**EXECUTIVE OFFICE OF ELDER AFFAIRS**
**MEETING OF THE ASSISTED LIVING ADVISORY COUNCIL (ALAC)**
**Minutes – September 24th, 2019**

Those who attended the meeting included:
ALAC members: Ryan Ambrose, DHCD, Mary Jo Boynton, Brian Danaher, and Kim Martone.
EOEA staff: Secretary Elizabeth Chen, Matt Casey, Emily Cooper, Siobhan Coyle, Trisha Marchetti, Mark Miller, and William A. Travascio.
Guests: Beth Anderson, EPOCH Senior Living, Daniel Connolly, ML Strategies, Brian Doherty, MA-ALA, Jennifer Gallop, Krokidas & Bluestein LLP, Kathleen Moncata, MassNAELA, and Elissa Sherman, President of LeadingAge Massachusetts.
Documents: September 24th, 2019 Meeting Agenda and June 25th, 2019 Meeting Minutes

1. **Call to order:** The meeting was called to order at 10:01 am by Secretary Chen.
2. **Welcome and Introductions**
3. **Review of Minutes:**
A motion was made by Brian Danaher to approve the minutes from the June 25th, 2019 meeting as amended. The motion was seconded by Mary Jo Boynton, and the minutes were approved by all members present. Mary Jo Boynton abstained.
4. **EOEA Updates:**Secretary Chen thanked everyone for coming into Boston for the meeting and introduced Mark Miller, EOEA’s Director of Strategy and Program Integrity. Mark will manage program integrity and special projects, his portfolio will include several programs such as the ALR staff and Prescription Advantage. He will help to examine and implement opportunities for business process improvement and for internal sustainability of our oversight role.

Trisha Marchetti, Director of Assisted Living Certification – EOEA, mentioned that the Annual Aggregate Data Report has been posted on EOEA’s website and it’s available for the public to view. The report reveals that the industry continues to grow. Between 2008 and 2018, the number of ALRs grew by 37%. There was a 27% increase in traditional units and a 96% increase in special care units. In 2018 the occupancy rate for special care was higher than for traditional care. Over the last 10 years there has also been an increase with resident ADL needs, specifically; ambulation, eating, and toileting assistance. This suggests to EOEA that there has been an increase in hands on care for the residents by the care staff. Over the past 10 years, the length of stay has declined for residents living at an ALR over 1 year. During the same time the length of stay of residents living at an ALR for less than 1 year has increased noting that in 2008 1 in 2 residents left in less than 3 months and in 2018, it was 1 in 3. In 2019, we have 9 planned ALR openings- 5 have already opened and 4 more to open by the year’s end. This represents an increase of 520 units. That is a net gain of 375 units. We had 3 ALRs close this year, none of those residences had special care units.

A new incident reporting system called Dynamics went live at the end of June. All of the accounts for each of the ALRs have been created. The data “gleamed” from it will be helpful to the ALR certification team. The program has only been in place for about 3 months, but EOEA can get back to ALAC once analysis can be conducted on the existing data about trends in the industry. To date about 4,000 incidents have been reported- 66% are falls, 15% are acute health issues and behavioral health issues, and 6% are medication events. This includes a variety of medication related issues, including the wrong medication was administered or the medication was not administered at all. Abuse, neglect, and exploitation is 4%, Death made up 8%, and Elopement is 1% of the total reports.

We are down 1 staff person since July, therefore field visits are behind schedule- but interviews are underway to fill the open position. In preparation of this meeting, the field staff were asked if there is anything that should be highlighted for ALAC. Some issues that they see when they are out in the field where industry can improve on over all include; falls prevention program, the training needs assessment report, and the overall initial assessment progress. Falls have always made up the highest number of critical incident reports and ALRs are encouraged to research best practices.

Finally, according to EOEA’s regulations, ALRs are required to perform an annual simulated evacuation of their communities. To date, EOEA has checked to make sure ALRs have evacuation plans documented. However, beginning in January, the agency will more closely look at the plans that ALRs have in place. This is because of emergencies that have occurred over the last few years. Many ALRs are members of MassMap, the organization has training opportunities for staff and they also conduct an annual evacuation drill with their members.

Brian Doherty, President & CEO – Mass-ALA, mentioned that in 2017 when EOEA required ALRs to have falls prevention programs. Mass-ALA and EOEA worked together to develop a falls prevention toolkit for the industry. Brian asked if whether it should be re-worked? Trisha Marchetti felt that it may not have made its way down to the site level, to front line staff. She added that the toolkit should be coupled together with the falls prevention policy that each ALR has and should be incorporated into ongoing training.

Brian Doherty said that he would be happy to ask Mass-ALA’s resident care committee to re-evaluate the toolkit and make necessary updates.

Mark Miller, Director or Strategy and Program Integrity, asked if Mass-ALA could find out how many ALRs have utilized the toolkit when training their employees.
5. **Industry Updates:**

Brian Danaher mentioned that Benchmark will be opening 3 new ALRs across the state in the coming months. The new Benchmark ALRs will be in Newton, Marlboro, and Framingham. The Framingham location will be opening in early 2020. Brian noted that the industry is growing and Benchmark is excited to be opening 3 more sites in Massachusetts. Secretary Chen asked if the new ALRs would be traditional care, special care, or mixed. Brian responded that the location in Newton would be all special care, while the sites in Marlboro and Framingham would be mixed. Brian then asked if Brian Doherty, Mass-ALA, had any updates. Brian Doherty said that May Shields couldn’t be at this meeting as she is hosting a groundbreaking for a new site in Roxbury. He went on to mention that the Mass-ALA annual conference would be later in the week. He thanked EOEA for their continued participation and involvement in the conference each year. He said that the industry finds it helpful to get in-person updates from the department. The agenda and other materials for the conference can be found on Mass-ALA’s website, he encouraged the ALAC members to check them out. The other update that Brian mentioned was with respect to whether, or not, the Massachusetts Supreme Judicial Court will make a ruling regarding the extent to which landlord-tenant law applies to assist living. The Court heard oral arguments on September 9th. Brian Doherty said that the industry is concerned about the fallout should the lower court opinion be reversed. This could include class action law suits that might come as a result of community fees that have been charged consistent with the admission and assessment process that the industry has had in place for a long time. Mass-ALA is optimistic that the Supreme Judicial Court will confirm the lower court’s ruling.

Kathleen Moncata, MassNAELA, felt that it would be helpful for ALR residents to have the protection of landlord-tenant law. The organization has filed legislation with the Commonwealth’s General Court that would regulate the ALR industry under landlord-tenant law. The bill is currently in committee. The organization also filed an amicus brief with respect to community fees and noted that there are certain protections that residents in ALRs do not have. Kathleen then asked about resident length of stay at ALRs. She asked if shortened stays mean that people are leaving because of financial reasons or are they coming in at a later stage and their health does not permit them to stay longer?

Trisha Marchetti said that the agency does not have data definitive around that, but thought that it suggests both.

Elissa Sherman, President of LeadingAge Massachusetts, asked if residents who are coming in for a 3 month respite stay are counted in the annual aggregate data report under the length of stay average? Trisha Marchetti responded yes, that they include anyone who had a resident service agreement over the last year. Trisha said that maybe the industry would have better idea as to how big the respite market is, particularly if the resident moves in for a respite stay and then stays longer. Brian Danaher mentioned for Benchmark that if an elder moves-in for a respite stay that they sign an amendment to the resident service agreement. Matt Casey, General Counsel – EOEA, asked if the industry tracks which residents are there for respite stays and which are not. Several people in the room responded that the industry does track that.

Kathleen Moncata asked if EOEA had received any feedback from the industry about the coversheet for new residents since it has gone into effect. Trisha Marchetti responded that it has been positive, it’s helped better organize documents for new residents and has served as a conversation starter.
6. **Adjournment:**

There was some discussion about the next regularly scheduled meeting. Bill Travascio, Executive Assistant to the Secretary – EOEA, said that he would reach out to each member to get consensus for a new meeting date.

The Secretary reminded ALAC that if they have items that they would like to see on the agenda for the next meeting, that they should send it to Bill Travascio. The Secretary also reminded members about the importance about Open Meeting Law. Matt Casey echoed that and said that while there has not been a lot of deliberation because the regulations have not changed, a reminder is always good.

The Secretary thanked everyone for attending, for their partnership, and participation. The meeting adjourned at 10:35 am. The next meeting is scheduled for Thursday, December 19th, 2019 at 11:00 am.