

**Soldiers' Home in Holyoke
Bylaw Committee Board of Trustees Meeting Minutes**

A meeting of the Bylaw Committee Board of Trustees of the Soldiers' Home in Holyoke (HLY) was held telephonically on Tuesday, March 15, 2022. The meeting began at 5:33 PM.

Bylaw Committee Members Present:

Cindy Lacoste, Bylaw Committee Chairman; Gary Keefe; Isaac Mass

Also Present: Michael Lazo, Interim Superintendent; Mark Yankopoulos, Legal Counsel; and Kathleen Denner, Recording Secretary

Roll Call is as follows: Trustee Keefe (Yes), Trustee Mass (Yes), Trustee Lacoste (Yes).

Pledge of Allegiance: All present recited the Pledge of Allegiance

Approval of Minutes:

Motion to approve the July 20, 2021 minutes was made by Trustee Mass. Seconded by Trustee Keefe. All in favor, unanimous. Motion passes to approve minutes.

New Business

Trustee Lacoste asked Mr. Yankopoulos if he had heard that Robert Engell was trying to align policies for both Soldier's Homes. Mr. Yankopoulos replied that he has not heard what Chelsea may be doing with this and if we approve the policy he would recommend giving it to Robert. Mr. Lazo shared that he will be having a meeting this week with Robert Engell and Eric Johnson from Chelsea and we will talk about the drafts that are already in place.

Trustee Lacoste reviewed the draft Admission, Transfer and Discharge Policy (ver sk.2.9.22)

Section 1: No changes other than grammatical and punctuation.

Section 2 Definitions: In the previous version the last paragraph had transfer and discharge in same paragraph. In the current version they separated out the definitions with discharge being first and transfers last.

Section 3: No Changes.

Section 4: Trustee Mass question the word involuntary was struck and that may be part of the definition section where they define transfer but I want to make sure that we are not unintentionally requiring even when there is a voluntary transfer that we have to go through this procedure. Trustee Mass wants to make sure we are not going to have to do this when we have a voluntary transfer the whole purpose of this policy is when there were involuntary transfers. Mr. Yankopoulos replied that this is covering transfer and discharge whether it is voluntary or

involuntary. Trustee Mass asked that we will have to through this procedure when someone transfers voluntarily to another facility. Mr. Yankopoulos stated that if someone transfers voluntarily all section 4 is saying there is that we have to document the circumstances in the record, if someone is voluntarily transfer and voluntarily discharging. Trustee Mass noted that this carries into section 5 and we have to give them notice. Mr. Yankopoulos replied correct, even if it is voluntary when being discharges they have to be provided notice in accordance with the regulation. Trustee Mass said including how much time we have to notice them in section 2. He wants to make sure we are prepared to follow the policy. Mr. Yankopoulos stated that we have not had any issues with documentation of voluntary discharge in the past he continued that we can give to the admission and discharge committee and be told you need to check the boxes for any type of discharge. Trustee Mass asked if this is what they are already providing for voluntary. Mr. Yankopoulos replied the he does not actually know what they are providing for voluntary discharge. Trustee Mass suggested to Trustee Lacoste to send to Operations committee, she has already sent to Trustee Collins and they can discuss at the Operations Committee meeting.

Section 5: No issues, other than timing.

Section 6: No issues.

Section 7: Trustee Lacoste noted in the first section should it have the word “allows” for therapeutic leave, where they leave to go to their family for a little bit, a comment was made that it sound like a prison if we have to allow, is there a better word? Trustee Mass suggested changing the word to facilitates, Trustee Lacoste’s suggestion was acknowledged, Chairman Keefe said he knows words matter and he did not have a problem with allows but facilitates is probably a lot less authoritarian. Trustee Lacoste will note to change. Mr. Yankopoulos suggested facilities a resident’s departure on therapeutic leave.

Trustee Mass asked Mr. Yankopoulos throughout the document there is a reference to a CMR that has place holder numbers do we know what CMR that is or is that within this document. Mr. Yankopoulos replied that they are referring to this document, it is an internal reference.

Section 7, Number 2: Trustee Lacoste noted that they took the bed hold notice out of there. Mr. Yankopoulos noted that it was merged into number 1.

Section 7, Number 3: No issues.

Section 8: No issues.

Section 9: Trustee Lacoste noted that they added the line “must establish and implement an admissions policy consistent with 42 CFR 483.15”. Trustee Lacoste remembers working on the Admissions Policy and is not sure if it was approved or still Trustt Mass asked if that Admissions policy is consistent with the CFR , Mr. Yankopoulos said he would have to compare the two hea

has no seen that particular policy. Trustee Mass would like to see that policy. Trustee Lacoste thought we had approved that policy. Trustee Mass would like to compare the to the CFR so we don't send two policies that are in conflict with each other. Trustee Lacoste will look back and see if the policies were merged and forward to the group.

Section 10, Number 4: Trustee Lacoste believes that 30 days is too long for us to respond waiting for someone to get back in a bed or to be heard on the appeal, I would like to do 15 days in place of 30 days. Trustee Mass asked who is writing the decision. Trustee Lacoste replied the board of trustees. Trustee Mass added that the board of trustees will issue a decision but who is going to actually write it, will it be inside counsel. Trustee Lacoste stated that before COVID we put out our answer and the secretary to the trustees typed it up and presented it to the family after we reviewed it. Trustee Mass asked how long does it take the secretary to do that. Trustee Lacoste stated that it could in less than 15 days. Trustee Mass want to be reasonable with our staff if we are required to do it. Trustee Lacoste stated that we agree that it should be changed to 15 days.

Section 10, Number 5: Trustee Lacoste stated that we need to check to see if we have appeal and hearing procedures in place. Mr. Yankopoulos added that we do not have anything formal in place and I believe that was one of the original complaints. He continued that these can be as easy we will follow the appeals procedure in the administrative procedure act. Trustee Lacoste asked Mr. Yankopoulos if we can ask Chelsea if they have one in place so we don't have to recreate, Mr. Yankopoulos will find out. Trustee Mass thinks we should have that in place and adopted at the same time that we adopt the policy because having a policy and not having the procedure to implement that policy makes the policy meaningless and I would rather send to the board as one package. Mr. Yankopoulos replied that it makes sense. He continued If we are going to be dealing with discharges and appeals of discharges it would hurt to have both done at the same time, if you approve this regulation in this form we have at least 90 days to adopt the policy before this regulation even gets through to notice and comment period. Trustee Mass stated there was a reference to (in Section 10, number 2) in the absence of evidence or testimony to the contrary there is a presumption that the notice was received on the fifth day after the mailing. He continued that this is about half what the regular procedure is, I would err on 10 days. Trustee Mass stated if there is testimony to the contrary or that the evidence, we presumed you received and that the US postal would have to them in 10 days and this is mail that is likely going to other institutions that may have internal mail issues, I think 5 days too short. Mr. Yankopoulos stated if that is the standard and we are using 10 days why we can't mirror that here. Trustee Lacoste confirmed updating section 10, number 2 to be 10th day after mailing. Trustee Mass said then the question becomes absence evidence or testimony to the contrary they could say I did not get it so that makes the rule meaningless. Mr. Yankopoulos said there are times you have to rely on testimony but he presumes it will be going out certified and that we would be getting a receipt so it would be unusual if we did not have. Trustee Mass stated that

the policy does not say that it will go out certified mail. Mr. Yankopoulos shared that he is not saying it is in the regulation but that is how we mail.

Trustee Lacoste reported back that she has to look for the admissions policy, Mr. Yankopoulos will look for the appeal procedure and if that is in house or even at Chelsea, she will make sure Trustee Collins has the discharge policy in case he was working on something with the Operations Committee.

Trustee Lacoste asked if we should bring it to the full board or will we wait till we get the other items. Trustee Mass stated we should wait till we have the procedures and send it as one package. Trustee Lacoste informed the committee that we will have another meeting next month and if we do not have the appeal procedures maybe Trustee Mass can come up with something that mirrors the CMR. Trustee Mass asked Mr. Yankopoulos if it was Mr. Deacon who made this. Mr. Yankopoulos shared that he and Mr. Deacon were discussing in the past using the procedures that are in the States administrative procedures. Trustee Mass that would be better than saying we will adopt procedures if we amend that paragraph here. Trustee Lacoste asked Mr. Yankopoulos if we could get a copy to review. Chairman Keefe said a lot of this are pretty old and are not computer savvy or even how to get on mass.gov to look at this. He continued that he would rather see as part of this attachment 1 would be a check list on how you apply for an appeal, I feel we need to make it as simple as possible. Trustee Lacoste appreciates that because she knows that people don't like looking at a lot of paperwork. Trustee Mass disagreed and stated that that is the job of the ombudsmen to give them a checklist and our policy should be the policy. He continued that if you dumb it down to a checklist then you have created a challenge that may not need to exist this policies are in place for when they hire counsel to sue us that is the whole reason why we are putting higher counsel to sue us and the lawyers know how to read this. Trustee Mass said let the ombudsmen help these people through the process and you can give them a referral and they can do a flowchart. Chairman Keefe asked Trustee Mass if we are certain that everyone wants to appeal in 15 days secure counsel and look at this policy and get the first step of the appeal process in place by the 15 days. Trustee Mass responded that the 15-day deadline is on use, they have 30 days after they from after they receive notice, these policies are in place to keep us from getting sued. Mr. Yankopoulos added that the form of the appeal itself can be as simple as a handwritten note stating they want to appeal. Trustee Lacoste asked Mr. Yankopoulos on the last item regarding the appeal procedure if we could confirm in section 10 number 5 instead of establishing an appeal procedure, we follow the appeals procedures in section such and such. Trustee Mass believes it will work and if we want to do it separately, we can do it separately but that might be the easiest way do this to get it our quickly. He agrees with Mr. Yankopoulos and Mr. Deacon that we do not want to reinvent the wheel. Trustee Lacoste will need help to rewrite section 10, number 5. Trustee Mass stated the he would just ask Mr. Deacon to look at it again and specifically cross reference the administrative appeal process specifically citing the CMR.




The next meeting will be held the April 19, 2022.

Trustee Mass made a motion to adjourn. Trustee Keefe seconded. Roll call vote: Trustee Keefe (Yes), Trustee Mass (Yes) and Trustee Lacoste (Yes). It was unanimously VOTED to adjourn the meeting at 6:07 pm.

Respectfully submitted,

Kathleen Denner
Acting Secretary for the Board of Trustees

Attachment(s):

-  119-cmr-XX- HLY Admission Transfer and Discharge (revised with appeal procedures).sk
-  Clean - 119-cmr-XX- HLY Admission Transfer and Discharge (revised with appeal procedures).sk.2.9.22
-  Working 3-23 HLY Admission Transfer and Discharge (revised with appeal procedures)