



Agenda: Rule 2911 Advisory Committee – *Introductory Meeting*

October 11, 2022
2:00 – 4:00 pm
Live Video Via Webex

Attendees:

Members Present (17 of 17): Joel Brott, Shawn Larsen, Pat O’Malley, Rick Hodsdon, Steve Schmitt, Stacy Tufto, Margaret Zadra, Linus Chan, Elliot Butay, David Fenley (designee from MN Council on Disability), DelShea Perry, Michele Garnett McKenzie, Brett Huber Sr., Artika Roller, Andrew Larson, Austin Neese, Lisa Becking

Staff: Amy Lauricella (DOC), Ian Lewenstein (BMS/DOC), Chelsey Dively (DOC)

Public: Seven people

Topic: Advisory Committee Process and Next Steps

Welcome and Remarks from Safia Khan, Chief of Staff

Introductions of Committee Members

Overview of Chapter 2911 and Role of DOC

- Lisa Becking, inspection unit
 - DOC Inspection and Enforcement inspects licensed facilities in accordance with statute (Minn. Stat. 241.021 & others) and rule (Chapter 2911)

- 2911 minimum standards from Minnesota jails
 - Range of 5 beds to 800 beds
 - Licenses to operate on behalf of commissioner corrections
 - Complaints reviewed for 2911 rule compliance
 - Inspections work with administrators to make corrections in a timely manner

- Goals
 - Gather input around rulemaking

- 17 areas impacted by the Hardel Sherrell Act

Statutory Authority

- [Minn. Stat. § 241.021](#): minimum standards for facilities with respect to their management, operation, physical condition, safety, health, treatment, and disciplining of persons confined or incarcerated

- Directed DOC to establish minimum standards in rule
- Increased reporting transparent for all detention facilities
- Clarifies licensing and enforcement actions

Rulemaking Process and Advisory Committee Role

- Broad array of standards that need to be updated
- Rule Definition
 - A rule is adopted by an agency
 - The house and senate don't vote on the rule
 - Rule must be approved by an administrative law judge
 - State agency needs the legislature's permission to adopt a rule
- Requirements
 - Publish the rule in the State Register
 - In print and online
 - First: Request for comments
 - No formal process has begun
 - Between the two notices:
 - Draft the rule language
 - Revisors office responsible for putting the rule language into style and form and helping edit the rule
 - Second Notice: final version of the rule
 - Kicks off the comment period
 - Judge looks over everything submitting
 - Hearings
 - 25 or more requests will trigger a hearing
- Advisory Committees
 - Page and line numbers helps for commenting on rules or utilizing the "Parts"
- Sonar
 - Statement of need and reasonableness
 - Agencies justify that the change is needed and reasonable
 - Show facts behind solution to the problem
 - SONAR Requirements
 - Agency document
 - Regulatory analysis
 - Cost associated
 - Local government impact
- Formally Publish rule
 - 30 day comment period
 - Public Comment submission:
 - Office of Administrative Hearings has a website to upload public comments
 - Comments are going to Office of Administrative - everyone can see them, DOC, judges, public, etc.

- If hearing, 25 day post hearing comment period
 - Some agencies have a gap between comment period and hearing
 - Usually changes would be made after the hearing
- Judge
 - Approves or deflects
 - Harmless error
 - Need and reasonableness not established
 - Substantially different rule
 - Too vague or some reason based on the rule language
 - Can cure defects
- Governor
 - Governor doesn't have to sign but can veto a rule

Meeting Structure and Topics

- Bucket work with key topics
 - Look at high level areas
 - Send you a list of the different sub parts to look at prior to the meeting
 - Mental Health/Substance Use Disorder
 - Health Services
 - Facility Management
 - Social/Emotional Needs
- Feel free to send revisions and suggestions to Amy and Ian

Discussion of Committee Goals

Committee Questions

- If someone is not in compliance with the standards does the inspection have a disciplinary role?
 - Statute dictates what DOC must do with noncompliance with standards related to licensure
 - Correction and Conditional Licensure Orders
 - License Revoked
- Do other Chapter or statutes interact with this process at all?
 - Quite a bit of overlap between other state statutes
 - There is now a sub-part in the rule articulating which statutes are tracked for compliance by DOC related to licensure
- Is there any language in the statute that has been interpreted differently in a different rule? Is consistency necessary?
 - Cross references updated for alignment
 - Terminology and rules may be defined a little bit differently
 - Do what we can to ensure this rule is at least consistent with 241.021 (licensing and inspecting authority)
 - Flag inconsistencies

- Does this apply to juvenile facilities?
 - 2960 governs juvenile facilities
 - Licensed by DOC and DHS
 - Does not apply to juvenile facilities

- Make sure to keep in mind why we are here and why things aren't working
 - Think outside of the box and find creative ways to do more with less

- Do the rules allow for differentiation or specialization depending on the capacity of the facility?
 - Different classes of jails, separate standards based on the classification
 - Primer of classification of jails will be provided when we get to the section of facilities

Public Comment

- None

Upcoming Meetings:

Oct. 25 – Mental health and substance use disorders

Nov. 8 – Health services practices

Nov. 29 – Facility management

Dec. 6 – Social/emotional/special needs

Dec. 20 – Review & Wrap up