



**Assisted Living Regulations
Public Forum – Session Two
October 8, 2015 at 2:00 p.m. 4:30 p.m.
Meeting Minutes**

Regulation Review for COMAR 10.07.14 (Sections .43 - .59)

OHCQ Staff: Amanda Thomas (Organizer), Regulatory Affairs Analyst
Gwen Winston, Quality Initiatives Coordinator
Carol Fenderson, Deputy Director of State Programs

Date: October 8, 2015

Time: 2:00 p.m. – 4:30 p.m.

Location: Rice Auditorium, 55 Wade Ave, Catonsville, MD 21228

Welcome and Introductions:

- Opening remarks and welcome – Carol Fenderson
- Review of Ground Rules – Amanda Thomas
 - Please note that this session is being recorded for note taking purposes.
 - Please be respectful during this session. Everyone’s comment is important.
 - 2 minute time limit for comments.
 - Those in the room will provide comments first and those on the phone will follow.

Attendees:

- 37 attendees participated in person
- 40 attendees participated by phone

Anderson, Patricia	Lafferty, Chelsey
Arrington, Susan	Lee, Chantel
Boettger, Susan	Loyer, Phoebe
Booker, Trudy D.	Madigan, Patti
Brocht, Traci	Simms, Mae
Carter, Dennace	Sollins, Howard
Dobson, Lucy	Solomon, Darrin
Ellis, Stevanne	Sraver, Frank
F. G.	Stokes, Anita
Funderburke, Nikia	Wayal, Kamini
Good, Linda	Webb, Myrtle
Green, Verneesha	Wiggins, Amanda



Greene Dawn	Williams-Luke, Gillian
Greene, TC	Wolf, Shirley
Hecknan, Nina	Woodson, Michelle
Himm, Phylicia	Young, Donna
Jaskot, Emily	Zeiss, Heather
Kennedy, Julie	Zick, Rebecca
King, Elizabeth	

Regulation Comments

[.48] .43 Common Use Areas.

- Michele Woodson – Daughter of an Assisted Living resident. Question about food service. Suggest that there be a special (specific) section for food service in the regulations. (Currently the regulations regarding food service are spread throughout the regulations.) There needs to be qualifications for the person overseeing that area.
- Mae Simms (Beyond Care) – Question about a survey completed in the past. Past provider had a house rule that the kitchen should be off limits to residents unsupervised, this was posted conspicuously. However, the surveyor stated that they could not have that. Residents should have access to the kitchen at all times. However, how does this work with residents who have dietary and allergy food restrictions. This could be a serious health and safety concern. I don't see anything in COMAR that says that this house rule is not allowed.
- Donna Young (Wilbur Assisted Living) – I agree with the previous commenter. Smoking regulation. Suggest that smoking among care givers working in non-smoking areas of the facility be avoided. This should be included in the regulations somewhere. Clarification of requirements for outdoor activity space. Clarification of size, space, location. Hazardous food temperatures in letter E. needs to be clarified. What should the correct temperatures be?
- Pat Johnson - Agree with previous commenter about smoking concerns. Additional question of how far away from the building will the facility allow smoking.
- David Jones (Board of Pharmacy) – Under I. Refrigeration. Indicate a minimum temperature instead of a range.

[.49] .44 Resident's Room and Furnishings.

- Mae Simms – Question about B. Furnishings. New prospective providers should not have to fill up every single room to pass inspection. There may be residents that want to bring their own furniture. Also, many of them starting off do not have



deep pockets. They can get furniture as they acquire residents or allow their residents to bring their own furniture.

- Donna Young – Question about (7) Resident room dividers. Clarification on when this is required. What does “adequate” and “sufficient” mean? The words should be removed or clarified. Does the comfortable chair have to be a standing chair or can it be folded? How much linen is “sufficient”?

[.50] .45 Bathrooms for Residents.

- Donna Young –Are Jack and Jill bathrooms allowed? Prohibitions and allowances should be documented in the regulations. For example, are fireplaces allowed if the resident does not have any health care issues that would put them at risk. If the surveyor says that they (providers) cannot have something, it should be documented in COMAR.
- Mae Simms – Question about a past surveyors disapproval of the provider having a Jacuzzi. The license was held up until they covered up the Jacuzzi. Also, I question where this is found in the regulations. The provider had to incur extra fees for something that should have been a specialty for the Assisted Living facility.
- Eireen – Agrees with the previous two commenter’s, that they were told to change something prior to opening by a surveyor. What the surveyor was stating was not allowed, could not be found in COMAR. It seems that surveyors are not always on the same page.

[.51] .46 Illumination.

No comment.

[.52] .47 Heating, Ventilation, and Air Conditioning.

- Stevanne Ellis (Ombudsman Program) – Question about A. Space Heaters. Clarification is requested on the specific requirements on having space heaters.
- Donna Young – The fire department gives out a list of approved space heaters, however this list is not the same as what OHCQ recommends. We suggest coordination between OHCQ and the fire department before the regulations are finalized for the type of space heaters that are allowed.

[.53] .48 Radiators.

No comment.

[.54] .49 Laundry.



- Donna Young – The use of the term “adequate” needs to be reviewed. When discussing the prevention of spread of disease, what are the requirements for sanitizing and the use of chemical agents? The sensitivity of the skin needs to be considered as well when developing requirements for substances to prevent spread of infection.
- David Jones – Agrees with previous commenter. Additional suggestion, cleaning agents, sanitizing agents, and detergents should be as hypoallergenic as possible.

[.55] .50 Telephones.

- Donna Young – The regulations should specify that there is at least one landline telephone. The regulations say that every residents room should be wired. However, there are wireless options available. I don’t understand the need to have rooms wired, when there are wireless options available. This seems out of date. If they can use a hand-held and go into another room for privacy, is that allowed?
- Mae Simms – My understanding is that there has to be at least one landline in the facility. In the event of a power outage, landline phones add protection to the facility that they are able to continue make calls. Often times when there is a power outage, cell phones and internet phones don’t work.

[.56] .51 Sanctions.

- Stevanne Ellis (Ombudsman Program) – Suggest that OHCC enforce and share sanctions including survey findings, revocations, and outcomes of the process. Consumers have a right to know about facilities that have been sanctioned, as they are making choices for loved ones and themselves on where they will live. Additionally, we suggest OHCC develop a website with information the public can access containing the survey findings, revocations, and outcomes of the process.
- Patty Madigan (Department of Aging) – Suggest, in addition to OHCC enforcing the sanction they should also notify the following department of sanctions: Department of Aging, Ombudsman, Subsidy and Waiver Program, and any local department that oversees the agency or it’s sanctioning.
- Donna Young – Sanctions should not be posted until the process has been completed. It’s not clear what the requirement is to notify family members of sanctions. The regulations require the posting of notification about the sanctions, what is required beyond this. Additional question, what happens after the IDR? What is the process the facility follows once they are cited and disagree with the citation?



- Howard Sollins – Concerned about general references to family. Not every family member has a right to information. The most vocal person may not be the representative. Suggest, “resident designated” or “resident selected” be added to the regulation language. In regards to an IDR, any penalties should be delayed pending the IDR outcome.

[.57] .52 Civil Money Penalties.

No comment.

[.58] .53 Amount of Civil Money Penalties.

- Howard Sollins – Suggest using similar language used in the Long-term Care regulations in regards to a discount for not contesting the penalty.

[.59] .54 Civil Money Penalties — Hearings.

No comment.

[.60] .55 Criminal Penalties.

- Stevanne Ellis (Ombudsman Program) – The Ombudsman program is in support of OHCQ enforcing this regulation.
- Howard Sollins – There are a number of provisions in the regulation that deal with filing of an application of renewal, paying a late fee, getting a temporary permit. If you’re in late fee period. Then there is this provision about operating without a license, being a criminal. You don’t want to have a situation in which somebody is filing the request for the late application, paying the late fee, and working with the agency, even though the approval hasn’t been granted (it’s pending); however suddenly you have this provision in the back saying they are guilty of a felony. Obviously if the statutes say it’s a felony, then the regulations should follow. However, if the statute doesn’t say it, then the regulations shouldn’t say it. I’m a little concerned about a presumptive statement of what is a felony. That judgment is done by referral to the states attorney’s office, which makes the decision to prosecute or use their discretion. Presuming that the statute has a criminal violation aspect. I would suggest, if somebody is not going through the late application process and is completely operating without a license and they are beyond the period, then OHCQ has the discretion to make the referral. There might be a situation where someone is completely violating the late fee. You would impose a penalty or something other than saying they are committing a crime.

[.61] .56 Health Care Quality Account.



- Stevanne Ellis (Ombudsman Program) – Requests clarification on access to funds in an emergency situation.
- Patty Madigan (Department of Aging) – In addition to the Health Care Quality Account for emergency funds for Ombudsman (we also request clarification) on funds as needed for training of providers.
- Donna Young – Could there be consideration to utilizing those funds in the subsidy program to increase the amount in the subsidy program. Typically individuals coming to us have very little funds and the state gives them \$600. Also allow more people to be on the (subsidy) list. Take into consideration transportation for our residents. There is limited access to transportation in Prince George’s county. There is no bus, no metro access, and the bus doesn’t work on weekends. Getting them to activities on the weekend is very difficult. If some of the funds could take into consideration anything that would help them with transportation, keeping their independence when they move into an Assisted Living. What does any other purpose that will directly improve quality of care mean? Can you provide examples of categories of how those funds can be used?

[.62] .57 Emergency Suspension.

- Stevanne Ellis – The ombudsman program supports OHCC in assisting in the relocation of residents.

[.63] .58 Revocation of License.

- Stevanne Ellis – The ombudsman program supports OHCC in the assisting in relocation of residents. Clarification on which secretary the regulations are referencing.

[.64] .59 Hearings

No comment.

Other Notes

- Following the comment session, an open discussion was held for participants to discuss the regulations on the agenda for October 1, 2015.