be able to open up to videoconference and teleconference. The Department would also review the bylaws to ensure they are similar to the Act. Hopefully, there will be an updated draft to present to the Board members in November.

Connie Jensen asked for a motion to adjourn. The motion to adjourn was made by Karen Christensen; seconded by Mike Bibo. Voted unanimously. Meeting was adjourned at 10:57 a.m.