

OHIO HEALTH CARE ASSOCIATION ASSISTED LIVING BOARD OF DIRECTORS MEETING MINUTES

December 16, 2024, 3:00 p.m.

Assisted Living Board member Danielle Russo called the meeting to order and welcomed board members to the meeting. She pointed to the combined antitrust, compliance and confidentiality policies included in the resources for the meeting in the online folder. Board members Charlotte Kister and Brent Classen approved the October meeting minutes. Attendance can be found at the bottom of this document.

First, Ms. Russo invited Pete Van Runkle to cover items under public policy. He opened with a notification that OHCA staff member Mandy Smith was no longer with the association, and there is a plan under development for her replacement. He directed board members to other staff on OHCA if they had survey or regulatory questions in the interim. He then provided a political update. Since the last board meeting, the federal and state elections occurred. While a supermajority remains in both the House and Senate for Ohio legislature, there was a significant change in leadership for both houses. We expected the House Speaker race to be contested, but Speaker Stephens dropped out a few days before the vote. Matt Huffman will be Speaker of the House and has the potential to hold that position for 8 years as he is a Freshman in the House. He hand-picked Rob McColley as his replacement for Senate President. These two leaders will be important in the upcoming budget discussions. He reminded the board that this budget would be difficult as state revenues are down. The Ohio Department of Aging (ODA) and the Ohio Department of Medicaid (ODM) sent budget requests to the Governor. The requests do not provide much detail. However, he noted that ODM had requested a large increase in the second fiscal year, much higher than the 3.5% growth factor set by the Joint Medicaid Oversight Committee (JMOC). He stated that the OHCA budget priorities for sustainable rate increases in assisted living have not changed.

Mr. Van Runkle then discussed the impact of the federal election. He stated that Federal regulation of assisted living will not have much traction with the Trump Administration. However, we could see a rollback of existing regulations such as the Medicaid Access Rule and the Department of Labor (DOL) Overtime rule. A negative consequence could be a target on Medicaid expenditures. He noted that there has not been any communication on this to date.

Erin Hart provided an update on the status of provisions related to Certified Medication Aides (CMAs) from Senate Bill 144. She noted that the Board of Nursing had posted an update on their website confirming that they would be recognizing the changes in statute along with a youtube video on how to look up a CMA status in Ohio eLicense. She reported that Pete Van Runkle had been working with the Ohio Board of Nursing (OBN) legislative aide, Jack Brubaker, and lobbyists from the Ohio Assisted Living Association (OALA) to correct language under Ohio Revised Code (ORC) 4723.671, a result of the passage of Senate Bill 28. To our awareness, that language has not been included in any legislation to date. However, OBN may hold the rules approved by the board during the November 20 board meeting until that language is corrected. She also pointed to a link in chat for the EFOHCA education in January

on competency training and evaluations for current CMAs that wish to utilize the expanded scope of practice for pre-metered insulin.

Ms. Hart also provided a brief update on the New MyCare Ohio implemented. She informed the Board that ODM had chosen the 4 new MyCare Ohio plans. They are Buckeye, CareSource, Molina, and Anthem. There is still some question on how beneficiaries with two plans chosen for the demonstration will be handled. They will likely have to select a new plan. The OHCA amendment for MyCare, which would continue protections for Assisted Living waiver providers, such as a Medicaid rate floor, will not have any traction during lame duck. We plan to make an effort to include in our budget priorities. She reminded board members that the effective date of the new MyCare Ohio plans is January 1, 2026.

Board member Julie Simpkins then provided an update on the perspective of the National Centers of Assisted Living (NCAL) on federal legislation. She began with an update on the Special Committee on Aging hearing. She stated that Democrats asked the US Government Accountability Office (GAO) for a report on Assisted Living services. NCAL predicted this would focus on private equity. However, the report's focus has been on Medicaid payments, Medicare Advantage, and other payments for services for assisted living. It also touched on barriers to entry to assisted living communities. There has been no action on the report thus far. She then moved to the ASSISTED in Assisted Living Act introduced by Senator Kelly's office. She said there are 9 key areas they are focusing on. Still, the primary themes involve establishing an advisory council to develop best practices and a voluntary public-facing informational dashboard. It is expressly noted that this bill would not create federal regulation. Last, she discussed a Veterans Bill that would pay for assisted living, which was passed by the House, revised by the Senate, and has now been sent back to the House for finalization. It is likely to pass this year.

Mr. Van Runkle then opened the discussion on regulatory items. He began with an update on the Quality in Assisted Living Collaborative, comprised of several national associations including NCAL. Recently, QALC issued its Infection Prevention guidance. The guidance under development is meant to combat the need for federal regulation. NCAL did not sign on to the guidance document due to a requirement that all states agree to its contents. It is unlikely that ODH will implement any of the suggestions since we just completed the 5-year rule review process. However, they could look to these guidelines in the next rule review. He noted that board members may wish to use the guidance for their own internal policies.

Mr. Van Runkle then discussed the ODA Quality Navigator. Direct Ursel McElroy recently announced that residential care facilities (RCFs) and skilled nursing facilities (SNFs) who had not completed the provider information update for the Quality Navigator would have their license renewal held. OHCA does not believe they have the authority to do this, but we know one provider who has experienced this. 71 facilities have not completed the update. We expect an update on this topic during tomorrow's Nursing Facility Task Force meeting.

Lastly, Mr. Van Runkle pointed to an increase in Real and Present Danger (RPD) citations on the second quarterly report. The most significant issue relates to resident elopements. He advised board members to review the information on the report for their operations.

Debbie Jenkins provided an update on the DOL overtime rule case. The court's ruling reversed the rule in its entirety, including provisions effective July 2024. While it is difficult to claw back raises already given, providers could change employees to exempt status that were made exempt due to the rule.

The previously scheduled salary threshold increase for January 1 is also vacated. The DOL filed an appeal, but it is unlikely that the Trump Administration will see this through. OHCA will monitor closely over the coming months.

Ms. Hart discussed the Ohio Housing Finance Authority (OHFA) Affordable Assisted Living (AAL) guidelines. During the last meeting, OHCA updated the board on the second draft of the guidelines. The association attended a meeting and submitted comments expressing concerns with the ability for AAL providers to be certified as an RCF with the programmatic space limitations of 10% and requested an increase to up to 50%. OHCA also noted that the limitations on applications was restrictive and outside of OHFA guidelines for other LIHTEC projects. OHFA recently issued final draft guidelines removing the application limits and replacing them with experience and capacity requirements, enabling established developers to work on multiple developments simultaneously and to submit multiple applications for review. Secondly, OHFA increased the allowable space for resident programming, combining dedicated program space and common area space and allowing those combined spaces to account for 50% of the gross building square footage.

Ms. Hart then discussed the recently announced HCBS Settings training. She noted that ODA has clarified that this is required training. Also, during the last Assisted Living Wednesdays call, Meredith Finley listed this as a recent survey citation issue for AL Waiver providers. Danielle Russo stated that she received an email from one of the Direction Home Area Agency on Agings (AAAs) reminding providers to complete the training for all direct care staff. Ms. Hart asked if any other AAAs had done something similar. Charlotte Kister noted that she believed she received a reminder from the Western Reserve Area Agency on Aging. Ms. Hart asked if the Board would notify her of any other AAAs, as the association would like to see all AAAs being proactive with these reminders.

Ms. Hart also provided an update on the CMS Heightened Scrutiny review process. She informed the board that a provider who applied in 2020 was approved in October 2024. Other states have indicated that approvals are beginning to come through from CMS. She also noted that Karen Boester from ODA said they are not sending ALs collocated with SNFs for heightened scrutiny review if they also have independent living on the campus. Ms. Hart noted in two recent provider experiences, collocated facilities that only shared a lobby and had no access restrictions were also not referred. Ms. Hart stressed that this is technically not what ODA should be doing. She also noted that 3 other providers were sent for heightened scrutiny review, and OHCA would be closely monitoring the timing of their applications. ODA has often reported a large increase in ALW providers in Ohio since the rate increases were approved during the last budget.

Ms. Hart then provided various Association updates. First, she stated that EFOHCA had signed a contract with Peter Murphy Lewis to create a documentary focused on recruiting workforce called "People Worth Caring About". Stories were selected from the 2023 and 2024 OHCA award submissions and sent to the documentary team for review. Of those stories, 8 facilities were interviewed and 7 will be filmed. One of those providers is of an ID/DD group home, 5 are of SNFs and 1 is from an Assisted Living (Glass Peaks). She stated that filming would begin in February with a premier at the Southern Theater on May 7 during convention.

Ms. Hart pointed to the chat where she posted the link for scholarship applications, and informed the board that the application portal for 2025 is now live. Applications are due March 14 and posters were sent to the facilities. Awards range from \$2,000-\$12,000. She also pointed to the hyperlink in the

agenda for the OHCA Convention call for presentations. She asked board members to send any requests for topics to her for consideration. Lastly, she pointed to the newly developed AHCA/NCAL Workforce Resources webpage, also linked in the agenda. She stated that this contains tools and resources for OHCA members to use in their recruitment efforts.

Ms. Russo asked if there was any other business. Hearing none, Julie Simpkins made a motion to adjourn the meeting, second by Brent Classen.

Next meeting: February 17, 3:00 p.m.

Attendance:

Danielle Russo
Jody Linton
Brent Classen
Charlotte Kister
Gwynn Ryder
Julie Simpkins
Pete Van Runkle
Erin Hart
Debbie Jenkins