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Michael A. Ceballos
Director

Mark Gordon
Governor

MEMORANDUM

REF: HC-2020-241

DATE: January 5, 2021

TO: Governor Mark Gordon

FROM: Michael A. Ceballos, Director
Wyoming Department of Health

SUBJECT: Proposed Rules for the Wyoming Department of Health Rules,
Chapter 15, Electronic Monitoring of Long-Term Care

PRIORITY: HIGH – Deadline for Response is ~~January 15, 2020~~ 10 business days 1/20/21

SUMMARY: The Department is proposing to promulgate Chapter 15, Electronic Monitoring of Long-Term Care. This rule is promulgated in response to 2020 Session Laws Chapter 89 (HB0109).

The Department of Health initiated an emergency rule and has obtained a few comments prior to the public comment period for the promulgation of the regular rule. A few concerns raised by the Governor’s Office, which are as follows: 1. How long do the electronic surveillance videos need to be kept or retained off site and who is responsible for paying for that? 2. Who is responsible for turning the device off and on during the specified time by the residents for privacy? In response to these concerns:

1.) The statute and the rule clarify that the video recording is the property of the resident or the resident’s representative and the resident would have control over the storage and destruction. If a grievance is filed and a copy of the recording is provided with the complaint it would then be retained by the long-term care ombudsman in accordance with our current retention policy for complaints/grievances.

2.) It is implied in the statute that it is the responsibility of the facility to turn off and on the device during specified times. The resident may not be able to do so and the representative may not be able to do this remotely. It would be up to the person appointed to oversee the electronic monitoring to make sure these times are communicated to direct care staff. In doing research nine other state


statutes and rules regarding electronic monitoring, none of them address these issues.

Specific information on the changes can be found in the Statement of Reasons.

Contact Name: Heather Canarecci, Contracts, Rules & Special Projects Manager
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Governor's Response Options (to be completed by Governor's Office):

- Agency may proceed **PROVIDE NOTICE OF INTENT TO EACH FACILITY THAT THIS RULE WILL APPLY TO**
- Delay Public Comment and set up meeting with _____


~~Betsy Anderson~~
Emily Solo