

LeadingAge Maine and New Hampshire Annual Conference

Legal Perspectives on Emerging Operational Issues

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Topics

- Firearms Policies
- Medical & Recreational Marijuana
- Uber/Lyft Liability Issues
- Campus Security and Vendor Access
- Reasonable Accommodations
- AED Policies



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Firearms Policies

- 2nd Amendment
 - A well regulated Militia, being necessary to security of a free State, the right of the people to keep and bear Arms, shall not be infringed.
- What are the laws of your State?
- What is the culture of your community and broader region?
- Can you accommodate hunters/long term owners?



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Firearms Policies

- **Resource:**
<https://www.leadingage.org/sites/default/files/Weapons%20Policies%20in%20Aging%20Services%20Organizations.pdf>

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Medical & Recreational Marijuana

- Either Medical and/or Recreational Marijuana is now legal in over 30 states.
- State laws vary greatly:
 - NH
 - Maine
- Federal law still classifies marijuana as a Schedule 1 drug
 - no medical value and highly addictive
- Legalization will likely continue, but guidance and federal law are lagging well behind

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Medical & Recreational Marijuana

- Where does this uncertainty leave providers?
- Will federal funds be in jeopardy if marijuana is allowed?
- Practical considerations:
 - Procurement
 - Storage
 - Administration
 - Mobility devices
 - Reaction from Community

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Medical & Recreational Marijuana

- Employment concerns
 - Pre-employment screening
 - Workforce issues
 - Impairment on the job
 - Reasonable accommodations

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Medical & Recreational Marijuana

- Resource:
 - https://www.leadingage.org/sites/default/files/Medical%20Marijuana%20FAQs_February%202019.pdf

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Uber/Lyft/Transportation Liability

- Transportation for seniors is a huge problem
- In-house transportation is time-consuming and expensive
- Many companies are jumping into the market
- Concerns with Uber/Lyft
 - Proper vehicles
 - Training
 - Safety of residents
 - Organizational concerns and liability



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Campus Security & Vendor Access

- Regulatory Compliance
- Use of Cameras, Key Pads and Security Guards
- Do you have Vendor Policy and/or Vendor Code of Ethics?
- How do you handle Long-Term (Construction, food services) Vendors who are on-site every day?
- Training, Training, Training!
- Cyber Security Concerns



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Reasonable Accommodations

- Federal Fair Housing Laws
 - Fair Housing Amendments Act
42 U.S.C. 3604(f), *et. seq.*
 - Americans with Disabilities Act
42 U.S.C. 12101, *et. seq.*
 - Section 504 of the Rehabilitation Act of 1973
42 U.S.C. 794



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Reasonable Accommodations

- Exception to the usual rule, policy, or procedure
- Follow a consistent process to address and evaluate requests for reasonable accommodations
- Always respond in a timely manner
- Analyze on a case-by-case basis

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Reasonable Accommodations

- You may require verification of disability if not readily apparent
- There needs to be a nexus between the requested accommodation and the individual's disability

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Reasonable Accommodation

- Provider may deny a claim if:
 - Request was not made by (or on behalf of) a person with a disability
 - If there is no disability-related need for the accommodation
 - If providing the accommodation is not reasonable (i.e. would cause an undue financial and administrative burden or fundamentally alter the nature of the provider's services)

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Resources

- DOJ Cases and Consent Decrees
 - <http://www.justice.gov/crt/about/hce/caselist.php#disabil>
- HUD/DOJ Reasonable Accommodation Statement
 - https://www.hud.gov/sites/documents/DOC_7771.PDF
- HUD Resources
 - http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/library
- HUD Guidance on Service Animals (2013)
 - https://www.hud.gov/sites/documents/SERVANIMALS_NTCFHEO2013-01.PDF



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Resources

- Fair Housing and Equal Opportunity (FHEO)
- https://www.hud.gov/program_offices/fair_housing_equal_opp
- Fair Housing Institute Website
- <http://www.fairhousinginstitute.com>
- Fair Housing for CCRCs
- <http://www.leadingage.org/ccrc-fair-housing>



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Automated External Defibrillator Policies

- Automated External Defibrillator (AED) requirements vary by state
- What are the concerns?
 - Liability/Good Samaritan Laws
 - Success rates for older adults
 - Resident health care directives
- Maine
- New Hampshire



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