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Subcommittee on Regulations Meeting Minutes -May 1, 2024
Teams Meeting

This meeting was open to the public and began approximately at 10:07 AM.

Subcommittee member attendance:

Jeff Dougan (JD)- Chairperson
Carol Steinberg (CS), Vice Chairperson- Acting Chair
Michael Kennedy (MK)
Patricia Mendez (PM)
Elizabeth Myska (EM)
Deborah Ryan (DR)
Ana Julian (AJ)
Joe Prochilo (JP)
Paul Logan (PL)

Division of Professional Licensure Employees attendance:

William Joyce – AAB Executive Director (WJ)
Jamie Dalton – Board Counsel (JaD)
Molly Griffin – Program Coordinator (MG)

CS opened the meeting for Roll Call:

PM, EM, DR, AJ, MK, JP, PL

1. 10:09 AM Section 1105.11.3.1- 1105.11.3.2
 - WJ: This is the current Type B Dwelling Unit; yes the adaptable 95% units
 - CS: What do we have to decide here?
 - WJ: Starting at 1105.11.3.1 just soliciting comments from the subcommittee, what do people want to see changed, do they have concerns, comments?
 - DR: I would move that we adopt the option A and option B requirements so that people have the option
 - AJ: On 1105.11.3.2, is the clearance in the toilet in the lavatory (33”) from fair housing or MN Code?
 - DR: that’s from Fair Housing
 - AJ: ADA is using 36”

- DR: That's above and beyond Fair Housing
- CS: That's stronger
- DR: The ADA doesn't apply to housing
- DR: The MN Code follows Fair Housing

Motion to Have the Clear Floor Space on the open side of the toilet be 18" instead of 15"
by AJ

2nd by PL

AJ: IF we want this closer to ADA the ADA says 18" and more space

DR: I don't see the requirement in ADA

AJ: It's 604.3.2

DR: Okay, I see

DR: I still don't think this ADA section applies to the units we are talking about, Group 1 and Fair Housing units

CS: I think AJ is saying it should apply because it has more clearance

Roll Call Vote

AJ- yes

PM- yes

PL- yes

MK- yes

JP- yes

EM- yes

DR- no

6 yes, 1 no, 0 abstention the Motion Passes

2. 10:25 AM Section 1105.11 subsections Continued

- WJ: Do people want any other changes to these sections?
- CS: where was our code stronger?
- DR: Generally, it's not
- WJ: We were slightly stricter about toilet rooms, and a badly written section about multiple bathrooms in a unit
- DR: these are the units where blocking is required
- DR: Every single unit has to have blocking at the toilet, behind the wall, and beside the wall. Currently the difference between FHA and AAB is with shower blocking, currently we require same blocking at the toilet as FHA but more blocking for the tub or shower
- WJ: Minnesota structures this closer to FHA, but it's not an apples to apples comparison
- WJ: I have been describing the current Group 1 unit as an age-in-place unit; this label makes it easier for laypeople to understand the intention of these units
- CS: Could a person in a wheelchair use them?
- WJ: Depends, but they serve different slices of the population
- DR: They mirror FHA and the FHA considers them accessible, but you can in a wheelchair get into the rooms, have clear floor space in the kitchen and bathrooms, but that doesn't mean you will be able to turn around, and you won't have the transfer space beside the toilet
- WJ: This unit can also have a range instead of a cooktop or a wall oven
- AJ: In FHA does the clear floor space for the lavatory always have to be center or to one side?
- DR: you can have a parallel approach to a sink or a forward approach to a sink, the sink has to be centered on the 30" base with a removable base cabinet. If you have a parallel

approach, which is the most common, then the sink has to be 24” off of the wall because you need a 48” clear floor space centered on the sink.

- MK: What was the consensus on the fold-up grab bars? For my own curiosity
- WJ: The subcommittee basically adopted this as written
- DR: Just to clarify there is no requirement for the grab bar, just the reinforcement for it. This does not exist in the current regs

Motion to Move Forward with 1105.11 Subsections as written by PL
2nd by DR
By Acclamation/Carried

3. 10:48 AM 1105.12 and Subsections

Motion to Move Forward with 1105.12 and its Subsections as written by PL
2nd by JP
By Acclamation/Carried

4. 10:51 AM Section 200 – 203

- WJ: We are going to jump 200 for now, we will have an entire meeting dedicated to that
- WJ: I think the only one that was not in the draft regs was 203.7
- CS: Are we going to talk about the work areas?
- WJ: That’s currently stricken because we don’t have the statutory jurisdiction to include them
- CS: People have argued that we do have the jurisdiction because employees are members of the public
- DR: Can I make a recommendation to keep 203.9 but marked as reserved
- CS: If this session the legislation changes, we will be able to revisit this?
- WJ: Potentially
- WJ: If the legislature tells us to do something, we will certainly do it
- JaD: These are all public records, so people can compare to these documents if the legislation changes
- CS: Where did this language come from?
- WJ: ADAAG
- JaD: The fact that we used this in this meeting, makes it a record
- WJ: The only real differences in 203, ADAAG has an exception for correctional and detention facilities that 521 doesn’t and 521 has a section for residential facilities that ADAAG does not
- DR: I think the difference with 203.7 and 203.8 is that they are exempting the public use and common use areas that serve accessible holding cells or accessible units
- WJ: the consensus of the staff, is that we want to circle back to housing and do it all at once because we are using a difference base code than ADAAG
- PM: Are we putting also 203.7 on hold today?
- WJ: No because that is a one to one comparison with ADAAG
- PM: I don’t think we should adopt 203.7, public areas should be accessible
- DR: I think people are misunderstanding what this says, this is public areas only used by inmates, security guards, or detainees, they are not public areas
- CS: Why should they not have to comply?
- DR: Why should they? These are areas that do not serve the accessible cells

- CS: I guess I am not clear what is not serving accessible cells
- WJ: In a prison facility, access to certain areas is dictated by what pod or unit that you are in
- CS: I'm just not clear on why
- WJ: I think the intention behind this is that if you have common use areas for cells that are not accessible; it might work to rewrite this slightly
- PL: If you build a new housing complex not all apartments are 100% accessible, so in a new prison
- CS: But all common use areas are
- WJ: People aren't permitted to travel through every floor, people in the accessible cells are not even permitted to going there
- WJ: It could say, "In pods or units that do not contain accessible cells required to comply with 232," just to clarify
- DR: All common use and public use areas serving accessible cells, have to comply. This is giving the exception- so the reverse. You want to ensure that a person with a disability has access to accessible spaces, which is required
- CS: I'm just remembering I took a deposition in a prison once, and I couldn't use the bathroom
- WJ: Common use does not necessarily mean common to everyone, it means common to a specific group

Motion to Adopt 203.7 DR

2nd by PL

Roll Call Vote

AJ- yes

PM- yes

MK- yes

PL- yes

EM- yes

DR- yes

JP- yes

CS- no

7 yes, 1 no, 0 abstention- Motion Passes

5. 11:36 AM 203.10-203.13

- PL: Can we indicate when we use the word 'reserved' employee work areas in parentheses?
- WJ: I will have to double check
- CS: Can we reserve 203.15 to check back later?

Motion to Adopt Section 203 up to 203.14 as it is written and come back to 203.15 by DR

2nd by AJ

By Acclamation/Carried

6. 11:43 AM 203.15 Detachable Dwellings

- CS: My problem is with accessory structures, what does that mean?
- WJ: Free standing garage, shed
- CS: they are talking a lot about building more accessory dwelling units, are those excluded?
- WJ: Currently yes because they are not in a building of 3 or more units
- CS: Could we add a definition or something saying not including accessory dwelling units
- DR: Why do we need this?
- WJ: I think this is intended to avoid confusion, and we have had people ask how these apply to housing developments that consist of one family homes. This is just us being extra clear
- DR: If I have a subdivision of 20 single family homes, would this include the sidewalks as well?
- WJ: it does, maybe it is worth striking this
- DR: it's saying sidewalks don't need to comply
- CS: Don't entrances need to comply anyway in residential?
- DR/WJ: No

Motion to Strike 203.15 by DR

2nd by PL

DR: As long as we get the commercial space in a residential home somewhere

By Acclamation/Carried

7. 11:49 AM 204 Protruding Objects

- WJ: There's no real conflict with 521

Motion to Adopt 204 by DR

2nd by MK

By Acclamation/Carried

8. 11:50 AM 205 Operable Parts

- WJ: Also, no real conflicts, and we will be putting out a booklet with all of these advisories
- PM: In the exception #8 it says exercise machines and equipment shall not be required to 309, and I think 5% of the machines should comply
- DR: If you do that you have to be careful which machines you are talking about, because then you are redesigning equipment
- CS: I think that was a good catch, I would like to know what 309 actually says
- WJ: we have already adopted technical requirements for all of these, this is saying when do they need to apply?
- CS: Why don't we exclude #8?
- WJ: Because then all exercise machines would have to comply with reach range requirements
- CS: Could we say accessible exercise machines or exercise equipment?
- WJ: I don't think we define those, because there is rarely fixed equipment
- CS: I think the way it is worded is too broad
- WJ: this is how we have enforced the code traditionally, we have never made exercise machines comply with 309
- DR: unless you know what machines you talk about
- PM: I'm still a little bit confused because I thought we were talking about a building code

- WJ: right, because this is talking about a room overall, and this is the exception
- CS: what if we said other than equipment designed for people with disabilities
- WJ: If it's designed for people why would we have a regulating code on it?
- DR: It could be accessible but not comply

Motion to Accept 205 Operable Parts as written by DR

2nd PM

Roll Call Vote

PL- yes

EM- yes

DR- yes

PM- yes

MK- yes

JP- yes

CS- no

6 yes, 1 no, 0 abstention- Motion Passes

9. 12:06 PM 206 Accessible Routes

- WJ: This is largely saying a lot of the same things, I think Exception 1 should be dropped, Exception 2 is worth talking about
- CS: I agree
- WJ: We handle the historic buildings through the variance process, we have never given them exceptions

Motion to Strike Exception 1 by PM

2nd by JP

By Acclamation/Carried

10. 12:09 PM 206- Exception 2

- WJ: I think Exception 2 makes sense; this would come up in the super long driveways when you're out in the middle of nowhere
- CS: I feel like this is too broad
- DR: If there's no pedestrian route, it doesn't have to be accessible
- WJ: I'm thinking of at some of the state parks
- DR: It's not really different from the existing regs
- WJ: Technically you need an accessible route from the pedestrian street or way. The goal here is equality, we will require you to have accessible routes if there are public routes

Motion to Accept Exception 2 by DR

2nd PL

By Acclamation/Carried

11. 12:12 PM 206.2.2 Exception

- WJ: If you got 3 buildings on site that are a mile apart and only connected by a driveway, we wouldn't make you provide an accessible pedestrian route between them
- PL: Does it allow anyone else access?
- WJ: If the only route is vehicular we won't make you provide an accessible route
- WJ: This is within a site, not from the public way
- WJ: A good example may be the satellite lots at the airport, we don't make you put a sidewalk between there and the terminals
- CS: The assumption is that it's dangerous
- WJ: Or that it's not worth it, or a route to nowhere

Motion to Accept Exception to 206.2.2 by PL

2nd by DR

By Acclamation/Carried

12. 12:19 PM 206.2.3 Multi Story Buildings and Facilities & Its Exceptions

- WJ: This is almost always going to be an elevator, because interior ramps are almost more expensive. 521 is explicit that the accessible route between levels must be an elevator ADAAG is not
- WJ: I think we re-work this to "An elevator connects,"
- DR: In all fairness, a ramp is part of an accessible route
- CS: Do you want to rework this one for next time?
- WJ: If we're going to reword it I would like to know how you guys want to handle it
- CS: I think the presumption should be that there is an elevator
- DR: When we get to Chapter 4 it defines an accessible route, and that would technically would allow a lift if you left the black text portion
- CS: But lifts aren't as good, what should the default be?
- WJ: ADAAG exempts buildings that are 2 stories or less from having an accessible route between levels
- WJ: Do we want to leave 206.2.3 as is and have 206.2.2 say you need an elevator in a multi-story building? Or do we want to have an exception saying if you have an elevator in a building, you can do other things on top of that? And do we want to differentiate mezzanines from full stories?
- CS: My personal thought is default should be presumed to be an elevator
- WJ: Could we make 206.2.3 say elevators and adjust exception 1 to say Lift, ramp, or walkway?
- CS: Ramps are harder for manual chair users, so elevators are best, and we shouldn't say you can use a ramp instead
- WJ: Okay so change 206.2.3 to say elevators, and Exception 1 after striking 'another type of facility as determined by the Attorney General'
- MK: I would prefer using a ramp as opposed to a lift, because they are mechanical and there is always a chance it could break down. I would always want the ramp option if feasible
- WJ: 206.2.3 'at least one elevator shall connect each story and mezzanine in multi-story buildings and facilities' And exception 1 would read, 'In private buildings or facilities that are less than three stories or that have less than 3000 square feet per story, an accessible route may be used in lieu of an elevator provided that the building or facility is not a shopping center, a shopping mall, the professional office of a health care provider, a terminal depot or other station used for specified public transportation, or an airport passenger terminal'

- WJ: “an accessible route,” would replace the words lift or Lula so people construct a ramp or walkway in exception 1
- WJ: Accessible route is defined as an elevator, lift, ramp, walkway, Lula or some combination thereof
- CS: Do you want to define elevator in 206.2.3 as complying with 521 CMR 14?
- WJ: If elevator is a defined term, than we would put elevator in italics
- Exception 2
- WJ: This is more or less quantifying what’s in the code, in some ways it is redundant because there are no public use spaces
- CS: Why include this?
- WJ: The Feds do because they apply to non-public spaces in a way that we don’t
- CS: let’s take it out
- Exception 3
- WJ: This is the two-story prison thing we were talking about earlier
- CS: What about guests?
- WJ: This would only be for levels where there are no public use areas no common use areas and no accessible cells
- CS: I don’t think it’s worded well
- Exception 5
- WJ: This applies in multi-story suites, this also applies to a vanishingly low amount of places
- PL: What’s an example?
- WJ: Like the Presidential Suite at one of the casinos they built a few years ago, they have multi-story suites; if you have all the features that comply it is not requiring you to have an elevator within the suite
- CS: I’m not sure about that
- WJ: I think this is based on the townhouse rules
- CS: I don’t see the need for this
- WJ: It could be where an exception allows you to do something in lieu of an elevator
- PL: Was this used for a hotel presidential suite?
- WJ: Yes, do we want to set this aside and talk about it when we talk about all multi-story residential units?
- PL: I’m with CS on this one
- WJ: Why don’t we talk this in the context of dwelling units, so we can talk about them both
- Exception 6
- WJ: Pretty self-explanatory; air traffic control towers
- Exception 7
- WJ: I would say this should probably be eliminated
- WJ: I think we need to write an Exception 8- if you’ve got a multi-story building with no means of travel between the levels, both entrances to both levels need to be accessible, in 521 CMR we currently have this exception
- PM: And the programs are different right? (Between the stories)
- WJ: I think it’s cleaner to say with no internal communication at all
- CS: I propose that we rewrite a lot of stuff (the exceptions) and vote on it first thing next meeting

Motion to Approve March 27, 2024 Minutes by PL

2nd by PM

JP Recuses

Roll Call Vote

PL- yes

EM- yes

PM- yes

MK- abstain

JP- abstain

CS- yes

4 yes, 2 abstention, 0 no – Motion Passes

Motion to Adjourn by PL

2nd by JP

By Acclamation/Carried