

# STATE OF COLORADO

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Colorado Department  
of Public Health  
and Environment

## Assisted Living Advisory Committee Meeting Summary

July 23, 2013

12:00 – 2:00 PM

Sabin Cleere Room, Building A

**Committee Members Present:** Shannon Gimbel, Laura Landwirth, Julie Lee, Linda Sanden, Maggie Sparks

**Committee Members Absent:** Iva Prinsen, Jun Murai

**Guests:** Jerry Bootzin; Goyan Campbell; Lyle Campbell; Clinton Dale; Carole DeWolf; Gina DiGiallonardo; Brian Erickson; Sara Diaz; Nancy Ferrier; Cindy Frick; Genevieve Froser; JoAnne Gattoni; Tami Good; Gregory Green; Julia Gutierrez; Lori Hamilton; Marilyn Hammerschmidt; Tom Harberts; Judith Hollo; Nadia Hughes; Annette Hunt; Pat Johnston; Tom Kinrade; Jeremy Klassen; Ann Kokish; Richard Larsen; Donna Larson; Nevada Matoush; Heather Porreca; Margaret Ray; Tami Remming; Julie Rich; Mindy Rickard; Teddi Samuel; Andrea Sanchez; Jack Schilling; Linda Schilling; Pam Silverberg; Erlin Siregar; Kathy Snow; Mary Vargas; Andy Wallace; Heidi Walling; Cathi Waters; Terri Whelan (This list reflects the names of those that signed in at the meeting.)

**HFD Staff Present:** Deann Conroy, Lynn Davis, Dee Reda, Melanie Roth, Sean Schwartzkopf, Terry Zamell

**Welcome/Reminders:** Terry Zamell welcomed everyone to the meeting at 12:01 PM and introduced the new Deputy Division Director Deann Conroy.

**12:00 – 12:15 PM: Remarks from Our New Deputy Director:** Deann Conroy reported that she came directly from the Department of Regulatory Agencies, which regulates health care professionals. She was the Program Director for five different health care professionals' programs and their boards. Deann reported that she believes it is important for surveyors to be professional in their work, and consistency among surveyors will be a focus within the Division. She is also working on putting policies and procedures in place that will apply across the entire division –all facility types – so that surveys will be consistent. Call Deann with any questions or issues at 303-692-2899 or [Deann.Conroy@state.co.us](mailto:Deann.Conroy@state.co.us) . Email works best.

**12:15 – 1:00 PM: Adoption of the New Life Safety Code and Other Changes:** Sean Schwartzkopf, residential care supervisor/inspector at the Division of Fire Protection & Control reported that several important changes are coming that he wants to make providers aware:

**Certificate of Compliance:** With your license renewal, administrators will receive a new temporary Certificate of Compliance (CC) indicating that your residence meets the Life Safety Code requirements through the Division of Fire Prevention and Control. Sometime before the CC expires, your facility will be surveyed again. At the conclusion of a life safety survey, the administrator will sign the deficiency list to signify an understanding of corrections/changes that need to be made, and will have 60 days to fix them. Providers will no longer have to complete plans of correction for Life Safety Code deficiencies. Inspectors will follow up with providers at the end of the 60-day period to see documentation of corrections, or they will visit your residence to confirm everything is fixed. If not corrected, providers

will be charged \$500 every time inspectors have to come back to your residence. Once all deficiencies are corrected, the provider will receive a new CC that will be good for three years; these certificates will cost \$1500. Mr. Schwartzkopf polled providers, who agreed that they would prefer that the \$1500 payment be broken up into three years. He will take that request back to his division.

Sean also agreed to take back to his division the committee's input that consumers should be able to access the Life Safety Code survey results, as they did on the state health department's website.

#### Facility Inspections:

- **Private pay only** ALRs will be inspected by your local fire department, as long the inspector has (1) a Fire Inspector 1 designation and (2) a license with the State through the Division of Fire Prevention and Control. If your local fire department **does not** meet these standards, the Life Safety Code team will conduct your inspection.
- **ALR/ACFs** will be surveyed by the Life Safety Code team – regardless of whether or not a local fire department conducts inspections -- because your facilities receive money from Medicare or Medicaid.
- **Campuses with skilled nursing facility and an assisted living residence:** These facilities represent two different occupancy types. The Life Safety Code team inspects the nursing home; the rules above apply to the assisted living residence.

Adoption of the 2012 Life Safety Code (effective July 1, 2013): The biggest impact of this change is that small ALRs (16 beds or less) with 13d sprinkler systems are now **required to have heat detection in the attics**. The current panels with the 13d system may not have enough space to allow for this, and providers may have to upgrade your systems. In addition to the cost of upgrading the system, there will also be a fee for plan review. The Life Safety Code team has not finalized an implementation timeline for this, but it is likely to be a six-month waiver or at the most a one-year waiver. Mr. Schwartzkopf recommended providers determine the kind of system in the residence, and make necessary changes.

#### Plan Review :

- Any changes to your facility that would require a local building permit to fix will **now also require** a permit through the Division of Fire Protection and Control (DFPC).
- The DFPC will institute a three-year open permit for facilities; a provider will pay a \$500 fee for a three-year open building permit to complete changes.
- The Division of Fire Prevention and Control is still working on permit processes for new buildings, additions, add-ons, sprinkler system upgrades, etc.
- Forms will be posted on the DFPC website for providers to use when submitting a plan review. To reach the new Department of Public Safety's Division of Fire Prevention and Control website, go to [DFS.state.co.us](http://DFS.state.co.us); scroll ¼ page and click on the link *Health Facility Inspection and Construction*. The website contains emergency rules, but it does not have all the fee schedules.
- There will be a one-time fee for all facility types.

Terry Zamell reported that the health surveyor will continue to focus on the residents, however, if life safety issues such as extension cords, power strips, and oxygen are triggered or if they see a pattern, e.g. multiple oxygen tanks not secured, surveyors will be looking at it.

Fire drills: Life Safety Code inspectors will be looking at your fire drills. The Code states whether or not you have to do fire drills depends upon the type of occupancy. You can possibly defend in place, depending on where you are in your building, but you would have to meet the same life safety requirements that "health care" have to meet, which are the same requirements as nursing homes. If

you have a secured unit, you have to meet the same requirements as a “healthcare” facility from a life safety standpoint.

Per the life safety code, ALRs evacuate on all fire drills.

If your local fire department notifies you that it wants your residence to “defend in place” during an emergency (and NOT evacuate), this means that your building has to meet healthcare requirements per the Life Safety Code, and you will have a Life Safety Code survey for a nursing home. If your building cannot meet the nursing home Life Safety Code requirements, the life safety team will contact the local fire department and explain that the residence cannot defend in place per the 2012 NFPA 101 Life Safety Code.

If you are an ALR only – *meaning private pay only* – and your local fire department (that inspects your facility) tells you to “defend in place” then you can defend in place.

Resident Rating Sheets: All providers will now have to complete rating sheets on each resident’s evacuation capability **unless** (1) the ALR is **private pay only** and the local fire department that conducts your inspections tells you that your residence can be a “defend in place” facility; or (2) your building meets all of the Life Safety Code requirements of a “healthcare” facility, which are the same requirements as nursing homes must meet. Providers can get the 2010 edition of National Fire Protection Association (NFPA) 101A by going to [nfpa.org](http://nfpa.org). If you need resident ratings forms, contact Mr. Schwartzkopf at [Sean.Schwartzkopf@state.co.us](mailto:Sean.Schwartzkopf@state.co.us) or 303-692-2914. Mr. Schwartzkopf encouraged everyone to participate in the DFPS stakeholder meetings about upcoming rulemaking.

**1:00 – 1:25 PM ALR Program Update:**

**Program Staffing:** Terry Zamell reported that she is retiring at the end of September, and Dee Reda will be the Interim Program Manager. Also, effective August 1, Dave Marcy has been named an interim supervisor to replace Jill Lazo, who left the Department in June.

**Top Deficiencies 2013:** Terry Zamell and Dee Reda reviewed growth trends in assisted living, deficiency trends, and top deficiencies. Ms. Reda reported that the most commonly cited deficiency in health surveys and complaint investigations is *noncompliance with physician orders*. Surveyors have seen noncompliance with physician orders for medication and treatment and have cited a large number of deficiencies written for noncompliance with physician orders with oxygen (a treatment), which has had a very detrimental effect on residents. Dee reviewed additional deficiencies and gave examples of situations that have occurred. You may view these handouts [here](#).

**Other Program Changes:** Terry Zamell reported that, in an effort to improve timeliness of issuing deficiency lists following a survey, surveyors are trying to get the lists out in a 10-day timeframe. Therefore, providers must submit any outstanding documentation from the survey **within one business day**, (e.g., a doctor’s order or document the surveyor agreed to accept via fax). Waiting to receive documentation is an area that prevents surveyors from getting deficiencies written, and receiving documentation within one business day will give them enough time to meet the new 10-day timeframe. Deputy Division Director Deann Conroy added that she is looking at extending the amount of time providers are given to (1) submit a Plan of Correction; and (2) to respond to the Informal Dispute Resolution (IDR) committee to 20 days and providers indicated this would be helpful to them.

**HB 12-1294 Update:** Terry Zamell shared an update with HB12-1294, the criteria for the extended survey cycle.

**1:25 – 1:40 PM Recent Fires and Preparedness Reminders:** Melanie Roth reported that the Division is asking providers to use the division web portal to *routinely* update your facility emergency contact

information with a minimum of two contact names, cell phone numbers and home telephone numbers. Division staff or emergency responders must be able to contact facility personnel during emergencies that may require staff to take special precautions, e.g., evacuations. Ms. Roth reviewed a list of “lessons learned” from facility evacuations during the Black Forest and Royal Gorge wildfires, and encouraged providers to heed the advice of the administrators that were impacted: *have plans and agreements in place* for multiple alternate locations for residents and, emergency transportation. In the coming fiscal year, the Department’s Office of Emergency Preparedness and Response will offer facilities free emergency planning workshops and demonstrate tools and resources, e.g., EMTrack, that can be invaluable during emergencies. The ALR team will ensure providers are notified of these opportunities. For more information, contact Melanie at [Melanie.Roth-Lawson@state.co.us](mailto:Melanie.Roth-Lawson@state.co.us) or 303-692-2819.

**1:40 – 1:55 PM Department of Health Care Policy and Financing Update:** Kathy Snow, Long Term Care Benefits Policy Specialist at the Department of Health Care Policy and Financing weighed in on the impact of the recent wildfires, citing the financial impact it can have on a health facility. She advised providers to look at their insurance coverage for emergencies, citing a skilled nursing facility that evacuated due to smoke issues; they cannot collect insurance because they evacuated before the emergency command center told them to evacuate.

Ms. Snow told providers that:

- The *still unreleased* HCBS Characteristics final rule that covers all the 1915 (c) waivers may be published in coming months. She knows that these rules – regarding what an HCBS setting should look like (meant to deinstitutionalize the setting) – will have a large impact on alternative care facilities (ACFs), e.g., an ACF is not supposed to be connected to a nursing facility or on the same campus as a nursing facility. The Centers for Medicare and Medicaid have said that they will scrutinize any setting that resembles an institution, or has in place service delivery or policies that are institutional in nature. Ms. Snow is going to request a phone call be scheduled so that ACF providers, HCPF, and CDPHE can help educate federal partners on the kinds of clients ACFs care for and the impact these rules would have on them. She does not know what kind of transition period ACFs would have if this transition occurs. (The rules also say there has to be private rooms unless clients agree to share a room.)
- Ms. Snow already has a call scheduled with CMS about the ACFs operating within the Community first choice waiver.
- There has been a Medicaid rate increase for alternative care facilities, effective July 1, 2013.
- The Elderly, Blind and Disabled (EBD) waiver was renewed and the rotating survey schedule is reflected in that waiver (the survey schedule used to be based on the nursing home survey schedule). Staff intend to ensure that this schedule is also reflected in the Community Mental Health Supports waiver.
- The Community Mental Health Supports Waiver is still on a Corrective Action Plan with the Centers for Medicaid and Medicare (CMS), which means that CMS will continue to look at the quality of the survey providers.

**1:55 – 2:00 PM Training Update:** Melanie Roth reported that the Assisted Living Residence Program is still planning to hold person-centered care training for providers this fall.

**Next Meeting:** The next meeting will be held on Thursday, September 26, 2013, from 12:00 - 2:00 PM. *Please join us as we honor Terry Zamell at a Retirement Reception in her honor immediately following the September 26<sup>th</sup> ALR Advisory Committee Meeting in the Sabin-Cleere Room.*