ANALYSIS OF FIVE STATE'S LICENSING/CERTIFICATION PROCESSES AND REQUIREMENTS

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INTRODUCTION

Human Services Research Institute (HSRI) conducted a study of five states that have made significant changes in their licensing requirements to be more person-centered and outcome-based. These states are:

1. Colorado
2. Kansas
3. Massachusetts
4. Minnesota
5. Utah

The study addressed the following questions:

1. What outcomes and requirements were commonly incorporated in most states' licensing regulations and outcomes?
2. What types of services did the states license/certify under these regulations and outcomes?
3. What survey methodologies did the states use?
4. What conclusions and recommendations can be drawn from the study?

STATE-BY STATE OVERVIEW

Colorado: Colorado employs "Program Quality Standards" to review all of its services. The state's survey tools are uniquely easy to follow and focus on person-centered and organizational outcomes and requirements that directly affect individuals' well-being including rights, care and treatment, provider and staff competency, incident reporting, health and medication. Colorado requires that providers be "approved" in order to offer services to individuals with developmental disabilities. As well, group homes (living arrangements for 4-8 people) are subject to licensure by a separate state agency (Colorado Department of Public Health and Environment - CDPHE). A formal relationship exists between the Colorado Department of Human Services (the DD agency) and CDPHE whereby a license is not granted unless the home is "approved" by the state DD agency. While Colorado's licensing requirements are more prescriptive than the "Program Quality Standards," they are streamlined and easy to follow. They also focus on requirements that are essential to individuals' rights and well-being (e.g., medications, medical services, emergency plans, and limitations on the number of individuals in a bedroom).

In Colorado, all services are subject to "program approval." There is no specific expiration date and the approval remains in effect until another survey is completed. Residential providers tend to be reviewed once every two years and day providers every three years. If serious issues are identified during the survey, approval may be held up until the provider takes corrective action. If a provider's program approval is withdrawn, there is no HCBS billing for individuals served by the provider.

Kansas: Services for people with developmental disabilities are provided through Community Developmental Disabilities Organization or CDDOs. CDDOs in turn contract with community service providers whose services are licensed by the Kansas Department of Social and Rehabilitation Services (SRS). In reviewing providers, SRS uses the "Kansas Lifestyles Outcomes" (KOL) that measure outcomes in the following four safeguard areas:

- Opportunities of choice to support and increase independence, productivity, integration and inclusion; effective access maintained
- Individual rights and responsibilities supported
- Personal health and safety maintained
- Use of psychotropic medications or restrictive practices safeguarded

Licenses are issued annually, but the state considers ongoing monitoring as more important than the actual issuing of a license. Monitoring is comprised of regular visits to the locations where people receive services, reviews of complaints of abuse and neglect, and completing the KOL surveys to a sample of people served by the agency throughout the year. Rather than waiting for a single on-site survey to be completed, the providers receive continuous feedback on the results of all the visits and surveys. Therefore, service improvement is ongoing throughout the year. Providers must take corrective actions when SRS staff identifies issues. The final determination to issue a license is based upon incidents, investigations, monitoring visits and KOL survey results.

Visits are both announced and unannounced. Interviews with managers are arranged in advance, but visits to observe and meet with direct care staff can be unannounced. If during the course of the survey serious issues are identified, the sample maybe increased to determine whether the issues are pervasive. Kansas takes very seriously the use of psychotropic medications of people with developmental disabilities and has "red flags" indicated where issues are identified for the individual. Inadequate response by the provider could place its license in jeopardy.

Massachusetts: About seven years ago Massachusetts moved from a traditional licensing system to an outcome based survey tool and process. Revisions have been made to the process since its inception. The survey now covers the following quality of life domains:

- Rights and dignity
- Individual control
- Social and community connections
- Personal growth and accomplishments
- Personal well-being (health, safety and funds)

Massachusetts goes well beyond issues of health and safety to include other quality of life areas related to participation and involvement in community life. The survey also reviews people's relationships, an area not addressed in the other states. The following three organizational outcomes are also included in the Massachusetts survey:

- Staff recruitment, screening and competency;
- Systems to safeguard individuals (e.g., human right committee, reviewing trends from investigations and incidents); and
- Quality assurance processes and strategies to improve services over time.

Providers are certified/licensed for one or two years, depending the type and seriousness of the issues identified during the survey. Visits are announced in advance of the survey; however should it be warranted, the state reserves the right to conduct unannounced visits.

Minnesota: Prior to 1998, services for individuals with developmental disabilities fell under a variety of licensing and regulatory rules. In 1998, all services subject to licensure were combined into one "consolidated" law for day and residential services. The following person-centered standards of quality are applicable to all services:

- Consumer rights
- Consumer protection
- Service standards
- Management standards

As with other states, Minnesota samples individuals served by the provider when conducting quality reviews. They ensure that the sample includes people taking psychotropic medications and/or has "controlled procedures" (e.g., time out, restraints) if those conditions apply to the services being provided. The Minnesota licensing standards include detailed requirements for safeguards that may affect individuals' health and welfare including, but not limited, to reporting of maltreatment, risk planning, psychotropic and other medications.

Utah: Utah has a dual system of licensure and certification. Residential services for four or more individuals, site-based day supports and agencies providing professional parent and host home services are subject to licensure. There are two parts to the review. Health and safety requirements are reviewed by the Division of Licensing while programmatic areas are reviewed by the Division of Services for Persons with Disabilities. Other services not subject to licensing are "certified." These include:

- Community living supports (group homes of 3 or less, supervised living, supported living)
- Site and non-site day supports
- Senior supports
- Professional assistance services

Providers must have a contract with the state in order to be licensed or certified. The "request for proposal" and subsequent contract specify the requirements and policies the provider must adhere to in order to serve people with developmental disabilities in Utah. Each year the provider must complete a checklist as an assurance that residential services are provided according to Utah Department of Health policies and regulations. Certificates are issued annually for community living support services and biannually for all other services. Utah's regulations, policies and outcomes are clearly and simply written in contemporary person-centered language (e.g., natural supports).

In addition, the Division of Services for People with Disabilities conducts an annual outcome-based quality enhancement review. The provider's certification and contract may be jeopardized if it does not "pass" this review. Qualifying providers to serve individuals with developmental disabilities in Utah is coordinated among the major quality assurance processes: licensing, certification and quality enhancement.

WHAT OUTCOMES AND REQUIREMENTS WERE COMMONLY INCORPORATED IN MOST STATES' LICENSING REGULATIONS AND OUTCOMES?

All of the states reviewed use a combination of person-centered outcomes and quite prescriptive requirements, where needed, to ensure the health, safety and welfare of individuals. As can be noted in the attached chart comparing each state's requirements, all five states covered very similar person-center domains and areas where they had the most prescriptive requirements. The following is a review of the trends in outcomes and requirements across all of the states:

Person-centered outcomes

All states that have moved towards a more person-centered licensing/certification process include desired outcomes for individuals in the requirements. There was a consistent trend among all the states as to which outcomes were most important for individuals. They are as follows:

- **Respect and dignity,** including respectful interactions by staff, age appropriate dress, respect for the individual's culture and religion, and possessions.
- **Rights and responsibilities,** including having privacy, voting, having personal possessions, and safeguards for the use of restrictive procedures.
- **Personal safety and risk,** including abuse, neglect, environment, and safeguarding individuals' funds.
- **Health,** including access to health care services, routine examinations, medications, diet, use of durable medical equipment and access to needed ancillary clinical supports such as occupation therapy and physical therapy.

- **Community inclusion, and integration,** including working in integrated settings and using local resources and amenities.
- **Independence and autonomy,** including learning to prepare meals and do chores, performs work tasks, live and work in accessible settings.
- **Choice and decision-making,** including everyday choices such as choice of meals, routines, activities along with choice of goals, jobs, homes, and housemates. To a lesser degree, choice of staff and evaluation of staff performance were included.

Relationship of person-centered outcomes to service planning:

Service planning figured heavily in all the states' requirements. The service planning process was seen as a linchpin in providing services that were oriented to individuals' needs and, therefore, important to measure during a survey. There was strong links between service planning and choice including choice of home, staff, services, and housemates.

Safeguards:

States take seriously their role in safeguarding the health and welfare of individuals. Certification and licensing requirements were the most detailed in this arena. The following are the areas with the most uniformly prescriptive set of requirements and outcomes:

- **Rights:** States clearly articulated affirmation of individual rights and there was an expectation that individuals, family members and staff would, at the very least, be informed about individual rights.
- **Restrictive procedures**: States heavily regulated the use of restrictions including psychotropic medications, behavior support plans, and the use of restraints. States required assessments, very detailed plans, data collection, and monitoring. A number of states required an external review of restrictions. Most states had prohibitions or limitations on the use of some restrictions especially concerning the use of PRNs. Staff training on behavior, psychotropic medications, and the use of restraints was common in all states' licensing and certification requirements.
- **Incident management including abuse, neglect and exploitation:** All the states heavily regulated provider's responsibilities for reporting allegations of abuse. Requirements also included provider obligations to investigate allegations, take action if the investigations are substantiated, and protect individuals from harm. All but one state has provider requirements for reporting incidents beyond abuse and neglect (e.g., medications, deaths, injuries).
- **Medications**: States universally had explicit requirements for management and administration of medications, particularly those states where non-licensed, but trained and certified staff administer

medications. Requirements include documenting administration, having physician's orders, monitoring effectiveness of medications, and making sure that staff is trained to administer medication.

- **Health**: States universally had more prescriptive requirements for medications than overall health. Regardless, states requirements addressed routine physical examinations, identification of health care needs and access to health care services. Most states had requirements for ensuring that staff followed special diets and individuals received nutritionally sound meals.
- **Environmental**: States seem to place the greatest requirements on larger residential living situations and/or residences that provided 24-hour staffing. It was common to see special requirements for homes of four or more individuals including egresses, square footage, and fire extinguishers. Accessibility was required for individuals when needed. States have somewhat less prescriptive and broader requirements for more independent living situation where people lived in their own apartments and/or received less than 24-hour supports.

Staffing requirements:

States are aware that staff knowledge and competency is a safeguard for individuals. As a result, staffing requirements tend to be quite specific. With some exceptions, most states have moved away from requiring specific education or degrees for direct support staff. Some states have job requirements for a program manager or director of a service. The most prescriptive requirements are found in the area of staff training. Most of the states have specified the types of trainings and/or hours of orientation that staff must complete in order to work alone with an individual. Required trainings include the following:

- Emergency procedures (e.g., evacuation)
- Abuse/neglect reporting
- Knowledge of support strategies for the individual,
- Administration of medications, when delegated

Ongoing training requirements are also specified, but most regulations require that training must also be specific to the needs of the individual. Required staff trainings include the following:

- Human rights
- Incident reporting
- First aid and CPR
- Medication administration certification, when delegated

Organizational outcomes:

Most of these states have moved away from very prescriptive provider organizational requirements. The most forward-looking states had the least prescriptive administrative requirements. Kansas and Minnesota only focus on person-centered outcomes and/or requirements. Massachusetts has three organizational outcomes: provider systems to safeguard individuals (human rights committees, analysis of incidents), systems for recruiting staff and maintaining staff competency, and the provider's systems for organizational learning and service improvement over time. Utah's licensing process includes some "program administration" standards (e.g., program statement of purpose, provider governing body).

Continuous quality improvement:

Two states use the data collected from surveys to benchmark service improvement over time. Kansas issues a yearly report for each CDDO and for the state as a whole. Massachusetts has just completed its first annual report of aggregated data from its certification reviews as well as a whole host of other quality assurance processes including investigations, incidents (e.g., medication errors, restraints), and consumer/family surveys that were completed as part of National Core Indicators.

WHAT TYPES OF SERVICES DO STATES TEND TO LICENSE UNDER THESE REGULATIONS AND OUTCOMES?

Given that most states have their own method for defining different services subject to licensing or certification, it was very difficult to determine the similarities among all the states. All states regulate residential supports. Massachusetts and Kansas have the most straightforward definition of services subject to licensure. Both certify as residential any service provided outside of the family home. Massachusetts reserves the most stringent requirements for homes that provide 24-hour supports and are owned or leased by the provider. Fewer requirements are applied to homes that are owned or leased by the person and/or homes that provide less than 24 hour of supports. Kansas exempts a residential support that is largely in the person's control. For example, exemptions come into play if the person selects, trains, and manages all aspects of the services, including payment; if the person controlling the services owns, rents or leases the home; if service providers meet certain training or competency requirements; and if there is an outside case manager who ensures that the person's needs are met.

As well, virtually all states regulate work/day supports including supported employment. Most states tend to impose the most stringent standards for site-based work/day supports (e.g., environmental standards and required inspections).

Some, but not all states regulate other services including respite, family support, county boards, companion services, and even consumer directed supports. The requirements for these services tend to be less stringent than for core residential and work/day supports.

Both Colorado and Utah have a separate licensure process for group homes serving four or more people. All other services are subject to a provider approval process (Colorado) or certification (Utah), including the following:

- 24-hour residential supports for three or fewer people including "host homes" or adult foster care.
- Less than 24-hour supports (called supportive living services) for people who live in their own home or family home.
- Family support (called children's extensive support services) which is exclusively a waiver service in Colorado and family directed services in Utah.
- Work/day supports (called adult day services and supports) if not accredited.

Where traditional licensing processes are used, the license is tied to a particular service location. For example, each group home or a specific work service or workshop may receive a license. Exemptions to this common practice are supported employment services and "host homes." In these cases, the provider is licensed to provide these services at multiple locations. However, as homes have become smaller (serving less than four individuals) and individual control over the design of their living arrangement increased, some states began to reconsider site-by-site licensure. The five states reviewed exemplify this shift. For example, Massachusetts and Kansas license the service provider as a whole across a full range of services and supports to individuals with developmental disabilities and/or mental retardation.

Some states issue a license to a specific cluster of services. An interesting example is Minnesota. Some licenses are issued "statewide" or for a specific type of service regardless of the number of locations including semi-independent living services (SILS), supported employment Services (SES) and crisis respite services. Residential waiver and in-home family supports (where service workers are hired by the provider) licenses are issued by county. Day training and habilitation, foster care, and supervised living facilities and Intermediate Care Facilities (ICFs) are licensed by location.

The unit of approval is a bit more complex in Colorado. All services are operated by Community Centered Boards (CCBs). CCBs furnish services directly or contract with private agencies to provide services to individuals in their region. Some non-CCB providers only serve individuals in a specific region while others overlap regions. In general, the provider approval process is by provider and by region. Therefore, if a provider overlaps regions it will receive more than one approval. Regardless, when it comes to actually doing the survey, the review is for the provider as a whole, with the sampling being representative of the services in all the regions. The only variation is for group homes where the unit of licensure is location specific.

With some minor variations, some states issue a license, certification or provider approval either annually (Kansas) or biannually (Massachusetts). Colorado issues a program approval every two or three years except for group homes. These are licensed every two years and go through a "provider approval process" on the intervening year. In Minnesota, a license is issued once a year, but if there are no adverse reports about the services, the review may occur every two years. Most residential services in Utah are either certified or licensed annually and all other services every other year.

WHAT SURVEY METHODOLOGIES DID STATES TEND TO USE?

Most person-centered and outcome based survey processes appeared to have the following survey methodologies in common:

- A sample of individuals served by the agency
- Surveys are completed through:
    - Documentation Review
    - Interviews with individuals, staff, family, case managers
    - All surveys include observation of individuals in the location where they receive services
- Most surveys also include a review of agency related documentation that includes some of the following:
    - Staff orientation/training
    - Incidents reports
    - Investigation reports

Kansas employs an interesting survey methodology. Staff use an outcome-based survey tool to license the provider. Quarterly the quality enhancement staff chooses a random sample of individuals for administering the Kansas Lifestyle Inventory. A statistically valid sample is drawn that covers all the 28 community developmental disability organizations. If the results for the sample show "red flags" and/or concerns are identified by the licensing staff they draw an additional sample (up to 25%) to more closely examine the issue.

Most states that use outcome based standards interview the individual. Other people are also interviewed and/or consulted, especially those who are well acquainted with the individual, his or her lifestyle preferences, needs and communication style. Other potential interviewees include guardians, family members, staff and support team members. Licensing/certification staff reviews the person's record especially focusing on the service plan, assessments, behavior support plans, and medication and health information.

Survey typically includes visiting with the person at the location where he or she receives services. A number of survey processes include time observing the person in his or her residence and work/day support. For example, in Colorado and Massachusetts, during the

group home licensure the surveyor reviews the record review, conducts an environmental review and observes the individual.

WHAT CONCLUSIONS AND RECOMMENDATIONS CAN BE DRAWN FROM THE STUDY?

Much can be learned from the licensing/certification systems being used in these states. All have, in varying degrees, moved the focus from program and administrative requirements to person-centered outcomes and/or requirements. The focus is on safeguards that have the greatest potential to impact people's health, safety and welfare. Most prescriptive requirements relate to rights, incident reporting (e.g., abuse/neglect, injuries), restrictive procedures and medication. These states are concerned about workforce competency and the emphasis has shifted from staff credentials to the staffs' knowledge of people's service plans, medications, reporting incidents, human rights and emergency procedures. As well there is increased attention paid to other quality of life domains including community inclusion, independence/autonomy and especially choice.

Review processes in these states are also person-centered and focus on reviewing the quality of the services and supports as experienced by the individual. Does this mean an end of traditional, location-specific licensing or certification processes? It is hard to tell. As long as states continue to have larger group living situations, states may still opt for a traditional process for those services. However, changes in licensing/certification are likely to evolve as states downsize homes and move away from center-based workshops, as services become more tailored and individualized, and as people assert more decision making over what type of services they receive and who provides their supports. National data compiled by the University of Minnesota Research and Training Center on Community Living (RTCCL) indicates the continuing trend toward the use of smaller living arrangements. Nationwide, RTCCL found that 66.1% of people who receive residential supports live in arrangements that support 6 or fewer persons and 43.7% were in settings for 1-3 people.[1]

Alternative methods may need to be developed to "qualify" providers of services for people with developmental disabilities supports that may include:

- » Qualify providers to offer wide range of services.
- » Develop individual outcomes and indicators that align with the state agency's mission and use these to determine if the provider is positioned to effectively support individuals.
- » Maintain the most stringent requirements in areas that have the greatest potential to cause harm while reducing "administrative" requirements that have little bearing on individual outcomes.

[1] University of Minnesota, Research and Training Center on Community Living, Institute on Community Integration, June 2002

- » Through the review process pursue workforce development strategies that focus on building staff competencies.
- » Develop less intrusive review processes and requirements for individual providers and very small agencies.
- » Make information about the quality of the provider's services more accessible to the public and enable individuals and their families to become more informed purchasers of services.
- » Strengthen the service planning process in order to identify people's needs for support and the skills and competencies required by individual service providers.
- » Enhanced monitoring by those closest to the person including family members and friends and case managers/service coordinators.

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COMPARSION OF STATE'S CORE* LICENSING/CERTIFICATION OUTCOMES AND REQUIREMENTS

(*core requirements that apply to most or all of the services subject to licensure/certification)

Provider Outcomes, Standards and Requirements:	Minnesota	Mass.	Utah	Colorado	Kansas
Person-centered outcomes	**X**	**X**	**X**		
▪ Dignity and respect (age, culture, interactions)	**X**	**X**	**X**	**X**	**X**
▪ Rights (e.g., privacy, protection from harm, least restrictive, self-advocacy)	**X**	**X**		**X**	**X**
▪ Community inclusion, integration, participation	**X**	**X**	**X**	**X**	
▪ Independence/autonomy	**X**	**X**	**X**	**X**	**X**
▪ Relationships	**X**	**X**			
▪ Natural supports	**X**	**X**			
▪ Personal safety and risk	**X**	**X**		**X**	
▪ Choice and decision making	**X**	**X**	**X**	**X**	**X**
▪ Communication	**X**	**X**	**X**		
▪ Health	**X**	**X**	**X**	**X**	**X**
▪ Work/employment (e.g., paid employment, hours worked, choice in work)	**X**	**X**	**X**	**X**	
Service planning and implementation	**X**	**X**	**X**		**X**
▪ Involved in service planning		**X**	**X**		**X**
▪ Risk Planning/personal safety	**X**	**X**	**X**		**X**
▪ Assessments	**X**	**X**	**X**	**X**	**X**
▪ Supports and strategies	**X**	**X**	**X**	**X**	**X**
▪ Progress reviews	**X**		**X**	**X**	**X**
▪ Staffing requirements in ISP	**X**		**X**	**X**	
▪ Approval					**X**
▪ Service provision		**X**		**X**	**X**
Rights	**X**	**X**	**X**	**X**	**X**
▪ Inform consumer (or surrogate) about rights	**X**	**X**	**X**	**X**	**X**
▪ Service-related rights (refuse services, termination)	**X**		**X**	**X**	**X**

Provider Outcomes, Standards and Requirements:	Minnesota	Mass.	Utah	Colorado	Kansas
▪ Statement of rights (e.g., mail, privacy, grievance reporting, access to telephone, access to records)	X	X	X	X	X
▪ Suspension or restrictions of rights		X	X	X	X
▪ Human rights committee or external review of rights restrictions		X	X	X	X
▪ Due process (e.g., informed consent)	X	X	X	X	X
Behavior Support incl. psychotropic medications (specific requirements for the use of restrictive controls)	X	X	X	X	X
▪ Not substitute for staffing or punishment	X	X	X	X	
▪ Restrictive controls	X	X	X	X	X
▪ Restrictions on PRNs	X	X	X	X	X
▪ External review	X	X	X	X	
▪ Monitoring	X	X	X	X	
▪ Informed consent	X	X	X	X	
Complaints of abuse/neglect (specific requirements for reporting and investigating reports of abuse and neglect)	X	X	X	X	X
Medication	X	X	X	X	X
▪ Management	X	X	X	X	X
▪ Administration	X	X	X	X	X
Health	X	X	X	X	X
▪ Access to health care		X	X	R	X
▪ Coordination					X
▪ Routine examinations		X	X	R	X
▪ Identification of health needs	X	X	X	X	
▪ Other clinical services (e.g., OT, PT, speech)		X	X	X	
Nutrition		X		X	X
Incident reporting	X	X	X	X	
▪ Death	X	X	X	X	

Provider Outcomes, Standards and Requirements:	Minnesota	Mass.	Utah	Colorado	Kansas
▪ Injury/medical emergencies	X	X	X	X	
▪ Medication Errors		X	X	X	
▪ Safety controls (e.g., restraints)		X	X	X	
▪ Other (e.g., unauthorized absence)	X		X	X	
Environmental requirements	X	X	X	X	X
▪ Space requirements	X	X	X	X	X
▪ Evacuation and other emergencies	X	X	X	X	
▪ # individuals share bedrooms		X	X	X	
▪ Comfort and adequacy of space		X		X	X
▪ Capacity (residential only)		X	X	X	
Staffing (specific requirements or outcomes for staffing)	X	X	X		
▪ Criminal record	X	X	X	X	X
▪ Ratios and adequacy	X	X	X	X	
▪ Specific qualifications	X				
▪ Recruitment		X			
▪ Screening		X		X	
▪ Evaluation		X	X	X	
▪ Care for consumer due to illness, work schedule etc.	X				
▪ Staff age requirements (e.g., over 18)		X	X		
Admission/discharge/termination policies			X		
Grievance procedures	X		X	X	
Consumer satisfaction	X	X		X	
Provider monitoring				X	
Consumer funds	X	X	X	R	X
Transportation	X			X	X
▪ Transportation to and from work/day support	X			X	X
▪ Transportation (general)	X			X	X