

Minutes
VA State Board of Social Services
November 1, 2006

VA Dept. of Social Services
7 N. 8th Street
Richmond, VA 23219

Members Present

Danny Brown, Chair
Peppy Linden, Secretary
Trudy Brisendine
Marilyn Rigby
Shirley E. Culpepper
Maggi Luca

Members Absent

Nettie Simon-Owen
Bela Sood

Call to Order

The meeting was called to order at 9:00 a.m., Chairman Danny Brown presiding.

Welcome and Introductions

The Board welcomed HHR Secretary Marilyn Tavenner to the meeting. Chairman Brown advised that Ms. Simon-Owens and Ms. Sood would not be in attendance today due to prior commitments.

Kim Piner, Senior Assistant Attorney General will attend today since Al Wilson has a scheduling conflict.

Commissioner Remarks

Commissioner Conyers welcomed the Board and guests. He referred to the collaborative work done by staff over a period of time on the Assisted Living Facility Regulation. He continued to say that the Board listened to public comment from both small and large facilities in rural and city areas and the regulations were reworked to provide balance after hearing these comments.

Secretary Remarks

Secretary Tavenner stated she had reviewed the regulations and discussed them with the Governor and the Policy Department. These regulations have been in process for two years and appreciated the time and effort spent on them. She closed by saying these regulations will ensure the needs for the citizens of the Commonwealth will be met.

Agenda Review

Richard Martin reviewed the Board agenda and advised it was limited to two action items. He further stated that Carolynne Stevens and staff are on hand to answer any questions or concerns regarding the regulations.

Regulation Review

Carolynne Stevens introduced Licensing staff Deborah Lloyd, Judy McGreal, Steve Lambert, Kathryn Thomas, Leslie Kachel, and Lynn Williams.

22 VAC 40-80

General Procedures and Information for Licensure (Final Amendments)

Ms. Stevens advised that one technical change had been made since the Board approved the proposed regulation. The Code reference changed due to amendments implementing 2005 law.

Mr. Martin advised the Office of the Attorney General had deemed this a technical change.

ON MOTION DULY MADE (Ms. Brisendine) and seconded (Ms. Linden) moved that the State Board of Social Services approve the final regulatory package to amend 22 VAC 40-80, General Procedures and Information for Licensure, for publication in the Virginia Register subject to approval under the provisions of Executive Order Number 36 (2006). This regulatory action shall become effective December 28, 2006. Further, Ms. Brisendine moved that the Board authorize the regulatory coordinator to make technical, non-substantive changes to regulations that are necessary for executive review approval. The changes will be made only with the concurrence of the Board's counsel. Motion carried with all in favor.

22 VAC 40-71

Standards and Regulations for Assisted Living Facilities (Final Repeal) and 22 VAC 40-71, Standards for Licensed Assisted Living Facilities (Final Establish New Regulation).

Ms. Stevens and staff addressed questions from Ms. Brisendine.

- Inconsistent use of “the Board required.... The Board agrees” vs. “The Department or VDSS decided”.

Mr. Martin advised that all references are to the State Board.

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- 22 VAC 40-72-60: disclosure of owner of leased property is no longer required; whether contractors are used is no longer required.

Ms. McGreal advised it is ultimately the responsibility of the facility for services whether contracted out or not.

- 22 VAC 40-72-210: provides a six month period for administrators to complete the medication training.

Ms. Stevens advised that medication aids can't give meds without training. The facility must have back up staff available.

- 22 VAC 40-72-220: administrator training – Is an administrator required to pass a test on completion of the 40 hour training, or is just “attending” sufficient?

Ms. McGreal advised the 40 hour training is targeted toward the manager. The manager is filling in when the administrator oversees more than one facility.

- 22 VAC 40-72-360: Prohibits screening by independent contractors with the facilities – What if the only MH professional who will do the screening is with the local SB? Is that a conflict?

Ms. McGreal advised the CSB would be independent unless they are operating the Assisted Living Facility.

- Same Section: About the need for MH/MR services...Am I correct in assuming we require the need to be documented, the patient or authorized contact to be informed, but we don't require a treatment plan or that a patient with a documented need actually receive services? Am I missing something?

Commissioner Conyers stated that a local DSS can't be held responsible to see that service is provided, knowing that resources are not available in the community.

- 22 VAC 40-72-380: Description of family structure and relationships was deleted. I would have thought it more important for staff to know that a patient was sexually abused by a brother who might visit her, than that she worked at Wal Mart for 20 years.

Ms. Brisendine was referred to section 72-500. If the resident is in an acute nature, it may be necessary to be placed in a mental health facility. If the resident is not, then the agency must continue to look for resources.

- 22 VAC 40-72-440: Do the exempted signatures from the services plan pertain to service providers? If so, wouldn't it be better for them to review the document and sign? Wouldn't that assure they were aware of the details of the service plan when they may be required to implement it?

It was advised there are cases where CSB's refuse to sign and we can't force them to do so.

Commissioner Conyer advised the facility must deal with the provider as the department has no recourse as it doesn't have a relationship with the provider.

Ms. Lloyd pointed out that changing this would have a ripple effect on others that are not on the service plan.

ON MOTION DULY MADE (Ms. Brisendine) and seconded (Ms. Linden) moved to include signatures from all vendors whether present or not. The vendor not present at signing could receive the agreement via fax or mail, sign it and send it back.

***Vote: Ms. Brisendine, Mr. Culpepper, and Ms. Luca, aye
Mr. Brown, Ms. Linden, and Ms. Rigby, no
Motion failed for lack of a majority vote.***

- 22 VAC 40-72-930A 3 g: I understand that facilities will be able to develop emergency preparedness plans based on local, rather than Department assistance; but does it delete the requirement to develop any plan?

Wording was changed to fire evacuation.

- 22 VAC 40-72-950 A: Could staff provide to the Board the section of the Fire Prevention Code addressing these issues?

A copy will be provided to the Board.

- 22 VAC 40-72-950 E 4: Retaining names of residents and reasons for their not participating in safety drills might alert staff that specific individuals thought able to participate might have increased problems in confusing or stressful circumstances. This is especially true for staff who are not present during a drill and might not know that certain patients can not follow established procedures.

Ms. Stevens advised that residents not participating in a drill, who would normally participate, would be documented.

Ms. Linden referred to volunteers on page 56 and asked if occasional volunteers are required to take extensive training. It was advised that volunteers don't require extensive training, but would cover basics during an orientation program.

ON MOTION DULY MADE (Ms. Brisendine) and seconded (Ms. Luca) moved that the State Board of Social Services approve the final regulatory package to establish 22 VAC 40-72, Standards for Licensed Assisted Living Facilities and to repeal 22 VAC 40-71, Standards and Regulations for Assisted Living Facilities, for publication in the Virginia Register subject to approval under the provisions of Executive Order Number 36 (2006). This regulatory action shall become effective December 28, 2006. Further, Ms. Brisendine moved to authorize the Board's regulatory coordinator to make technical, non-substantive changes to regulations that are necessary for executive review approval. The changes will be made only with the concurrence of the Board's counsel. Motion carried with all in favor.

Commissioner Conyers stated there had been much discussion related to mental health and poverty issues. He hopes the Board will continue this discussion in Alexandria and beyond. This is a very important issue in Virginia.

Mr. Brown announced that Ms. Luca is having a scheduling conflict and is unable to remain on the Strategic Plan Committee. Members were asked to consider whether they could fill this position.

Ms. Brisendine asked Ms. McGreal for a copy of the response that was submitted by the Collaborative. This will be provided.

Ms. Brisendine commented that she felt a letter should go out under the Chair's signature to the Governor acknowledging that his letter was received and concerns taken into consideration. She further stated that the Board received negative comments during some of the public hearings. She would like it stated that the Board worked collaboratively, visited facilities at the request of the former Board Chair, and recognized mental health is a problematic area that regulations won't solve and will be revisited. She also stated the letter should include that the Auxiliary Grant is insufficient to cover appropriate reimbursement.

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Mr. Brown directed Mr. Martin to develop this letter and he will sign it.

Adjournment

ON MOTION DULY MADE (Ms. Rigby) and seconded (Ms. Brisendine), moved to adjourn the meeting at 10:55 a.m. Motion carried with all in favor.

Respectfully submitted by Pat Rengnerth