**EXECUTIVE OFFICE OF ELDER AFFAIRS**
**MEETING OF THE ASSISTED LIVING ADVISORY COUNCIL (ALAC)**
**Minutes – December 18th, 2018**

Those who attended the meeting included:
ALAC members: Ryan Ambrose, on-behalf of DHCD, Mary Jo Boynton, Linda Cornell (by phone), Brian Danaher, and Kim Martone.
EOEA staff: Secretary Alice Bonner, Matt Casey, Emily Cooper, Siobhan Coyle, Trisha Marchetti, and William A. Travascio.
Guests: Beth Anderson, EPOCH Senior Living, Nicole Breslin, President & CEO of Youville House and Youville Place, Brian Doherty, MA-ALA, Alexandra Esielonis, Serlin-Haley, Nomita Ganguly, MassNAELA, Lucien Leape (by phone), Kathleen Moncata, MassNAELA, and Elisha Sherman, LeadingAge Massachusetts.
Documents: December 18th, 2018 Meeting Agenda, September 25th, 2018 Meeting Minutes, ALR Residence Agreement Informational Summary Form, Plan of Correction Form, and the Revised Certification Renewal Process Memorandum.

1. **Call to order:** The meeting was called to order at 10:02 am by Secretary Bonner.
2. **Welcome and Introductions**
3. **Review of Minutes:**
A motion was made by Kim Martone to approve the minutes as amended from the September 25th, 2018 meeting. The motion was seconded by Brian Danaher, and the minutes were approved by all members present.
4. **EOEA Updates:**Secretary Bonner thanked everyone for attending. The Secretary announced that she will be leaving the Executive Office of Elder Affairs; her last day will be Friday, January 18th, 2019. She will be resuming work in healthcare quality improvement.

Trisha Marchetti, Director of Assisted Living Certification – EOEA: Mentioned that before the members are hard copies of documents that had been emailed to them in advance of the meeting for them to review. They documents take into account feedback that had been received from ALAC members. EOEA would like to implement these documents by January, 2019.

Brian Danaher noted that in paragraphs two, three, and four of the Revised Certification Renewal Process Memorandum, there is a reference to an “EOEA issued form.” Brian asked if ALAC could see a copy of the form mentioned in the memorandum.

Trisha mentioned that the form mentioned in the memorandum would go out simultaneously with the memorandum. This form would mirror the audit sheets used by the EOEA Assisted Living Certification staff when they are out in the field.

Brian Danaher asked about the plan of correction format. He said that while it is beneficial to have a format to follow that is consistent with all ALRs, he asked if the finding would be inserted in the “Regulation” slot of the form. He thought it would be helpful to have the finding and regulation listed together. He noted that this would be especially helpful when information begins to be posted on EOEA’s website.

Trisha replied that the purpose for creating this form was so that the ALR has a voice in the public disclosure process. The plan at this point is to post the findings letter and the Plan of Correction form. Trisha noted that the two forms are created at two distinct times. The findings letter is sent out within ten days of the compliance review, whereas the plan of correction is submitted later. She noted that there could be as much as a 40 day difference between when the findings letter is received by the ALR and when the Plan of Correction is received by EOEA. She added that if a member of the public submits a FOIA request for a findings letter, EOEA will also provide them with the ALR’s Plan of Correction.

Brian Danaher said that after the last meeting he made some comments on the proposed Residency Agreement Informational Summary sheet. He passed around a document with suggested changes for the ALAC members to discuss.

Some of the changes Brian suggested are:
- Providing clarification on point #3 under the “Residency” section. Brian suggested that EOEA provide additional information as to what the potential role of a certified Home Health Aide would be if one needed to be hired to provide private care for a resident that had exceeded the ALR’s capacity for services. Trish felt that should be a topic of discussion when the form is signed by the consumer. She stated that the 1 page form is not meant to be all inclusive, but rather to promote a discussion between the potential resident and the ALR’s marketing and care staff.

- The last point in the “Residency” section suggests that a resident may lose the ability to use the court system to resolve disputes if they sign a residency agreement with an arbitration clause. The resident would need to present their case to an arbitrator instead. Brian suggested replacing the existing language with “What if there is a dispute? Ask if you are able to use the court system, or if you may use alternative dispute resolution, such as arbitration.” Matt Casey, General Counsel – EOEA, said that the wording could be adjusted. He stated that he did not want to confuse residents who are signing an arbitration agreement as part of their residency agreement, versus those who are signing an arbitration agreement as a separate document.

- Brian suggested moving the “Care” section up on the form, so that it is the first section. He believed that it would flow better because this section talks about what an ALR is and what it is not.

- Next Brian suggested re-wording point three under the “Care” section, or adding in a definition after “skilled nursing care.” He felt that not everyone might know the term. Trisha mentioned that this could be another area where the ALR staff help inform the potential resident. Trisha added that this could be an opportunity for staff to interact and provide additional information.

Mary Jo Boynton felt that this point ties in well with the other content mentioned in the “Care” section. She noted that this is a good lead-in for the consumer to understand what can and cannot be done in assisted living.

Kim Martone felt that it would be important to have a prompt to discuss what might happen in the future in assisted living. She noted that while a resident may not need skilled care when they first move-in, they may need oxygen or other services over time as their abilities decline.

Secretary Bonner asked Mary Jo if her company has any plain spoken language to help consumers understand the role of an ALR and skilled nursing care. Mary Jo said that it depends upon the context of the language. There is skilled nursing care that is insurance reimbursable through a visiting nurse association. There is also generic skilled nursing care that exists in a nursing home. Mary Jo felt that when it comes to assisted living specifically, it is easier to give examples of what the skilled nursing care attendant would not be able to perform. Some tasks that the attendant would not be able to perform in particular are: taking blood pressure, changing oxygen tanks, taking a resident’s temperature, or changing bandages.

Elissa Sherman, LeadingAge Massachusetts, suggested adding language that would discuss what the role of the nurse is in assisted living and how it differentiates from the role of a nurse in a nursing home. Mary Jo felt that would be a welcome and positive addition to the form. Kim Martone agreed and stated that she has had similar conversations previously with members of her family. Putting in language that explains the role of a nurse in ALRs would help to provide clarity for consumers and their families. Kim felt that the more detail that could be incorporated, the better the form would be.

- In point three under the “Cost” section, Brian suggested replacing the phrase “The ALR can raise your rent with \_\_\_\_days’ notice.” With the language, “The ALR can update the fee schedule with \_\_\_days’ prior notice to you.” He felt that this would be more consistent with language in use by ALRs. He added that changing the language in point three would better tie it in to point four, which informs the resident that their monthly personal care fees can increase or decrease based upon their needs according to a needs assessment. This would cause an increase or decrease in their overall monthly costs.

In order to use plain language Matt suggested swapping the term “rent” for “the ALR can change the amount that you are required to pay.” Or, “the ALR can change the amount you are required to pay to maintain the residency with \_\_\_days’ notice.”

Mary Jo felt that using the term “fee schedule” is more associated with the care packages and not rent.

Emily Cooper, Chief Housing Officer – EOEA, mentioned that it would be important to clarify that rent is a fixed rate month-to-month. However, the personal care fees can change with \_\_\_days’ prior notice, after a needs assessment is conducted.

Matt said that EOEA would go back to review the language being used. This is because point three is intended to let the resident know that they have to pay a certain amount each month. Whereas point four was intended to let the resident know that their monthly costs may fluctuate based on their health.

Trisha added that there is room for improvement in how the residency agreement is presented to the consumer, especially when distinguishing the real estate portion from the services portion.

Mary Jo noted that for some residences, certain aspects of the form may be non-applicable due to the fact that the ALR may have an all-inclusive rate.

Matt thought that the individual ALRs should let EOEA know if there are points on the form that do not apply to them, so that the agency can have it on file.

Kim asked if the plan is for the form to go out to the ALR network for comment before it becomes effective.

Secretary Bonner and Trisha responded that getting feedback from the ALAC membership is considered the feedback stage, before being disseminated to the ALR network.

- Brian added that he also had some comments about point five under the “Costs” section of the form. He felt that that point would not apply to Benchmark. This is because a resident is required to give 30 days’ notice before they leave the residence. If a resident does not than they are still charged for the next month, but there are not additional fees.

Emily asked in the instances where a consumer signs a one year agreement with an ALR, would the resident need to pay through the end of the year even if they leave the residence?

Trisha responded that that would not be the case, especially if the resident were leaving the residence because of declining health. However, she also noted that in instances where a resident is paying month-to-month, that a resident may need to pay for an additional 30 days so as to comply with the 30 day notice.

Brian suggested incorporating a question to spur discussion, such as “How much notice do I need to give to terminate a residency agreement?” Or “How do I terminate the residency agreement if I am not the resident?”

Secretary Bonner suggested: “Under what conditions could there be additional charges beyond the 30 day order?”

- Brian suggested adding a separate a heading for the point about the Ombudsman unit contact information. Brian also asked about how the form would be signed.

Trisha responded that each of the four sections would be initialed by the consumer. In addition, at the end of the form are areas for the consumer, a legal representative of the consumer, and for an ALR staff person to sign. (Note: A legal representative of the consumer would only be needed if the consumer does not have decisional capability).

Kim suggested adding a note that states the monthly rent and care costs does not always cover all expenses, such as: cable, phone, laundry, etc. In addition, she suggested adding the question: “Are you comfortable with what is covered and what is not covered?” or some variation of that.

Secretary Bonner suggested adding language that says “Ask about services that may not be covered, such as…”

Emily noted that the language could read “I am clear on what services are included,” Or, “The services that are covered have been reviewed.”

Secretary Bonner said the feedback received from ALAC and stakeholders has been terrific. She thanked everyone for the time they spent looking over the form.

Elissa Sherman, LeadingAge Massachusetts, asked if stakeholders would be able to review the EOEA records form for the ALRs to fill out that are mentioned in the Memorandum dated December 19th, 2018? She also asked when the forms would need to be filled out by the staff at the residence.

Trisha said that a presentation is available on EOEA’s website with information about the form. She added that the form would need to be filled out when the ALR certification staff are onsite, once they determine which staff and residents’ files will be reviewed. Visits from the ALR certification staff will still be unannounced and it will be determined the day of the visit which files will be reviewed. The goal is to have this form be part of the site visit process beginning January 1st, 2019.

Secretary Bonner suggested that Mass-ALA make a note on their website or send out a reminder to their network to let them know about these new forms and that they will be part of the site visit process. That if staff have questions, they should contact the Executive Office of Elder Affairs.
5. **Adjournment:**

The meeting adjourned at 10:52 am. The next meeting is scheduled for Tuesday, March 26th, 2019 at 10:00 am.