



December 10, 2021

Christopher Burmeister
Division Director, Health Improvement
New Mexico Department of Health
2040 S. Pacheco
Santa Fe, New Mexico 87505

Re: Proposed Rule, 7.1.32 NMAC, “Long-Term Care Facility Dementia Training”

Dear Director Burmeister,

The New Mexico Health Care Association/New Mexico Center for Assisted Living (NMHCA/NMCAL) appreciates the opportunity to comment on the proposed rule, 7.1.32 NMAC, “Long-Term Care Facility Dementia Training” (Rule). NMHCA/NMCAL represents 64 nursing facilities, 84 assisted living facilities and 7 intermediate care facilities for individuals with intellectual disabilities.

Proposed Sections 7.1.32.8 and 7.1.32.9 of the Rule raise specific concerns. The “areas of study” outlined in proposed Section 7.1.32.9 appear to be geared towards higher-level professionals and non-facility-based providers and contain objectives that are outside of the scope of practice of most facility-based caregivers.

Many of the targeted care settings are already mandated to receive in-depth dementia care training, and many others are non-medical homes. As such, proposed Section 7.1.32.8(C) should be amended to exempt care staff from the proposed Rule. With long-term care facilities continually facing a staffing shortage, an issue that has been exacerbated during the COVID19 pandemic, NMHCA/NMCAL is concerned the proposed Rule as written will cause additional barriers to recruiting and/or retaining staff needed for the delivery of quality care to New Mexico’s most vulnerable population.

Proposed Section 7.1.32.9:

Following are specific comments on the “areas of study” of the proposed Rule that are outside the scope of practice for most caregivers who will be required to take the training.

(5) Describe and understand when to refer people living with dementia (PLwD) to a neurologist, geriatric psychiatrist, neuropsychologist, or a national Alzheimer’s disease center:

This requires an assessment, which is outside the scope and understanding of direct caregivers and other staff in facilities who will be required to take this training. – Housekeeping, dietary staff, administrative staff, etc.

(9) Identify common components of an individualized primary care plan for persons with middle stage dementia and,

(10) Identify common components of an individualized primary care plan for persons with late-stage dementia:

The common components (below) are outside of the scope and understanding of direct caregivers and other staff in facilities who will be required to take this training. On-line HRSA training related to this area of study is geared towards clinicians and physicians, not front-line caregiver training.

- Need for continual assessment of patient status and medical needs
- Address all co-morbidities
- Medication management
- Specific medical considerations
- Assessment of care partner health and status

(14) Effective care transitions to and from acute care hospitals:

Many facilities are non-medical models, often very small, and do not have nurses, social workers, OTs, PTs, etc. Their staff is often limited to a handful individuals caring for 2 to 10 residents on different shifts. Care transitions involve assessments, medication management/reconciliation, and other clinical-based skills that are outside the practice of direct caregivers.

(15) Interprofessional team roles and dementia:

Nursing facilities and some larger assisted living facilities may have the staff required for IDCTs but many of the targeted homes are non-medical models, often very small, that do not have nurses, social workers, OTs, PTs, etc. Their staff is often limited to a handful individuals caring for 2 to 10 residents on different shifts.

(16) Describe how responsibilities may evolve as the disease progresses:

Facility-based care and responsibilities are regulated. Research of this objective appears as if this topic would be geared towards family members or others outside of the facility-based care setting.

(17) List legal and financial considerations to discuss with a patient and appropriate care partner(s) upon a diagnosis of dementia:

This is outside of the scope of the caregivers and other staff.

(18) Identify domains that are included in a capacity assessment for a person living with Dementia:

Assessments are outside the scope of practice for these caregivers. All caregivers and staff are required to report all changes to appropriate staff.

(19) Ethics and capacity issues:

Caregivers wouldn't have a need for this as they can't make decisions for family members to participate in research.

(20) Responding to abuse, neglect & exploitation of people living with dementia and Alzheimer's disease:

This appears to be directed towards non-facility-based providers – abuse and neglect are already part of training in all care facilities.

(22) Identify and understand barriers to optimal care among various ethnic groups:

This doesn't appear to be geared towards facility-based providers. Caregivers are not responsible for seeking outside care.

(23) Identify and understand techniques for effective ~~communications with diverse Population's~~ communication with individuals living with dementia:

Specific communication techniques with individuals with dementia should be the goal.

(24) Pain ~~assessment~~ Identification/recognition in people living with dementia:

Assessment is outside of the scope of practice for caregivers, but training them to recognize pain in people with dementia is valuable.

Proposed Section 7.1.32.8(C)

Following are specific comments on the Exception Subsection of the proposed Rule. Exceptions should be made for certain licensed clinicians, and long-term care facility staff whose facility related training includes dementia training.

~~Exception to initial training: A direct care service staff member (dcssm) hired prior to January 1, 2022, who received equivalent (incorrect spelling—change to equivalent) training within the past 24 months equivalent to the requirements set forth in Subsection A of 7.1.32.9 NMAC shall be issued a training certificate by the department upon receipt from a facility of a written attestation that the dcssm has received such training within the 24 months prior to January 1, 2022. A direct care service staff member (dcssm) hired after to January 1, 2022, who received equivalent (incorrect spelling—change to equivalent) training within the 24 months prior to the hiring date equivalent to the requirements set forth in Subsection A of 7.1.32.9 NMAC shall be issued a training certificate by the department upon receipt from a facility of a written attestation that the dcssm has received such training within the 24 months prior to the date of hire. The facility attestation shall be provided to the department's train division email at: DOH-TRAIN.Support@state.nm.us for issuance of a training certificate by the department.~~ Exception to training: staff member, including direct care service staff member, of a long-term care facility that is licensed to provide dementia care, or mandates advanced dementia training for staff that the department determines is at least equal to the training requirements in Long-Term Care Facility administrative rule, intermediate care facilities for individuals with intellectual disabilities, registered nurses and licensed physicians.

What does equivalent training look like? Facilities who provide dementia care and advanced dementia training should be exempt from the course. Facilities that deal with children and/or developmental disabilities should also be exempt.

Thank you for your work on this much-needed training and for your assistance in ensuring the training provides the maximum benefit for those who will need to complete the training without creating additional barriers to providing care to our most vulnerable citizens.



Vicente Vargas

Executive Director

New Mexico Health Care Association/New Mexico Center for Assisted Living