Assisted Living Advisory Council (ALAC) Meeting Minutes
Tuesday, December 17th, 2024
10:00 AM
\*The meeting was held virtually via Zoom\*

ALAC members: Mary Jo Boynton, Brian Danaher, Kimberly Martone, Seth Nadeau, and Walter Ohanian.
EOEA staff: Jodi Breidel, Siobhan Coyle, Marie Earnshaw, Trisha Marchetti, Whitney Moyer, Julian Smith, Patrick Sullivan, and William A. Travascio.
Guest Speaker: Val Frias, Deputy Director of the Elder Justice Unit - Massachusetts Attorney General’s Office.

1. Call to Order:

The meeting was called to order at 10:04 AM by Jodi Breidel, Assistant Secretary of Elder Affairs (EOEA).
2. Welcome and Introductions:

Jodi Breidel thanked members of the Council, stakeholders, and members of the public for attending.
3. Approval of the Minutes:

The draft minutes from the September 24th, 2024 meeting were presented and were approved by all those present.
* EOEA Updates:

Jodi Breidel welcomed Julian Smith, EOEA’s new General Counsel. Julian joined the department on December 2nd, he previously served as an Assistant General Counsel at the Executive Office of Health and Human Services (EOHHS), where he supported MassHealth personal care programs and community-based services waiver programs, among others. Julian has worked in public service since graduating from Suffolk University Law School and is looking forward to continuing public service by providing legal support to Elder Affairs.

Jodi Breidel also welcomed Whitney Moyer, EOEA’s new Chief Operating Officer. Whitney joined the agency on December 2nd. Prior to her current role, Whitney was the Vice President of Clinical Provider Integration at Commonwealth Care Alliance (CCA), and before CCA she served as the Chief of LTSS for MassHealth. Whitney holds a Master of Public Policy from Johns Hopkins Bloomberg School of Public Health and was named one of Modern Healthcare’s Top 25 Emerging Leaders in 2023.

Since the last meeting, Robin Lipson has been appointed to the role of Secretary of the EOEA. Robin has been a senior leader at EOEA since 2015, including five years as Deputy Secretary before her appointment as Acting Secretary in June.

Jodi Breidel also shared that in the Department of Public Health’s Respiratory Illness Dashboard report for the week ending December 5th, 12.7% of emergency department visits were related to acute respiratory diseases. Likewise, DPH’s Respiratory Immunizations Dashboard shows that just about 1/3 of MA residents (32.4%) have been vaccinated against influenza this season. Jodi reminded attendees that it is not too late to get a flu shot if you have not done so already.

Finally she shared that her and Adam Frank, EOEA’s Senior Center Grants Manager, have visited over 50 Senior Center’s around the Commonwealth. Jodi Breidel thanked EOEA’s municipal partners for the great work that they continue to do to serve older adults living in community.

Trisha Marchetti, EOEA’s Director of Assisted Living Certification and Compliance, announced that all the certification site visits for 2024 have been completed. The 2025 certification site visits are set to begin in early January 2025. She thanked her team for all their work over the past year. Next, she mentioned that the next ALR Quarterly Network webinar is scheduled for Wednesday, January 15th, 2025. Notices will go about 2 weeks in advance. Topics suggestions for the meeting can be sent to the ALR help desk email at ALRhelp@Mass.Gov.

Finally, Trisha Marchetti mentioned that she will be sending around a notice regarding an advisory council that EOHHS is working to set up. Their purpose is to develop the curriculum for training credentials as part of the health care aide career pathway. EOHHS is seeking representatives from education institutions, health care providers, community trade and labor groups, representatives of patients, among others. Applications are due no later than January 6th, 2025 at 5:00 PM.

Patrick Sullivan, EOEA’s Assistant General Counsel, noted that EOEA is working in consultation with DPH on updating the ALR regulations. The regulations will address the provision of basic health services. The agency is following the rulemaking process, there will be a public hearing and a public comment period. Per the definition in the statute, Basic Health Services consist of:
	+ (i) injections;
	+ (ii) the application or replacement of simple non-sterile dressings;
	+ (iii) the management of oxygen on a regular and continuing basis;
	+ (iv) specimen collection and the completion of a home diagnostic test, including, but not limited to, warfarin, prothrombin or international normalized ratio testing and glucose testing; provided, that such home diagnostic test or monitoring is approved by the United States Food and Drug Administration for home use; and
	+ (v) application of ointments or drops.
* The passing of the Long-Term Care bill does not require all Assisted Living Residences (ALRs) to provide the described Basic Health Services (BHS). The services allowed will be an option for current and future Sponsors of ALRs to include in their operating plan.
* If a Sponsor opts to provide Basic Health Services, they must offer each of the 5 BHS identified in the bill. Residents also have the option to receive these Basic Health Services from qualified third parties.
* ALRs have to offer all 5 Basic Health Services. Residents also have the option to receive these Basic Health Services from qualified third parties.
* If an ALR chooses to offer Basic Health Services, they first must be certified by EOEA to offer these Basic Health Services. If EOEA determines that a residence is offering basic health services without certification, EOEA shall issue a fine of not more than $1,000 per day.
* EOEA may impose an annual fee on assisted living residences that offer basic health services.
* An ALR offering Basic Health Services will have annual certification reviews.
* An ALR must disclose to each resident through the residency agreement the fees associated with basic health services and must review such fees with the resident upon the implementation of and any revision to a service plan that includes the provision of basic health services. The residence shall notify residents of any changes in fees in advance and in a timely manner.
* If EOEA determines that an ALR has failed or refused to comply with requirements of the statute or regulations, EOEA may: (i) deny an application for recertification; (ii) modify, suspend or revoke a certification; or (iii) issue a fine of not more than $500 for each day of such failure or refusal to comply.
* No ALR shall discharge, discipline, discriminate against or otherwise retaliate against an employee or resident who, in good faith, files a complaint with or provides information to the department relative to what the employee or resident reasonably believes is a violation of law, rule or regulation or poses a risk to public health or safety or resident or staff well-being.
* Completed reports, responses and notices of final action shall be made available to the public at EOEA’s office during business hours together with the responses of the applicants or the sponsors and said reports, responses and notices of final action shall be posted on EOEA’s website.

Patrick Sullivan noted that when more information is available, the Agency will be sure to share it with the network.

1. An Introduction to the Massachusetts Attorney General’s Office Elder Justice Unit

Val Frias, Deputy Director of the Elder Justice Unit - Massachusetts Attorney General’s Office. The unit was launched about 1 year ago. The goal is to protect older adults in Massachusetts through trainings, public awareness campaigns, and by working with other units in the Attorney General’s office. The unit is also working on developing regulations around consumer protections in ALRs. Such regulations under Chapter 93A were implanted for Nursing Homes about 30 years ago. Val Frias mentioned that her team is in the process of collecting input on those regulations. Her team hopes that draft regulations will be released around the end of the 1st quarter in 2025. Once released there will be a public hearing and public comments period.

1. Industry Updates:

Brian Danaher asked about elements of the Long-Term Care bill for ALRs, other than Basic Health Services – for example, the requirements to post their certification certificate from EOEA on their website. He wanted to know if these other requirements would be reflected in the new regs. He added that their company would be posting the certifications, but wanted to know if there would be more language in the EOEA regs about all the new requirements.

Patrick Sullivan, EOEA, said that the EOEA legal team is looking at the whole statute and not just the basic health services section. He noted that the coming public hearing would cover all the changes and not just the ones related to the basic health services piece.

Brian Danaher thanked Val Frias for attending and asked that the AGO team take into consideration EOEA’s existing regulations and any changes that the EOEA team make to their regulations as a result of the Long-Term Care law, when pulling their draft regulations. He noted that in 1994, ALRs came into being as a more social setting, rather than institutional setting. He said the model has done well in Massachusetts, and said one of the strengths is that ALRs are not cookie cutter- they are individualized and have served families well. He cautioned against the Massachusetts model moving in the direction of the nursing homes.

Walter Ohanian noted that each resident moving into ALRs is unique, and staffing levels at each ALR are unique to best meet resident needs. He noted that minimum staffing levels is a concern and asked that it be kept out when EOEA works on updating its regs. When it comes to basic health services, he felt that his company would pick and choose what services to offer that fit their current staffing level, and that this would maintain affordability for their residents. He thought that an “all or nothing” approach to basic health services might deter affordable assisted livings from offering them. Offering all of them might be too cost prohibitive.

Barbara Southhall, MassALA, echoed what Walter Ohanian said, which is that ALRs be allowed to choose which services they want to offer.

Elissa Sherman, President – LeadingAge Massachusetts, said that her members are eager to learn more about what the regulations look like for basic health services. She said they are also concerned about what would be required from a staffing level standpoint. However, she said she heard staffing shortages have gotten better in terms of hiring nurse aides. She said hiring RNs and LPNs, has still been a challenge.

1. Consumer Member Updates:

Kim Martone felt that staffing levels and occupancy levels have rebounded to almost pre-pandemic levels. There is also a higher level of socialization. However, she also mentioned that prices have gone up as well across the state. Affordability is a concern, she asked how we put regs in place while still keeping ALRs somewhat affordable for people.

1. Comments by Visitors:

Kathleen Lynch Moncata, MassNAELA, mentioned that the law requires several commissions to be stood up, including an ALR Commission, which will comprise of stakeholders, advocates, representatives of residents, and representatives of the industry. She looks forward to the work of that group kicking off. In addition, she asked about the Secretary of State’s requirements for posting regulations. Patrick Sullivan, EOEA, said that the Secretary of State’s office has an operations manual online that lays out the timeline for how a regulation is updated. It is called the Regulations Manual.
2. Adjournment:

The meeting adjourned at 10:38 AM. The next meeting is scheduled for Tuesday, March 25th, 2025 at 10:00 AM on Zoom.