

Oregon Home Care Commission
Rule Advisory Committee

March 14, 2019

Minutes

1. Welcome and introductions

2. Debrief from 3/1/19 Rule Advisory Committee (RAC)

Jenny Cokeley provided a summary of the changes that were made to the rules based on stakeholder feedback from the 3/1/19 meeting:

- The definition of “assessment” was modified so that it only applies to OHCC certifications.
- A new definition of “competency evaluation” was added in place of “assessment” as it relates to mandatory testing tied to SB 1534. References to “assessment” were replaced with “competency evaluation” throughout rule, including homecare and personal support worker rules.
- A definition of “enrolled” was added.
- References to July 1, 2021 were replaced with January 1, 2021.

Jenny Cokeley asked the group if they had questions or comments about the rules that were reviewed during the 3/1/19 meeting.

- Jeff Sneddon asked whether perspective workers can access training once they have started the background check process. He shared that prospective workers need training and having to wait until the enrollment process is complete poses a barrier due to the length of the process.
- Gordon Magella asked whether workers are compensated during orientation. Cheryl Miller replied that workers are not paid to attend orientation, but they could receive a stipend for attending trainings if they meet certain criteria.
- Tina Treasure voiced concerns about barriers to finding workers and she submitted written comments. Tina shared that finding workers is the biggest problem, not their skills or experience. She added that some

people can find workers on the Registry, but people with more complex needs generally have to recruit their own workers from other sources, such as Craigslist or ads, which can take months for the worker to complete the enrollment process. Tina voiced concern that having to wait so long for the worker to be approved is a drastic disruption to the consumer's life (e.g. when they can get up, lay down, etc.), as well as for the other workers who are filling in. Mike Volpe shared Tina's concerns regarding how long it takes to find a quality provider and how long it takes for them to be able to begin working. He stated that the length of that process often strains him, along with his current and perspective providers.

- Tina Treasure voiced her concern that orientations are often full, and the potential worker must wait until the next month to attend. She is concerned that although the rules mandate frequent orientations, local APD and AAA offices are understaffed and may not be able to hold them as frequently as needed.
- Tina Treasure commented that she supports training in certain areas, but added that a lot of people, especially those with disabilities, really must train the workers themselves, as everybody must have assistance provided differently depending on the individual's abilities and needs. Tina added that increasing required trainings that are not needed by all providers makes it even more difficult to recruit new people because it is often burdensome to them.
- Tina Treasure is concerned that making orientation mandatory before a person can begin working could be burdensome for individuals attempting to, or interested in, becoming a provider. Tina asked if we have struck a good balance in the number of required trainings.
- Tina Treasure suggested the consideration of an option to request an exception to the mandated orientation to allow some workers to begin working more promptly. She suggested we allow discretion that if it's an urgent need, the case manager or central office staff can grant an exception and allow the person to start working with the provision that they attend orientation in 30 days, or 90 days as currently allowed. Jenny

Cokeley agreed to take this issue to the SB 1534 Steering Committee for discussion.

- Tina Treasure commented that while there are numerous resources to compensate providers for attending both mandatory and optional trainings, training stipends are not available to providers who are trained by the consumer's current or departing worker. She added that when providers begin working for a new consumer-employer, the people that can train them in the specifics of their job the best are the consumer-employers themselves and any experienced provider already working for the person. She added that while Medicaid funds might not be able to provide pay to two providers at the same time, there should be no restrictions in paying the current provider while providing a training stipend for the new worker. Mike McCormick stated he will research whether Medicaid funds can be used to pay consumers' providers to train the new provider.
- Mike Volpe shared that new workers train with him voluntarily before they start working for him (unpaid). Vanessa Pepe asked what other resources are available to workers for training. She asked if experienced workers who train new workers would be paid an additional rate.
- George Adams suggested that consumer-employers be sent status updates of their candidates' progress through the hiring, orientation and training process. The comment was made that this would be challenging administratively.
- Ruth McEwen commented that she had numerous responses to the ad she placed on the Registry before she was ready to interview.
- Cheryl Miller informed the group of the opportunity to participate in the Workforce Development Committee to be involved in solving some of these types of issues and concerns. Tammy Tate indicated she would like to be involved in those meetings.

- George Adams asked if there were any penalties to consumers who transfer hours from an in-home agency to a homecare worker. Mike McCormick stated there are no penalties.
- George Adams asked if homecare worker applicants must have experience to become a worker. Jenny Cokeley replied that they did not need to have experience but would have to pass the background check and meet other enrollment criteria.
- The group raised questions regarding the topics for orientation and training courses. Cheryl Miller commented that the topics currently listed in rule are considered fundamentals for all workers to know. She reminded the group that rules are frequently updated and revised, so changes to these topics can be made if needed. Orientation and training topics were suggested by the SB 1534 training workgroup.
- Gwen Dayton asked about the requirements for orientation. Jenny Cokeley responded that the curriculum has not yet been developed, but training topics have been identified. Gwen commented that orientation topics should be listed in rule. Kevin Call agreed that the topics should be added to rule. Mike McCormick asked if anyone objected to specifying orientation topics in rule. There were no objections. Sarah Edwards suggested that the topics be as vague as possible to allow for flexibility if changes need to be made.
- Gwen Dayton asked if there were required topics for continuing education. Jenny Cokeley responded that it could include any topic. Gwen suggested adding language to rule that continuing education is approved by the Commission or pursuant to guidelines determined by the Commission.
- Gwen Dayton asked how the competency evaluation will assess mastery. Mike McCormick commented that it has not yet been determined.
- Kevin Call asked who would be liable if a consumer is injured by an untrained worker. Mike McCormick commented he is unable to answer

that question. Tina Treasure commented that consumer-employers still need to train workers on the consumer's specific needs.

- George Adams asked if there would be enhanced rates for workers with special training and/or certification for caring for individuals with paraplegia or quadriplegia. Cheryl Miller replied that enhanced rates are available when certain certifications are met. She added that the courses for enhanced certification are available statewide. More information regarding enhanced rates are available through the Oregon Home Care Commission (OHCC).

3. SB 1534 Discussion

Jenny Cokeley asked the group how long workers who are no longer active can keep training hours?

- The group agreed that there should be appropriate timelines applied to how long inactive workers can retain their training hours. Specific timeframes are yet to be determined, but several committee members identified one to two years as an appropriate time frame. The comment was made that if continuing education hours are earned during the 24-month approved to work credential, and the worker returns during that time frame, the hours they earned should be maintained.
- Jenny Cokeley asked the group what the consequences should be if a worker fails to meet their training requirements. She added that these would be part of program rules, not OHCC rules, but wanted to begin the discussion on this topic.
- Jeff Sneddon mentioned that putting these types of rules into place may be difficult due to various protections afforded to workers such as the Family Medical Leave Act (FMLA).
- Gordon Magella suggested that a graduated level of warnings and/or repercussions might be a plausible solution. Cheryl Miller commented the consumer-employers would need to be informed of their provider's non-compliance to help them be prepared for whatever consequences the

worker may face. Jenny Cokeley said she would discuss potential consequences of non-compliance with the APD and ODDS policy teams.

4. Rule Review – chapter 418, division 20 (OHCC Functions)

- Kevin Call commented that “competency evaluation” should be used consistently throughout rule.
- Ruth McEwen commented that the definitions of “Community Health Worker” and “Traditional Health Worker” should be reviewed and revised due to references to other rules and statutes within the definitions that are confusing. Jenny Cokeley responded that she will review this.
- It was asked how the training requirements would be enforced if a person is a homecare and personal support worker. Deb Satterfield explained how the homecare and personal support worker rules are applied and that trainings will be transferable. That is to say, if an individual meets the training requirements as a homecare worker, it would apply to their personal support worker training requirements, as well. Training requirements are tied to the individual, not to worker type.

Jenny reviewed that following rules with the group:

418-020-0020 – Qualifications from Homecare and Personal Support Workers; Workplace Substance Abuse Policy. There were no suggested changes.

418-020-0030 - Homecare and Personal Support Worker Training/ Certifications for Homecare and Personal Support Workers. Vanessa Pepe asked about enhanced certification training requirements. Roberta Lilly provided an explanation of how the process works for providers to earn enhanced certifications. Jeff Sneddon asked why OIS training was required for exceptional personal support worker certification. Cheryl Miller responded that it is in the collective bargaining agreement.

418-020-0040 - Consumer-Employer Training Services. There were no suggested changes.

418-020-0050 – Registry. There were no suggested changes.

418-020-0060 - Workers' Compensation. There were no suggested changes.

5. Fiscal Impact Discussion

Jenny Cokeley asked the group what they felt should be considered when determining the fiscal impact of the rules. The group identified the following:

- Additional payroll expenses related to having to pay providers to attend mandated trainings;
- Indirect costs could be a consumer having to remain in a higher-level care setting while waiting for a provider to be trained, and the burden on families and consumers;
- The cost of administering the program. Mike McCormick let the group know that the administration of the training program has been contracted out to a third-party vendor called the Training Partnership and a training trust has been established. The Training Partnership will administer the orientations and trainings and OHCC will oversee the quality of the trainings. It was asked whether the training trust went through an RFP process. Mike McCormick responded that it was not required for this project. The question was asked why a trust was needed if training is already available. Mike responded it was needed due to the scope of the project and the magnitude of the workforce. It was asked what the total cost of the training will be. Mike McCormick responded that specific estimates are yet to be determined. Those estimates will be available once the fiscal impact study is complete. He shared that there will be a fiscal impact. It was asked if there is already an amount of money tagged for training costs. Mike McCormick replied in the affirmative and that it is based on a cents- per- hour worked contribution;
- The cost of training (online and in person). Kevin Call indicated that in person skill demonstration should involve a medical expert;
- Tracking and operating systems requiring information technology changes to interface with the state system;
- The cost of publications and notices; and

- Additional trainings offered by OHCC.

Jenny Cokeley shared that the rules do not apply to small businesses so there would not be a fiscal impact to small businesses. She added that there would not be a fiscal impact to consumers or the general public. There will be a reduction in workload for local units of government because they will no longer be required to hold orientations. There will be a positive fiscal impact to providers since they will be paid to attend mandatory trainings.

The meeting adjourned at 4:00 p.m. The next meeting is scheduled for March 29, 2019 from 1:00 p.m. – 4:00 p.m.