

1.30.12 Rule 40 Advisory Committee Meeting

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Minnesota Department of **Human Services**

**Rule 40 Advisory Committee
Andersen Building, Room 2370
January 30, 2012 Agenda**

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| I. Opening (1:00-1:30) | Gail Dekker |
| II. About the Settlement (1:30-1:40) | Suzanne Todnem |
| III. Charge to Committee (1:40-1:55) | Alex Bartolic, Loren Colman |
| IV. Overview of Rulemaking (1:55-2:20) | Bob Klukas |
| V. BREAK (2:20-2:35) | |
| VI. About Rule 40 (2:35-3:05) | Suzanne Todnem |
| VII. Advisory Committee Roles and Others' Roles (3:05-3:30) | Gail Dekker |
| VIII. Values Discussion (3:30-3:55) | Gail Dekker |
| IX. Closing (3:55-4:00) | Gail Dekker |

How rule advisory groups enhance rule development

The Minnesota Department of Human Services uses rule advisory groups to improve the quality of DHS's rules. Comments and input from advisory groups and other individuals early in the process help ensure final rule drafts accomplish intended objectives. Advisory group members should talk with people from the groups they represent and bring information back to the advisory group.

Advisory group members and people who attend rule advisory group meeting are often familiar with the subject matter governed by the rule. DHS relies on the insight from professional and personal perspectives on the subject matter. Advisory members should:

1. Keep in mind that they represent their personal views and the views of other people who will be affected by or must use the rule in the future.
2. Share the comments they hear about the rule with the advisory group.

DHS recognizes that there may not always be agreement about some issues during the rule development process. Please feel free to:

1. Make suggestions and comments about the rule throughout the rulemaking process.
2. Include supporting information or explanations for suggestions.

The advisory group has the power of persuasion and the power that comes from having information needed to make the rules workable. The advisory group does not vote on what will go into the rules. The Commissioner of Human Services is required by law to make the final decisions about what is in the rule when the rule is officially proposed for adoption.

The rulemaking process

A few facts about Minnesota-style rulemaking....

1. Minnesota has a very complicated rulemaking process, which is different than federal review and comment rulemaking style.
2. Minnesota rulemaking is governed by Minnesota Statutes, Chapter 14 and Minnesota Rules, Chapter 1400. It includes an independent finder of facts who is an Administrative Law Judge, working for the Office of Administrative Hearings.
3. Rules are based upon statutorily determined policy. DHS is granted authority to make rules by the legislature.
4. Statutes always trump rules. Rules may not go against federal or state law.

If you have questions about the substance of the rules, you can ask committee staff who act as resources for this committee.

Overview of the Rulemaking Process

1. Agency's rulemaking plan
2. Governor's office for preliminary review
3. Request for comments
4. Agency develop rules and Statement of Need and Reasonableness (SONAR)
5. Governor's office does in-depth review; Finance consult
6. Notice of intent to adopt rules - there are three possible outcomes
 - a. A hearing may be requested
 - 1) Hearing request is approved
 - a) Rule is adopted with the hearing
 - 2) Hearing request is not approved
 - a) Rule is adopted without a hearing
 - b. There is an hearing
 - 1) Rule is adopted
 - c. There is not a hearing
 - 1) Rule is adopted
7. Governor's office complete final review
8. Agency files Order Adopting Rules with the Office of Administrative Hearings (OAH); OAH give approval and files rules with Secretary of State
9. Governor has 14 days to veto rules
10. Publish notice of adoption/rules become effective

Rule 40 Advisory Committee
Associated Groups and Their Roles
January 30, 2012

	Group Name	Description	Roles
1	Rule 40 Advisory Committee	Members applied and were chosen by DHS and accepted by plaintiffs' counsel	Advisory; Task is to recommend content of new Rule 40.
2	Rule 40 Project Staff	DHS staff assigned to project. Project manager is Suzanne Todnem, reachable at DHS.Rule40@state.mn.us	Manage project, conduct research, draft rule language based on Advisory Committee recommendations, plan and facilitate Advisory Committee meetings, shepherd proposed rule through rule-making process
3	DHS and other state agency staff	DHS and other state agency staff with policy roles touching Rule 40.	Consultative; May be asked by DHS project staff or management to present info to Advisory Committee.
4	Independent experts	Individuals with expertise on topics related to Rule 40 subjects	Consultative. May be asked by DHS management to present info to Advisory Committee
5	Expanded Response Group	Broad set of providers, county staff, tribal members, and others (no overlap with Advisory Committee)	Respond to Advisory Group recommendations by providing feedback to Advisory Committee, project staff and DHS management from a broader set of stakeholders
6	DHS Management	DSD management and Continuing Care assistant commissioner, DHS Compliance Office , DHS commissioner, Office of Administrative Hearings	Chain of reviews and approvals

Rule 40 Advisory Committee

Meeting Arc

January 30, 2012

Dates	Meeting 1 Jan 30, 2012	Meeting 2 Early March	Meeting 3 Early April	Meeting 4 Early May	Meeting 5 Early June	Meeting 6 Early July	Meeting 7 Early August	Meeting 8 Early September
Meeting Purpose	Welcome, Intros, Context	Positive Practices	Prohibitions	Rights, Safeguards	Controlled Procedures & Emergency Use of Controlled Procedures	Oversight	Metrics, Training	Closing the loop
Meeting Duration	Afternoon 1-4 pm	Full day 9:00-3:30	Full day 9:00-3:30	Full day 9:00-3:30	Full day 9:00-3:30	Full day 9:00-3:30	Full Day 9:00-3:30	Up to full day, as needed
Topics	<ol style="list-style-type: none"> 1. Charge to Group--Alex 2. About the Settlement 2.About Rules: process, timeline—Bob Klukas 3. Scope of Rule 40— what’s in and what’s out 4. Adv Grp Role 5. Others’ roles 	<ol style="list-style-type: none"> 1. Context: Evolution of positive practices, comparison to other states, where Minnesota wants to go. 2. Member input: on specific positive practices. 	<ol style="list-style-type: none"> 1. Respond to draft on positive practices 2. New prohibitions required by settlement. 3. Proposed new prohibitions by DHS for group feedback, including psychotropic meds 	<ol style="list-style-type: none"> 1. Respond to draft on prohibitions, 2. Client rights and safeguards 3. Employee rights and safeguards 	<ol style="list-style-type: none"> 1. Respond to draft on rights, safeguards. 2. Controlled procedures policy, best practices, group’s recommendations 3. Emergency use of controlled procedures— group’s recommendations 	<ol style="list-style-type: none"> 1. Respond to draft on controlled procedures, etc. 2.Oversight: What will make the rule work? 	<ol style="list-style-type: none"> 1. Respond to draft on oversight. 2. Metrics: How will we measure progress? 4. Training: What is needed? Who is responsible 	<ol style="list-style-type: none"> 1. Respond to draft on metrics and training, 2. Closing the loop: Report back to group on questions, policy, other requests. 3. Thanks and celebration