

Health Facility Committee Meeting Minutes

FEBRUARY 14, 2024	9:00AM – 12:00PM	VIRTUAL/IN PERSON MEETING	GOOGLE MEETS
MEMBERS PRESENT	Abe Lindman, Chris Etherington, Cory Robison, Dr. David Sundwall, Debora Escalante, Douglas Banks, Jennifer Webb, Jeremy Bradshaw, Kris Carter, Seraphine Kapsandoy Jones & Steve Grant		
MEMBERS NOT PRESENT			
STAFF PRESENT	Kimberlee Jessop, Kristi Grimes, Janice Weinman. Daphne Lynch, Kelly Criddle		
SPECIAL GUESTS	Alianne Sipes, Rey Alonzo		
WELCOME	Abe Lindman		

Review and Approval of November 8, 2023 minutes. Douglas Banks motioned to approve the minutes, Chris Etherington seconded the motion.

OLD BUSINESS

UPDATE	RULES IN PROCESS	KRISTI GRIMES
<p>Update on rule R432-35 Background Screening</p> <ul style="list-style-type: none"> R432-35-7 Volunteers <p>Current Language The following individuals or groups of volunteers are not required to complete the certification for direct patient access process:</p> <ol style="list-style-type: none"> (1) clergy; (2) religious groups; (3) entertainment groups; (4) resident family members; (5) patient family members; and (6) individuals volunteering services for 20 hours per month or less. <p>Proposed Language The following individuals or groups of volunteers are not required to complete the certification for direct patient access process:</p> <ol style="list-style-type: none"> (1) clergy; (2) religious groups; (3) entertainment groups; (4) resident family members; (5) patient family members; and (6) individuals volunteering services as long as they are directly supervised by a covered individual. <p>Last meeting Dr. David Sundwall motioned to approve this rule as written with the addition of the definition for directly supervised. Jennifer Webb seconded the motion and all other</p>		

committee members were in favor.

Daphne is waiting to refile and modify the rule until after the legislative session in case there are any legislative changes to our statute that would require any changes.

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NEW BUSINESS		
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	NONCOMPLIANCE SANCTIONS	KRISTI GRIMES
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Click on this link to see 36 months of history for all licensed facilities. [Notice of Agency Actions](#)

Facility history past 36 months will require a GRAMA request. Alison Forsberg is our office contact. She can be reached at aaforsberg@utah.gov.

UPDATE	RULE FILING UPDATES	JANICE WEINMAN
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19 rules were advanced to our department attorney in Sept/Oct for recodification compliance. She held them and just returned them on February 7, 2024, for a re-review in light of R380-600 (the new licensing enforcement rule) going into effect (12.26.23) while they were in her possession. These are on a high priority list and the [list](#) previously presented to the HFC committee has been updated to reflect the changes. Changes will only reflect striking content now contained in R380-600 and updating any citations to rules that have been made effective since the prior filing and any changes needed for rule writing manual compliance. Hoping they will all be filed by next meeting in May and will be ready to go.

R432-4 General Construction was submitted following the last meeting and was among the ones held by our department attorney. It has not been reviewed or advanced for filing. This is the highest priority and Janice is pushing for it to be done first so it can move through the process and become effective as soon as possible. The interpretation manual is 90% done and should be ready to roll out in draft format with the rule when it is made effective. If any changes to the rule become substantive, Janice will bring them back to the committee for review. This has been an extraordinary amount of work for all involved.

Whenever we write a rule there is a process it must go through (inner departmental, office of admin rules, governor's office) before it is reviewed and filed for public comment. The level of the administrative rules review generally requires a program that compares the existing rule to the draft rule and compares it to the Chicago manual style which is the state's rule writing expert that we use. Janice was able to procure a contract with Perfect-it/CMOS program to assist in rule manual compliance moving forward.

	R432-45 NURSE AID REGISTRY	JANICE WEINMAN
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There has been some ongoing legal discussion on this rule regarding our authority and our ability to enforce it because it seems to be more of a federal situation that oversees a contract with the state instead of a licensing issue. Our legal discussions right now are to

determine if this rule should be in place and if we have the authority to have this rule or if it is something that needs to be managed through the contract with the people that implement it.

Hopeful to have information ready for discussion during our next meeting in May.

R432-270 ASSISTED LIVING RULE

**JANICE WEINMAN &
KRISTI GRIMES**

R432-270-5 (1)(6) states: "Type I and II assisted living facility licensees shall provide each resident with a separate living unit. Two residents may share a unit upon written request of both residents." The rule defines "unit" as: "an individual living space, including living and sleeping space, bathroom, and optional kitchen area". There are licensed assisted living facilities that do not have individual or shared bathrooms. Some facilities have a shared bathroom for multiple residents. Assisted living construction rules allow this type of shared bathroom scenario.

There have been some concerns regarding this rule, so we wanted to run it through the committee to make you aware of to vote on any changes if needed. It's been brought up that this may conflict with current practice and our current construction rules. Specifically, we have some older, usually smaller facilities where resident rooms do not have a bathroom, or they may have a Jack and Jill type bathroom which two rooms share. Facilities that don't have an individual or a Jack and Jill bathroom may have a community bathroom located in the facility where all residents utilize that one bathroom. Our construction rules allow for that and they have been approved but the discussion is does this rule conflict with construction rules and with rules that are currently in place. Does this rule say that each individual should have their own room unless they agree to share a room or does it say they have their own private space within a shared room. The next question is how does the bathroom situation operate. Does that come into question with shared bathrooms if the rule defines a unit as individual bathroom space.

The Ombudsman brought it to our attention that perhaps the way facilities are operating conflicts with this specific rule. She feels that members of the public will interpret the rule as "residents of an assisted living shall receive their own room" but in practice we see several AL facilities require two unrelated residents share a room and that has been allowed in practice as long as they have a separate living space (curtain between the beds). This practice has also been seen a lot in Memory Care units where residents with dementia will be paired up. A lot of the shared units are marketed at a different price point.

The question is the word unit and what constitutes unit. Is the bathroom specifically what is in conflict because in shared rooms the residents each have their own bed, chair, dresser & closet. The Ombudsman feels like the rule alludes to the fact that every gets their own room and bathroom, not a shared room with separate living space. Some members of the committee read the rule different.

The Ombudsman said they are seeing an increase specifically with the Medicaid waiver program. Facilities are telling residents if they want to live there and be on Medicaid, based on the reimbursement rate they must share a room or pay more. There is legislation trying to get reimbursement rates up for Medicaid. According to Chris Etherington, Utah is one of the lowest reimburse states nationally. There has always been a push for an increase. They

did get one, but it was only \$10.00. The need for seniors on Medicaid has increased. He doesn't know if the switch from private to shared is valid. From his experience there have always been shared Medicaid rooms but since the demand is greater now the only way to meet the demand is to do shared.

If there is any misinterpretation, we need to address the rule or the definition because it's very common practice to have shared units.

Kristi Grimes - The question is does the current rule allow double occupancy rooms and does the rule allow for multiple people to share one bathroom? The department does allow double occupancy rooms and does allow facilities to have multiple bedrooms that all share one community bathroom.

We are going to put together a subcommittee to work on the definition and the language of the rule. A rule change could potentially be needed. The subcommittee will consist of the following people:

- Chris Etherington
- Doug Banks
- Kristi Grimes
- Malcolm Campbell
- Janine Weinman
- Alianne Sipes

Janice will get the meeting set up.

OTHER BUSINESS

Douglas Banks 2nd term will be up July 2024 . He will continue to stay on until we get a replacement.

The Office of Background Processing recently went through a restructuring.

Keri Hamblin – Child Care, Child Placing Adoption, Child Placing Foster, Kinship, 1 Time Adoption & Respite

Kami Christensen – Health Facilities, Emergency Medical Services, DHHS Employees & Fingerprinting

Jeff Harris – Treatment, DSPD, Congregate Care, Youth Transport & Medical Cannabis

Abe Lindman motioned to adjourn the meeting, Chris Etherington seconded the motion. All other committee members were in favor.

2022-2023	UPCOMING MEETINGS	DHHS
May 8, 2024 September 11, 2024 November 13, 2024		