

Oregon Home Care Commission  
Rule Advisory Committee

March 1, 2019

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**Minutes**

**1. Welcome and introductions**

**2. Background information about SB 1534 and progress made**

Jenny Cokeley provided background and an overview of SB 1534. Passed by the Oregon Legislative Assembly in 2018, the bill directs the Department of Human Services to implement mandatory training and testing requirements for homecare and personal support workers. These new requirements, effective January 1, 2021, are for all homecare and personal support workers who are approved to provide services and supports to individuals receiving in-home services funded through Medicaid or Oregon Project Independence. Senate Bill 1534 identified several training topics that include:

1. Safety and emergency measures;
2. Understanding the requirements for providers paid with Medicaid funds;
3. Providing person-centered care;
4. Understanding how to support the physical and emotional needs of the individual who is receiving care;
5. Managing medications; and
6. Providing personal care and assistance with activities of daily living.

**3. SB 1534 Training Workgroup recommendations**

Scott Spencer provided a summary of the SB 1534 training workgroup and their recommendations.

The workgroup was made up of community partners, stakeholders, advocacy groups, the union that represents the workforce (SEIU), homecare and personal support workers, and consumers. The Training

Workgroup began its work in the Summer of 2018 with the goal of discussing and making recommendations to the Steering Committee for:

- Hours/credits required for new providers;
- Hours/credits required for continuing education;
- Timeframe by which training must be completed;
- Testing and whether there will be an option to “test out” (*The group was unable to reach a consensus on this issue*);
- Potential exemptions to training or testing requirements;
- Training curriculum;
- Consequences of not meeting training requirements;
- Whether current workers will receive credit for OHCC classes already taken;
- How professional development certification overlaps with training requirements; and
- How to align curriculum and training standards with in-home agencies and long-term care settings

Jenny Cokeley captured the discussions and recommendations of the work group and compiled them into the recommendations document finalized last November. This document was distributed at the meeting.

The workgroup provided recommendations for mandatory training topics that align with the general training topics listed in SB 1534. These details are available in Appendix A of the recommendations document and topics include:

1. Safety and emergency measures;
2. Understanding requirements for providers paid with Medicaid funds;
3. Providing person centered care;
4. Understanding how to support the physical emotional needs of the individual who is receiving care;
5. Medications management; and
6. Providing personal care and assistance with ADLs

While the group is not developing the curriculum, there are key concepts they wanted to be covered when the curriculum is developed. Examples include:

- Under Safety and Emergency Measures
  - Emergency Response
- Under Providing Person Centered Care
  - Helping consumer meet personal goals
- For Understanding how to support the physical emotional needs of the individual who is receiving care
  - Introduction to LifeCourse framework

Mike Volpe asked what topics would be covered in orientation courses, and how long they would be. Jenny Cokeley referenced Appendix A in the Training Workgroup recommendations document, reading the list of topics.

Linda Kirschbaum asked why medication management was not checked as a topic covered in orientation. Jenny Cokeley clarified that was an error in the document, and that it would both be covered in orientation.

George Adams recommended that the courses cover how to care for people with paraplegia and quadriplegia. Jenny Cokeley noted this will be taken into consideration.

#### **4. Rule review – chapter 418, division 20 (OHCC Functions)**

Jenny Cokeley outlined the process of how the Oregon Home Care Commission approves rules. She then proceeded to read the rules to the group, providing context and explanations as she went along.

Mike Volpe asked if attendees are receiving training from the consumer, then why would they need to receive additional trainings from the State? Jenny Cokeley explained that while consumers train their HCW(s) on how to perform ADL and/or IADL specific tasks, the mandated trainings cover more comprehensive skills that HCWs and PSWs are now required to have.

Sarah Edwards suggested to include the definition of the term “enrolled” within the rules’ definition section. Debra Satterfield requested that the date(s) of enrollment be specified as well.

Judi Richards asked how an HCW’s or PSW’s certifications are monitored. Roberta Lilly said the mainframe team codes the certifications and ties the

applicable dates to the HCW/PSW's provider number. HCWs and PSWs also receive a certification document that includes the expiration date.

Mike Volpe asked if his backup providers would be required to complete the trainings, even if they have experience in working as an HCW. Jenny Cokeley explained that all HCWs and PSWs are required to meet the standards outlined in the rule.

George Adams asked if HCWs and PSWs need to have these skills prior to beginning their work? Jenny Cokeley explained that all HCWs and PSWs are required to take these courses within 120 days of their start date. George asked if there could be a requirement for workers to provide a one month notice of resignation (as opposed to a two-week notice). Jenny Cokeley said that this topic is not covered within these rules, but that a policy analyst from the state might be able to explore the issue.

Jenny Cokeley explained the incumbent worker rule. Sarah Edwards expressed concerns about the dates/deadlines defining incumbent workers, as those could potentially create barriers to those workers beginning or continuing their work. Mike McCormick said more work is needed to address this issue. Sarah Edwards provided a recommendation that any HCW or PSW working on or before 12/31/2020 would be considered "incumbent" and any worker hired between 1/1/2021 and 6/30/2021 are considered "new." No attendee of the RAC voiced concerns or disagreement with this recommendation. Jenny Cokeley said it would be taken under advisement.

Jenny Cokeley addressed that the term "assessment," noting that in context of this rule it holds the meaning of "test" or "evaluation." She solicited feedback from the group about the potential that using the term "assessment" could be confusing since it holds a different meaning in other rules. Cynthia Barrett referenced the Secretary of State audit that used the term in a similar way as OAR 418-020. Drake Ewbank added that using the same term that has multiple connotations could be confusing and recommended using the term "exam." Multiple other attendees provided suggestions of alternative terms to use in place of "assessment", settling on "competency evaluation."

Jenny Cokeley outlined the changes to the rules for Qualifications for HCWs and PSWs. Judi Richards asked that the term “assessment” be updated to “competency evaluation” as noted earlier.

Jenny Cokeley reviewed the HCW Rules (chapter 411, division 31).

George Adams asked about HCW start dates and when the rules would be implemented, recommending that information about these changes be sent to consumers, so they could in turn let their HCWs and/or PSWs know about their new requirements. Jenny Cokeley let George know these rules would go into effect January 1<sup>st</sup>, 2021.

Jenny Cokeley then reviewed the Personal Support Worker rules (chapter 411, division 375).

Venessa Pepe asked about the removal of the live-in program mentioned in the rule, and because that program ended, she commented the statute should be updated to align with current programs. Drake Ewbank expressed concerns about oversight and implications of the new rules. Jenny Cokeley described the rules as living documents and that their implementation would be tracked, and they can be adjusted as needed.

George Adams asked if PSWs have the same requirements as HCWs? Jenny Cokeley explained that both HCWs and PSWs will have the same requirements when the rule is implemented. George asked what a PSW could do if they no longer want to be enrolled and work as a PSW? Shelly Reed let George know that in that case, the PSW could provide a 2-week notice of their resignation to their employer(s).

Jenny Cokeley asked if anyone in the room or on the conference line had any additional questions or concerns. None voiced.

Jeff Sneddon was able to call in but experienced technical difficulties preventing him from asking questions and voicing concerns. Mr. Sneddon sent Jenny Cokeley an email Friday afternoon with some questions and comments including:

- Several concerns around the rules regarding the level of exclusivity the HCC is mandating the training which moves us employers further from an employer of record and puts the State and HCC in that role.

- There are many barriers to the enrollment, training, and on boarding processes which are becoming administrative burdens for accessing employees to work especially in crisis or critical situations. With all the mandated training it will take away hours of support that can be provided to the individual.
- Do the training hours count toward the 40-hour OT time rule?
- There needs to be flexibility in approving training hours outside of what the HCC provides or at least a process to request a review and approval if the employer approves the training.
- Any DHS training or DHS affiliate sponsored training should be accepted as training and not only what the HCC approves or develops. There are many free trainings in local communities that are disability specific that relate to the individual.
- The HCC should develop a safe patient handling policy and ensure there are trainings for this targeted population.
- For the incumbent issue we should look at the language in rule for Grimaldi he checks grandfathering to be consistent.

The next meeting is scheduled for March 14<sup>th</sup> from 1:00 pm – 4:00pm