IDPH
ILLINOIS DEPARTMENT OF PUBLIC HEALTH
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Meeting Minutes
Home Health, Home Services and Home Nursing Advisory Committee Meeting
April 13, 2022 - 10:30 a.m. – 12:30 p.m.
WebEx Meeting Access Information:
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Call to Order

Members Present: Sharon Bargmann, Aishling T. Dalton Kelly, Jack Kreger, Tina Moore, Gabrielle Cummings, Shawna O'Dell, Rowena Oliva, Patricia Pierro, Linnea Windel, and Jeffrey Workman

Members Absent: Yaquta Patni

Department Staff: Karen Senger, Sean Daily, Beck Dragoo, Deputy Director, IDPH Atty Seulgi Han, Sara Wilcockson, Annette Hodge, Brian Mathis, Sara Ross, Siji Varghese, Jackie Richmond, Stephanie Glenn, Rani Harms, Beena Varghese

Guests: Mary Williams, Sara Ratcliffe, Liz Vogt and Jason Speaks

Introduction of Committee Members and Guests

Karen Senger, Division Chief of Division of Health Care Facilities & Programs called the meeting to order at (10:33 a.m.) announcing this is the Home Health, Home Services and Home Nursing Advisory Committee Meeting with today's date being April 13, 2022.

Karen Senger reminded Members and Department Staff that this meeting is being conducted viaWebEx and gave a brief explanation of the protocols for conducting this meeting. This is a publicmeeting, and it is subject to the Open Meetings Act (OMA) and a recording of this meeting is permitted. Today's meeting is being conducted via WebEx, which allows audio and other information said during the session to be recorded. By joining this session, you are automatically consenting to such recordings and if you do not consent to be recorded, then you should not join this session. This introduction statement is being read so everyone is aware that this meeting is being recorded.

Since we are conducting this meeting from our desks and computers via WebEx, you will need to please mute your phone or computer when you are not speaking so we do not get echo feedback from members and quests of the public that wish to speak. Members of the

Public and other wishing to speak will be recognized by the chair during public comment period, which will open the floor at the end of the meeting for discussion/comments.

An introduction of Board members was conducted to establish a quorum. After roll call was conducted, a quorum was established at this time and the meeting was called to order.

Approval of the Draft Minutes for the October 13, 2021, Open and Closed Meeting Session (VOTE} {Exhibit 1}

The draft minutes of the October 13, 2022, meeting minutes were reviewed and discussed by the Board. A motion was made by member, Rowena Oliva to approve the minutes, 2nd motion made by member, Jeffrey Workman and was unanimously approved by all board members, as presented.

OLD BUSINESS

Discussion on Public Act 100-0513 Nurse Practice Act Adm Code 1300.20 {Exhibit 2}

A subcommittee was supposed to have been formed and have met since the last meeting. The reason for the subcommittee was to look at the drafted discussion rules that had been put together and try to incorporate the nurse delegation and how it would impact our licensing of the home nursing and home health by statute. In the public act, for the nursing regulations, the home service agency was exempt. They could not have a delegation of medication administration of certain medications by a non-licensed professional since there are no medical services. We had looked at what the Nurse Practice Act rules had incorporated was related to the Home Health and Home Nursing Administrative Code 245. It was brought to the Committee because there was discussion if we wanted to have some guidance within our rules to implement that Public Act or whether we would just leave and know that it is a part of the Nurse Practice Act and would be dealt with accordingly by an individual nurse delegation, within their care and management of patients.

Looking for board input and discussion. Is this something you do not want to address in our rules or leave it just under the Nurse Practice Act and not put in our rules?

Rowena Oliva questioned if it becomes part of the ruling and what that means that down the road, what leeway would we have in adjusting the definitions, as opposed to incorporating it now.

Karen noted that we cannot make it less stringent than what it is in the Nurse Practice Act and that we would have to follow that. It identifies at the delegation level, what kind of medications can be delegated and what needs to happen as a part of that delegation. It was noted that's where the Hospice industry decided not to put it in their rules and just felt that it needed to be available in education.

Jeffrey Workman stated that he thought it was a good idea to have the subcommittee, but if there was no interest it was understandable. If there is interest, he offered to push through the health department to try to get some people to volunteer for the committee.

Shawna O'Dell said that she feels it is an agency nurse driven type of education component.

Jack Kreger, Patricia Pierro and Sharon Bargmann agree.

Karen stated that it looked like everyone agreed not to amend the rules but that we could always revisit the topic if it was noted to be an issue.

Educational Tools/checklist for compliance Adm Code 955 Healthcare Worker Background Check {Exhibit 3}

IDPH has developed 2 educational tools that we are wanting the boards input on. Our legal team has seen these and they would potentially be going on IDPH's website but will also be available to surveyors when they are on-site for agencies.

There are 6 website verifications with tips to maintain compliance. IDPH is seeing a lot of agencies that don't understand the healthcare worker background check process and have asked for examples of what needs to be included in that process when they are doing that background check.

Also, there is a new hire/rehire background check, which is not being mandating. We noted that just because an agency does this checklist, it doesn't mean that they're in compliance with the actual 955 code for healthcare worker background, but it is giving some guidance and tools. IDPH is hoping that this would be very helpful, if this is on our website, especially for new applicants coming in who may not understand the process.

Sharon Bargmann thinks it would be incredibly helpful to have that on the website, to have that information available at their fingertips to make sure rules are being followed correctly.

Linnea Windel, Aishling Dalton Kelly, and Patricia Pierro agree.

Rowena Oliva wondered if we should add at the top, that this is also for unlicensed volunteers. All agreed.

Jack Kreger stated that not every agency checks into the website regularly and suggested an email blast to get the word out.

Karen Senger stated that hopefully, this will help decrease our fines and agencies will be more compliant with the healthcare worker background checks.

Regulations Updates - Proposed rules at JCAR March 22, 2022

The rules that were voted on at the last meeting at the board are still going through that Legislative approval process. They are not finalized yet.

Jack Kreger asked if we could put a link to where the proposed changes are on the register as the current site is not very user-friendly.

Karen thanked him for the information and said that she would take that request back to the rules committee department and see if that is an option.

NEW BUSINESS

Board Membership Updates

Karen thanked all the board members for their work and noted that there are still a few vacancies currently on the board. She stated the need for a general public consumer advocate, a home service worker, a general public consumer family member of a home services industry and a representative for a private not-for-profit home health representative for a home health agency. She noted that we are waiting for determinations of several reappointments and noted the recent resignation of Susan Satchell as committee member.

Medicare Home Health regulations for Staff vaccination {Exhibit 4}

The most current Medicare guidance that affects home health mandated vaccination of staff, was recently updated on April 5, 2022, and was included with the agenda. IDPH has only had two facilities that have had a condition level, of non-compliance in relationship to this mandate.

Discussion (best practice client/worker handle client funds, Adm Code 250.250

The next topic of discussion has to do with how agencies best handle and manage client funds. IDPH has had some concerns and wanted to get some insight on what the best practices might be.

This has to do with client funds, meaning going to the store picking up items, picking up their prescriptions, going grocery shopping, etc. How do you ensure proper management of these client funds? IDPH doesn't want to micro-manage facilities but is wondering what are some common good practices that could be implemented. These types of complaints seem to be popping up a little more frequently and we'd like to help prevent the potential exploitation.

Aishling doesn't think there is any perfect program in place, but a refillable card is certainly something that we should all work towards. Family members, or whoever is taking care of the patient, can put that in place and reload when needed. The employee will never have access to any private information at all. She has personally seen a huge uptick in family members calling to complain about other agencies where this has been happening on an ongoing basis. They're afraid to utilize home care in their home again. This card is a nicer way of handling funds, with small increments, in case the caregiver was able to take off with the card. Her facility currently does receipts. They are given a cash amount they must sign for, go to the store, bring back the receipt and the client/family member must sign for the reimbursement that's given back. That's not always effective when you're dealing with a client who may have a form of dementia and doesn't always know what they're signing.

Karen agrees that these are good points and asks for any other thoughts on what we, as an industry, can do to help. We know that you're never going to prevent 100% of compliance by all people. And again, we can't consult, but we want to make sure that we have other avenues available.

Patricia Pierro noted that that they are not really having that issue very much, but that is due to being able to order things prior to prior to picking them up and having them paid for in advance or having things ordered and delivered. They try to encourage families not to have them handle cash. She agrees with Aishling's comment about pre-loading a card as being a good suggestion.

Jack Kreger has had some experience, actually as a family caregiver, where the family used a credit card and gave the home service worker the credit card to go and pick up groceries when needed, and it seemed to work well. They were able to get a receipt and didn't have any fraud happen. If there was misuse of that card, we could always work with a credit card company, not to pay it.

Karen also wants to know what facility's current policies are on facility response time from a client call. We're seeing more complaints that clients and their families can't get ahold of anyone at the agency. Do you in the industry have a standard of practice for turnaround time? This is not in our rules, and again we can't micromanage every scenario within regulations, but we're trying to address response times. Are there multiple avenues for the clients to be able to reach the agency?

Patricia Pierro has taken over "on-call" from her agency. During the past year, what she's found is that a lot of people do call after-hours and the fact that someone answers their call, is found to be very reassuring. Those calls she will refer on immediately to the coordinator for that case or do the intake and that's now become their way of operation. Some call backs are within the next day. This has been very educational.

Tina Moore states that they do 24-hour on-call and clients are surprised to receive an answer on the weekends. A lot of times they expect to leave a message, but they're clear in their meetings that they are available 24/7 for emergencies. They find more the case, that it is actually the caregivers calling in after hours for things that they could wait on, so they've tried to better educate their staff.

Patricia Pierro agrees that that's very true that it's usually staff that will call in.

Linnea Windel does something similar with on-call after-hours.

Karen Senger states that maybe we should address as a part of that license application, or a part of the regulations that you have the availability of after-hours calls beyond your business hours. Things don't just happen from 9 to 5, Monday through Friday. Is that something you feel that the industry would have an objection to? She's not quite certain how that would be placed in the rules, but it's something to address, to mandate that type of availability.

Sharon Bargmann would agree with that.

Jack Kreger can't imagine an agency, in their public relations or their advertising, that would dare print a call timeframe as 9 to 5 only.

Karen has agreed to put something together to bring back at the next meeting with language that we might consider trying to have that more enforced. We're just getting way too many complaints of patients and their families unable to reach the agency. There should be no reason, in this day and age with emails, texts and cell phones that you can't reach someone to address your concerns.

Sharon Bargmann agrees that they have one person on-call during the week and then others on-call during the weekends. They also have backups.

Tina Moore's facility does the same and thinks, at a minimum, agencies could hire an answering service, just to take the call so that there's a live person to expedite. The client deserves to have someone answer the phone 24/7.

Aishling wondered, on average, how much time lapse there was before these agencies were reaching back out to the clients.

Karen answered that the complaints usually only occurred when it was more than 24 hours to receive a response.

Abuse/Neglect/Theft (ANT) findings/ 955 Code {Exhibit 5}

The other item Karen wanted to discuss was abuse, neglect, misappropriation of funds and property and the reporting that's required under our administrative rules. If an individual is identified as having an ANT finding, which would be determined by a committee of the Department, is separate from our regulations on abuse reporting to IDPH. It is mandated, if it's an employee that is alleging abuse with your client, by 245.250 B and D. It identifies what needs to be reported to the IDPH within 14 days of your investigation. That doesn't automatically put them on the registry with an ANT finding, by just the agency reporting that information. Obviously, there's due process for that individual. Once IDPH receives that, we generally would be reaching back out for more detailed information. These do go through our legal department. They review this information and get the actual police reports with detailed information to determine whether someone met that threshold level to have an ANT finding on the healthcare worker registry. There is some confusion in the industry, that they were told they didn't need to file a police report, because they reported it to the department, under the administrative code 245.250. That is not the case. We do need to make sure to encourage family members, when you've had financial exploitation and abuse

exploitation, that besides reporting to the department, you still have the obligation to report to the Department of Aging. If it's elder abuse, you also have an obligation to encourage the family to file a police report. You can't mandate them, but you really want to highly encourage them. Just doing that first step is not going to prevent that worker from being on the registry to not work again.

Sharon Bargmann asked whose responsibility it is to file the police report.

Karen Senger stated that it is the agency or the client's family, but preferably the family, and that the Department cannot file a police report. If the agency has all the facts, they can file the report. We need to make sure the industry is educated on what that process is.

Tina Moore asked if the registry for adult protective services is tied to State services.

Karen answered that goes through the Department of Aging, through the CCP program. She's unsure of their due process, and how to get them on that list, but for them to be on the healthcare worker registry as an ANT finding now (finding is different than a criminal charge). She can check with our legal department in the healthcare worker registry as to whether we have access to the adult protective services listing and if there is communication between the two that maybe we aren't aware of.

Jack Kreger asked, just for general background, how many referrals to the ANT committee do we see every year?

Karen said that she is unaware because she's not a part of that committee, but she can find out just to have the information for the next meeting.

Tina asked if a complaint is made to the Department of Aging, does it get cycled through the Department of Health.

Karen answered no, that's why it's required for both to be notified. She can contact a representative from that group to come and talk at our next board meeting about the whole process to help us understand how it's tied together.

Sara Ratcliffe noted that she and Liz Voigt manage the Illinois Home Care and Hospice Council and also manage the Illinois Association of Community Care Program of Home Care Providers. Liz noted that the ANT does send findings over to the registry. She is unaware of how often. She is wondering if it would be possible to put together something that we can distribute on this topic for our members that has the process of reporting and what people should do, so that we can put it on our website and distribute it to our members. They can work with us on that.

Karen agreed and noted that if they want to send some information, she could look it over and talk to our legal department to see what is possible.

Aishling agrees that this would be an amazing educational opportunity for agencies to understand that they do have the power to pursue and to continue to actually make a police report because probably 80% of the time a family member doesn't want to, because they're frightened of repercussions because the caregiver knows where they live. Then it goes nowhere, and he or she sadly shows up again at our agencies. This causes a lack of accountability for multiple agencies here in Illinois.

Tina questioned situations where it is the client's family member is that tied into this abuse.

Karen answered that it would be the Department of Aging that you would need to make that report to because that would be considered elder abuse.

Home Health Agency Initial Applications Report {Exhibit 6}

Next is the home health initial application report. In the last 2 years, we received 32 of initial license applications. 12 of those became licensed. 11 ended up closing out the application process and did not end up pursuing licensure further. We have, as of early March, 9 of them that we're still working to get through the survey process. At the end of March, we had 8 initial applications in the process that were trying to get licensed. We had 23 changes of ownership, as of early March 2022 as well. We've had 21 agencies close. We've seen a decline in closures. We've not seen an increase in initial applications. So, home health has kind of plateaued, as far as the number of providers within the state.

Home Health Agency Survey data {Exhibit 7}

We have 593 licensed agencies. 550 of them are Medicare certified and of those 550, 200 are deemed or accredited, meaning they got surveyed by accrediting organization. In 2021. we received 48 complaints. 31 were investigated and 16 were substantiated, 15 were unsubstantiated. In 2022, as of the end of March, we had 6 complaints. 3 were investigated and 2 were substantiated. We are currently not doing sample validation surveys, which is a follow up of the accredited organizations. Since Covid, those have been suspended by Medicare. We don't know when they will be resuming those surveys. We do surveys for Medicare certified home health agencies every 36 months. From 2021 through March of 2022, we did 178. Six (6) of them had conditions out of compliance and those are identified as: 6 of them with the emergency preparedness, 3 with Care Planning, coordination, quality care, 1 with patient rights, 1 organization/administration, 2 clinical records, 3 with infection control. And, as stated before, we've had 2 that are related to the vaccination process. 1 was skilled nursing, and 1 with Comprehensive assessment. We've conducted 18 initial licensure surveys in 2021. 6 so far in 2022.

We had quite a few agencies in 2019 and 2020 that had done no background checks. In 2021, this number dropped, so we're hoping the numbers will continue to decrease once we do this education. We are seeing that these are not repeat agencies – it is always the first time.

In meetings past, I was able to give you an analysis of these types of standards and what the most common standards that were cited under home health. Medicare has gone to a new database, which is called iQIES and unfortunately, there are no reports that we can print out of that database to identify the standard level violations. Hopefully, in the future, that will be reinstated.

Home Services, Home Nursing, Home Services Placement and Home Nursing Placement Applications {Exhibit 8}

Rani Harms covers the information on exhibits 8 and 9. She pulled numbers from January to March 23rd for 2022. In 2022, the initial licensing applications we received, there were 48 total in just that short period of time. There are 28 still in the review process. 15 are awaiting the submission of their required initial licensing survey documentation to schedule them for a survey. And then 3 were already scheduled for initial licensing surveys.

For 2021, we had 225 initial applications. 142 of them were licensed. 17 of them withdrew their application voluntarily. Applications that were in-review still from 2021 are down to 2. We had 11 awaiting their survey documentation. 52 are awaiting their initial licensing surveys just from last year's numbers. We've had an uptick with applications, ever since 2017 and we don't see that slowing down. From January 1, 2021, through March 3, 2022, we've had 114 home service agencies close. Home nursing 39, Home Service Placement 12, and Home Nursing Placement 2. And just to note, that's both initial applications and previously licensed agencies.

With the 4 licensed programs, under the number of agencies, we're up to 1219 licensed agencies between homes services, home nursing and the placement agencies. Definitely a growing number of providers.

Home Services, Home Nursing, Home Services Placement and Home Nursing Placement Survey timeframes/process {Exhibit 9}

January 2021 through March 3, 2022, we licensed 104 new home service agencies, 32 new home nursing agencies, 5 new home service placement agencies, and only 2 home nursing placement agencies.

We still have 56 agencies out there awaiting licensure surveys. Currently, we're processing 40 initial applications during that period.

As far as surveys are concerned, in 2021 we were able to accomplish 427 surveys. 222 of them were initials. Those were all via WebEx.

Annual surveys, which means are they have had their initial licensing survey, but have not been reviewed since, for their renewal survey. We had 161. We had 3 follow up surveys. We also had 35 complaint surveys and what we call "drive by" surveys, meaning licensed agencies that we're trying to determine if they are really in operation or if this was never a legitimate agency that applied for licensure. We had 2 drive by surveys last year. January 1 to March 3 of 2022, we had 76 surveys. 27 of them were initials. 40 were annuals. 8 were complaints and 1 was a drive by.

We had a huge backlog of initials, so we are probably going to see more renewals than initials going forward.

The survey preparation page was just provided to everyone to share amongst your colleagues.

Rani sends out the list in an email to notify the agency whenever it's an annual survey so that they can properly prepare for the upcoming onsite survey and have all this documentation ready for the surveyor. Often, a frequent question is how to prepare for their survey, especially for those agencies doing their first on site survey. This document tends to be very helpful.

Tina Moore thinks that this will reduce the number of findings that IDPH gets and asks for a summary of the survey findings we've had recently.

Most are out of scope of practice. What we typically find is a home service agency who's stepping outside of their scope and performing practices that should only be performed by licensed individuals. That is pretty concerning. Another very common one is the employee's required training/education, making sure that you have everything documented that's required within that 245.71 documentation component because the surveyor does look for every single aspect. Rani said that we saw the 90-day Supervisory visits still being a problem, but that's tapering down quite a bit. Also, the Alzheimer's training, tended to be a violation, the supervisory business, and the healthcare worker background.

Unfortunately, our new database isn't as user friendly to be able to just run a report.

Jack Kreger asked how many of the 1219 agencies hold multiple licenses.

Rani and Karen agreed that's something that we can work on to bring back to the next meeting.

Tina Moore asked if there was a limit to the number of counties, or on the size of the territory that you can service.

Karen responded that there's not a limit within the rules and it's another area we're trying to address from a regulation/rule perspective. Your counties must be contiguous. We do look at how far out your territories are and how you're going to be able to still manage those services. You must have enough staff

to be able to cover the territory that you're looking at. So, you can't have 50 counties and have 3 nurses and expect that you're going to be able to provide to meet the needs of a client who calls tomorrow. We also do look at the referrals that you're getting from those counties, that you're wanting to add those additional services to expand your territory. You may need a branch office to be able to assist managing that territory. We're obviously not going to let an agency cover Cook County and be down in southern Illinois. There's just no way, logistically, that you can adequately supervise and manage the business from those services in that form of distance. There is nothing that says distance within the rules, but we do look at all those factors. We also do look at their survey history and their deficiencies. So, if you've got an agency that has a lot of deficiencies without a scope, no supervisory visits and problems on training, we're probably not going to grant them additional territory for more clients, when you're not currently compliant with the current regulations. So, we have a lot of factors to look at when we add territory onto an existing agency.

Tina Moore was wondering what the difference was for new agencies.

Karen said that with new agencies coming on, we do limit on the initial application anywhere from 3 to 5 counties, unless they've got a lot of staff already hired.

Jack Kreger asked, for clarification, that if an agency opens a branch office, do they still have to be contiguous?

Karen answered that yes, the branch office must be continuous with the parent and those counties are a part of the parent's approval. A branch office is functioning under the parent's direction supervision. It is not a separate independently licensed entity.

There is a branch questionnaire on our website for both home health and home services, home nursing, which the agencies must fill out when they request to add a branch, which kind of helps demonstrate that supervisory oversight.

OASIS Training Updates

Siji Varghese stated that the revised data set is announced, and it will be effective January 2023.

Public Comment Period

No comments.

Meeting Schedule for 2022 and Tentative Meeting Schedule for 2023

Meeting Schedule for 2022

Karen Senger reviewed the meeting dates for 2022 with the Board for informational purposes. Committee members were reminded to mark their calendars accordingly and plan to attend.

Tentative Meeting Schedule for 2023

Members were given a copy of the tentative meeting schedule for 2023 for review and approval. The Department is currently working on scheduling these dates, times, and meeting locations for next year. Members were asked to mark their calendar accordingly and plan to attend.

Next Meeting:

The next Committee Meeting is scheduled for July 13, 2022. This meeting will tentatively be held via WebEx.

Committee Members were given a copy of the Committee Meeting Schedule for 2022 and 2023 andasked to mark their calendars accordingly and plan on attending.

Closing remarks

Chair asked Committee members if there were any other closing comments hearing none, wanted to thank everyone for joining the call and their input for discussion and the next meeting is scheduled for July 13, 2022, to convene at 10:30 a.m. and will be held via WebEx. Further meeting information will be sent out for this meeting.

If there was nothing else to address or comments would need a motion to adjourn the meeting. Committee Member, Jack Kreger made a motion to adjourn, and 2nd by Committee Member, Sharon Bargmann and all in favor the meeting was adjourned.

Meeting Adjourned at 11:58 am