Assisted Living Advisory Council (ALAC) Meeting Minutes  
August 21st, 2020  
12:00 pm  
\*The meeting was held virtually via WebEx\*

ALAC members: Mary Jo Boynton, Brian Danaher, Steven Ellsweig, Kim Martone, and May Shields.  
EOEA staff: Secretary Elizabeth Chen, Matt Casey, Siobhan Coyle, Mark Miller, and William A. Travascio

1. Call to Order:  
     
   The meeting was called to order at 12:01 pm by Secretary Chen.
2. Welcome and Introductions  
     
   The Secretary thanked members, guests, and staff for attending today. She then welcomed ALAC’s newest member Steven Ellsweig. Steven retired as Executive Director of Cadbury Commons, a family owned and operated assisted living in Cambridge, MA in 2019 after 20 years in the assisted living industry. Prior to that Steven worked as a Rehabilitation Counselor and Administrator of Traumatic Brain Injury programs in Massachusetts and New Hampshire. He has also guest lectured in the Rehabilitation Counseling department at Boston University. Currently, Steven serves on the Commission for Disability in North Attleboro and enjoys working as a substitute teacher at Norfolk Agricultural High School. Steven holds a Bachelor’s degree in Psychology from Clark University and a Master’s degree in Rehabilitation Counseling from Seton Hall University. In his free time, he is pursing belts in Kenpo (Martial Arts).
3. Review of EOEA 651 CMR 12.00 Emergency Reg-Redline:  
     
   Matt Casey, EOEA’s General Counsel, noted that EOEA is mandated and authorized under M.G.L. c. 19D to establish processes for the certification and renewal of certification for Applicants and Sponsors of Assisted Living Residences. As such, EOEA regulations establish the standards for premises which constitute an ALR in the state and provides penalties for operating such premises without Certification. The purpose of the emergency regulations is a response to the declared state of emergency in March 2020, the proposed modifications to the regulations will benefit the health, safety, and welfare of ALR residents by:
   1. prohibiting infected staff with a contagious disease in communicable form from working at an ALR;
   2. requiring ALR staff to be vaccinated for influenza and for any novel virus when a vaccine for which becomes available;
   3. include the discovery of infected staff in an incident report to be submitted to EOEA;
   4. allow ease of document sharing between the ALR Certification Unit and other EOHHS agencies in compliance with M.G.L. c. 66A; and
   5. allow the Secretary of Elder Affairs, in consultation with the Commissioner of the Massachusetts Department of Public Health, to waive certain regulatory provisions in the event of an emergency, thereby reducing the need to seek the issuance of an order by the Office of the Governor or the Department of Public Health.

In addition, Matt noted that the agency is required to hold a public hearing within 90 days of filing the regulations. It will likely be held in the middle of September, before the next regularly scheduled ALAC meeting which is on Tuesday, September 22nd. All will be invited to attend the virtual hearing. Comments can be submitted ahead of time whether electronically or in writing.   
  
Brian Danaher responded that Benchmark is already reporting to EOEA if there are positive cases among staff or residents. Putting that into the regs makes sense, along with the increased communications among EOHHS departments. He noted that some of the same data is being reported to both DPH and EOEA, increased coordination would be a positive step. Brian felt that additional dialogue around the contagion and infection control is needed. He is glad that there will be a public hearing because it will provide a setting for “more robust discussion.” He raised some concerns with section 8, the pre-employment health screening. The pre-employment physicals and the physicals every two years is something new and should be flushed out. Benchmark has encouraged its employees to get flu vaccinations for years but has never required them. Overall there are a lot of positive changes.   
  
May Shields replied that her site’s biggest concern is staffing, and more discussion should be had on the pre-employment physicals. Anything that could slow down an employee being onboarded would be a challenge. She mentioned that in her own personal life she’s changed physicians over the last six months and the earliest she can get an appointment with her new doctor is February. The practice that she uses is not doing tele-health appointments either.   
  
Brian Danaher suggested that maybe some other screening be done other than a full physical. He wondered if a screening done by a nurse practitioner would suffice, especially since it could be challenging to receive a physical at this time. He asked that EOEA develop a screening tool that could be used by the network to show that an employee has had their health screening. Likewise, he suggested that EOEA develop a tool for to indicate whether a staff member has had a vaccination. If not, the employee should state why they decided to opt out. He felt that if those tools could be published with the regulations, that would be helpful.  
  
May Shields noted that her company’s HR department has a form that they use to keep track of their employee’s vaccinations, like the hepatitis vaccinations, for example.   
  
Brian Danaher noted that it is not clear if or when an employee takes time off, if they need to sign a form upon their return stating that they have not been exposed to any of the communicable diseases listed. He asked that EOEA take a closer look to better determine next steps.   
  
Kim Martone asked that EOEA provided clarification about the portion concerning when employees refuse a vaccination. She understood that there is a religious exemption. Matt Casey responded that the ALR will need to document when an employee refuses, and he noted that DPH uses similar language, but that this language is new to ALRs. He clarified that an employee can decide to opt out of a vaccination without giving a reason, but that it would need to be documented by the employer.

At this point it was noted that the Secretary’s internet cut out and Matt Casey continued the meeting on behalf of the Secretary.

1. Industry Updates:  
     
   Brian Danaher noted how the industry has changed the last 6 months. He thanked EOEA for being a good partner and expressed thanks for the National Guard coming in to test residents.   
     
   May Shields echoed Brian’s comments. She added that acquiring PPE back in March and April was a challenge. The City of Boston’s Department of Public Health assisted them until the supply chain was able to catch-up. She noted that the last few months have been difficult; some staff have not been able to work because they have family members at home that are older or they have young children that need to be cared for.   
     
   Matt Casey then recognized Brian Doherty, President and CEO of Mass-ALA. Brian noted that two areas that EOEA should revisit are requiring physical exams before employment and requiring employers to track whether staff used time because they had an illness. He stated that the guidance issued by EOEA throughout the pandemic has balanced resident wellbeing and infection control. The guidance issued on July 3rd, was a great step and he appreciated that it struck the “right chord.”   
     
   Brian Danaher ended industry update by thanking EOEA for issuing the April 2nd waiver that allowed additional services in ALRs.
2. Other items for discussion/public comment:  
     
   Kathleen Lynch Moncata, Mass-NAELA, asked which seat Steven Ellsweig is filling. Bill Travascio responded that he is filling the “At-Large” seat, he then ran through the Council roster.   
     
   Nicole Breslin, EPOCH Senior Living, offered to share an employee declaration form used in nursing homes that EOEA could use as a template for any ALR employee who chooses not to be vaccinated. Matt Casey welcomed that and said that any suggested ideas would be appreciated.  
     
   Elissa Sherman, President of LeadingAge MA, said that many of her ALR members have expressed interest in the surveillance/baseline testing that is occurring in nursing homes and rest homes. However, the cost would be prohibitive unless the state could reimburse these sites like they are doing for those other long-term care settings.
3. Adjournment:  
     
   The meeting adjourned at 12:48 pm. The next regularly scheduled meeting will be held on Tuesday, September 22nd, 2020 at 10:00 am.