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# New Mexico Boarding Homes Oversight

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**“This hands-off, ‘they’re not our responsibility’ (position by DOH) is driving me crazy,” said state Rep. Deborah Armstrong, a former secretary for the state Department of Aging and Long-Term Services.**

*Albuquerque Journal, 2016*



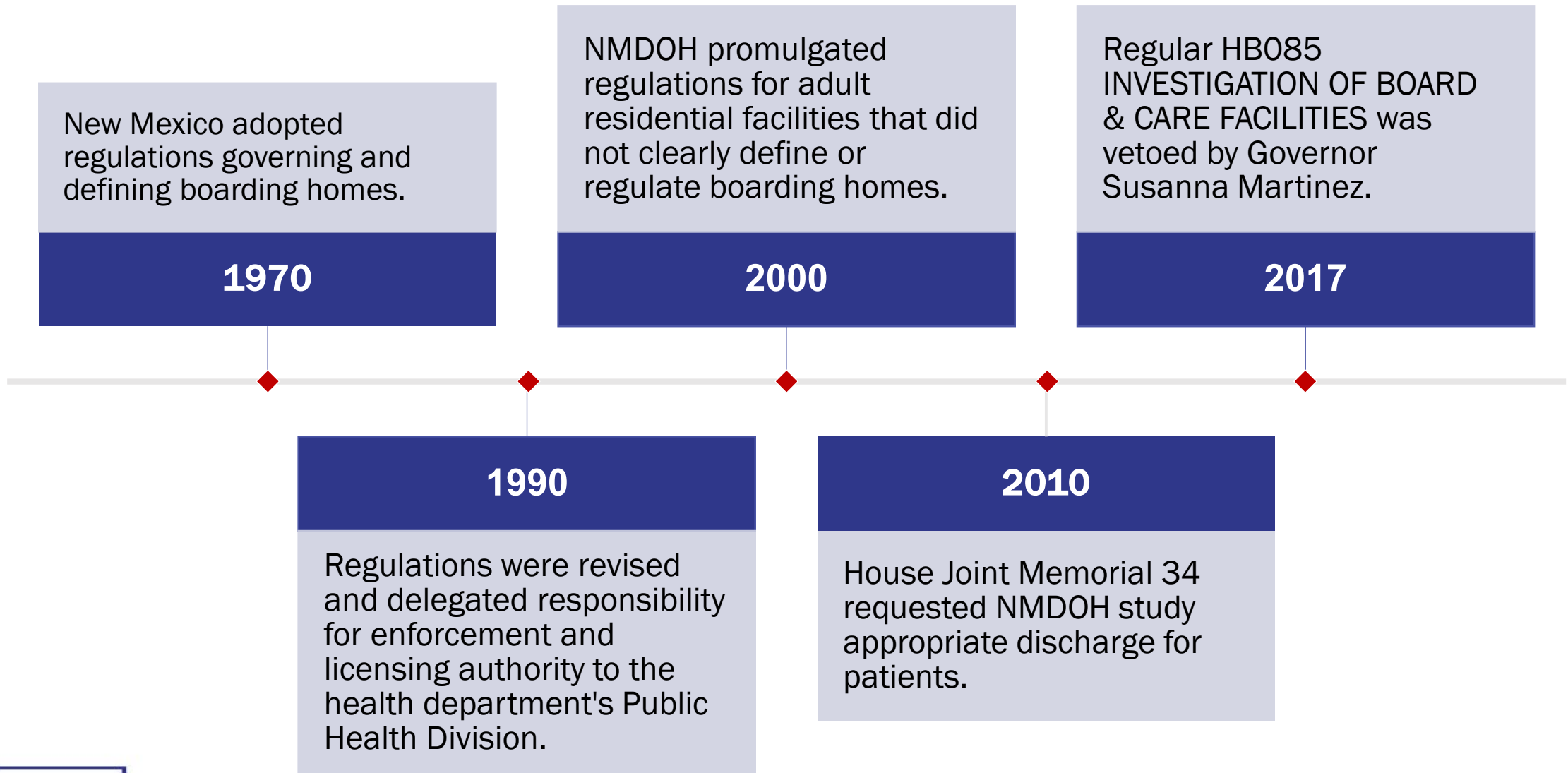
*Eddie Moore, Albuquerque Journal*

# New Mexico Boarding Homes in 2021

New Mexico boarding homes are regulated by [NMAC 7.8.4](#) (published June 3, 2020), which does the following:

- Grants NMDOH boarding home licensing and regulatory authority.
- Requires any facility that meets the following criteria be licensed as a boarding home by NMDOH:
  - Provides assistance with one or more instrumental activities of daily living or assistance with the coordination of community services;
  - Hosts two or more adults age 18 or older, not related to the owner; and
  - Admits residents discharged from any mental or behavioral health care institution.
- Details boarding homes' scope of services, safety regulations, and licensure requirements.

# History of New Mexico Boarding Homes



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Disability Rights New Mexico filed lawsuit against NMDOH. District Judge ordered NMDOH to publish rules for the licensure and oversight of boarding homes.

2018

**“This is a huge first step for us,”** said Alice Liu McCoy, an attorney for Disability Rights New Mexico, which brought the 2018 court action seeking to force the health department to regulate boarding homes.

*AP News, 2018*



New Mexico Behavioral Health Institute, Las Vegas, NM

# History of New Mexico Boarding Homes

NMDOH enacted emergency rule governing the licensure and regulation of boarding homes that residentially house individuals discharged from mental or behavioral health care institutions.

2019

2020

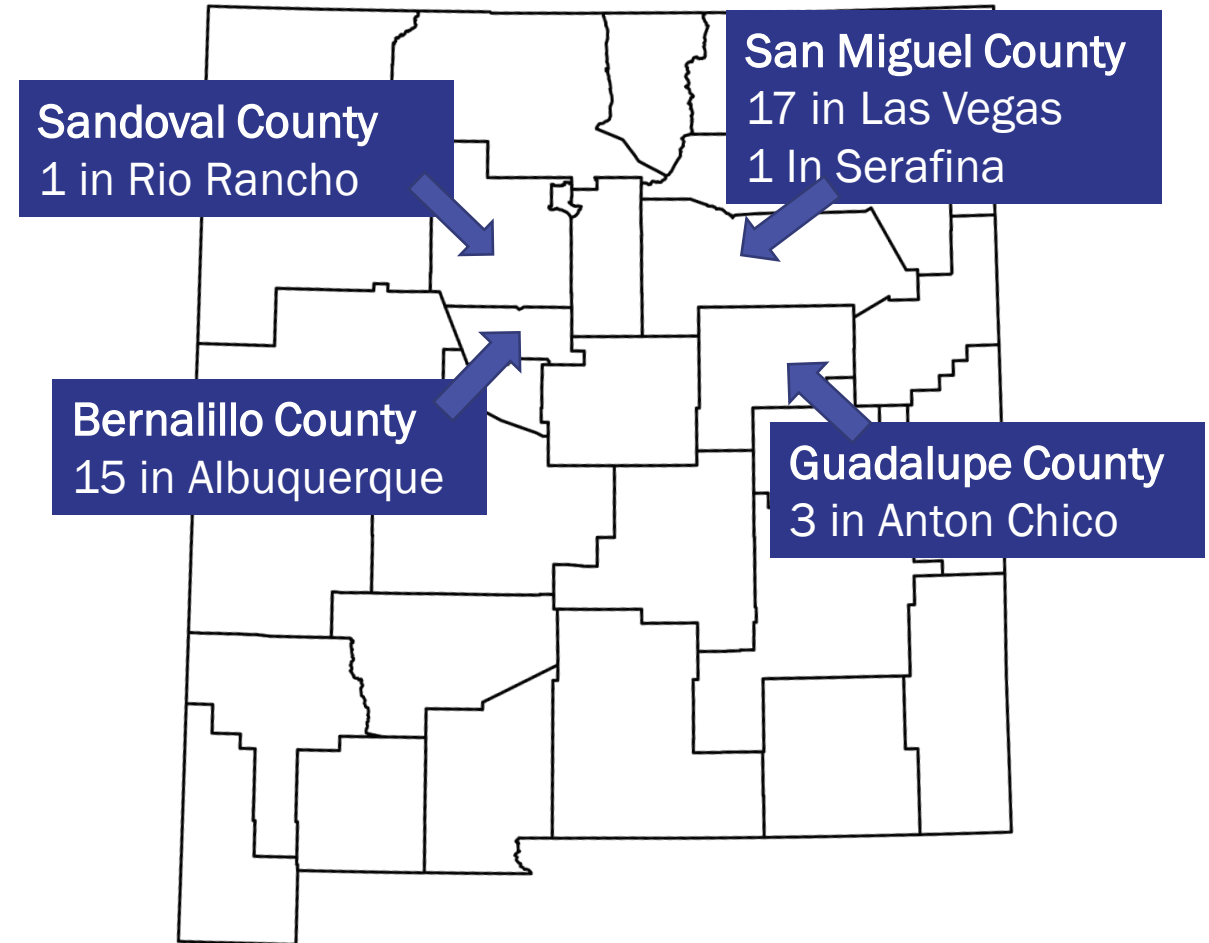
NMDOH promulgated NMAC 7.8.4, defining boarding homes in New Mexico and delegating NMDOH Division of Health Improvement with licensing and regulatory authority.

# NMDOH Boarding Home Update

2019:

- Prioritized development of emergency boarding home rule (published Dec. 5, 2019)
- Conducted visits to boarding homes in Las Vegas and Albuquerque
- Met with City of Las Vegas and San Miguel County officials
- Hosted 3 town hall meetings for UNM and NMBHI boarding homes

## Potential New Mexico Boarding Homes\*

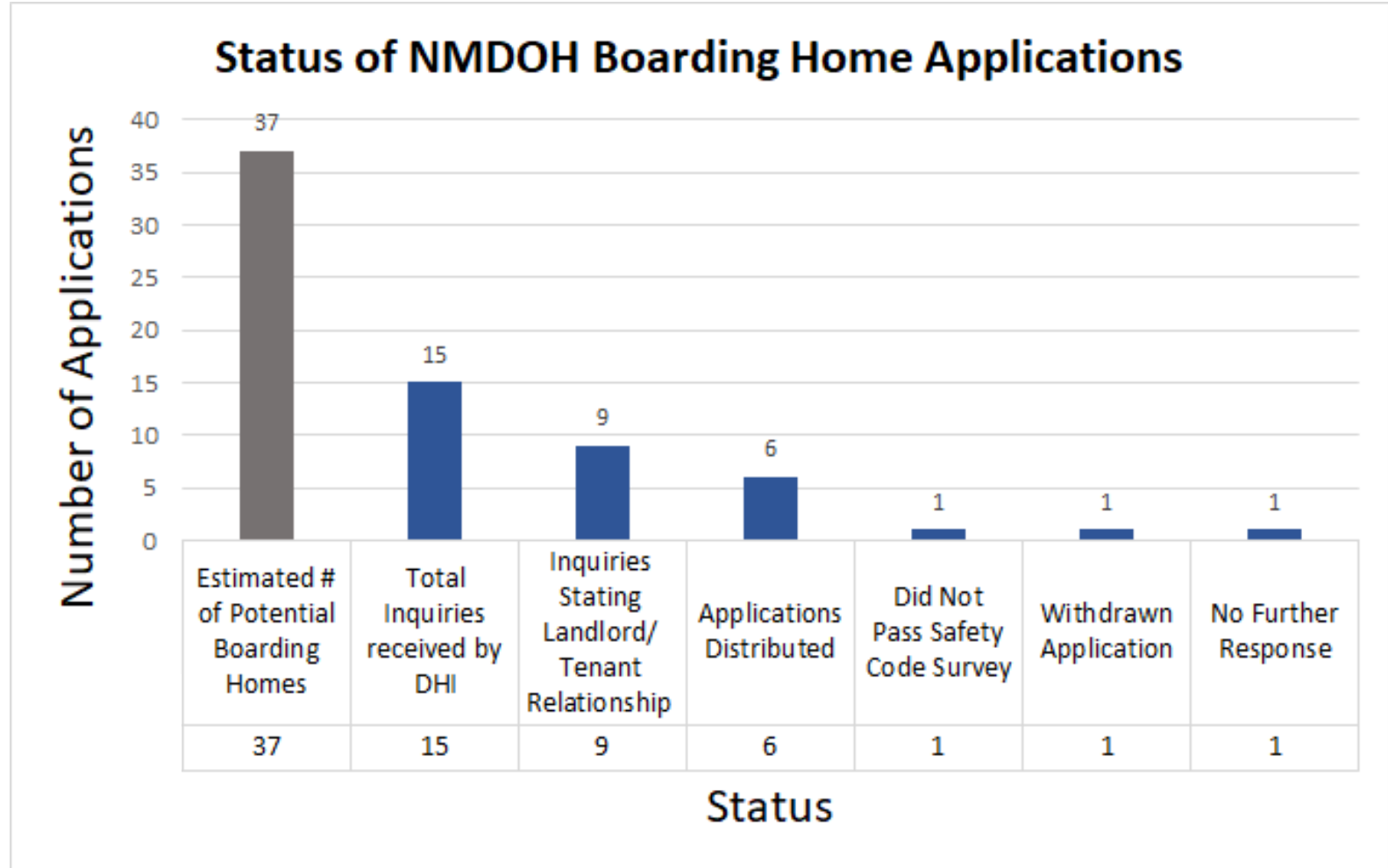


\*based on 2019 discharge facility data from UNM and NMBHI

# NMDOH Boarding Home Update

2020-2021:

- Held public hearings regarding proposed new rule
- Finalized NMAC 7.8.4 governing general requirements for New Mexico boarding homes (published June 3, 2020)
- Waived all licensing fees
- Sent potential boarding homes applications
- Conducted surveys (inspections) for potential applicants



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# Future of Boarding Homes in New Mexico

Barriers	Potential Solutions	Potential Unintended Consequences
<p><b>Unregulated Operators</b></p> <p>There is no implemented framework for managing boarding homes and protecting the vulnerable populations they serve.</p>	<p><b>License Operators</b></p> <p>Licensing operators would improve transparency, oversight, and establish standards to decrease the likelihood of abuse and neglect.</p>	<p>If we immediately enforce current regulations, virtually all boarding homes would close operations.</p> <p>This would result in homelessness for all residents.</p>
<p><b>Non-compliance with Standards of Care</b></p> <p>NMDOH currently lacks staff to enforce safety code requirements and apply established standards of care in boarding homes.</p> <p>NMDOH has the option to enforce compliance through cease-and-desist orders.</p>	<p><b>Enforce or Revise Standards of Care</b></p> <p>NMDOH will need surveyor and legal workforce to complete safety code inspections and to enforce compliance with standards of care established in NMAC 7.8.4, serve cease-and-desists orders when necessary, and participate in hearings.</p> <p>NMDOH is exploring alternative licensing requirements (e.g., multiple tiers).</p>	<p>See above.</p>

# Future of Boarding Homes in New Mexico

Barriers	Potential Solutions	Potential Unintended Consequences
<p><b>Inconsistency and Lack of Oversight with Discharge Plans</b></p> <p>Most boarding home residents need a stable environment with mental health and substance use support. Boarding homes are a stepdown level of care from hospitals; however, upon discharge there is no way to ensure discharge plans are being followed, causing uncertainty and unreliable coordination of care for residents.</p>	<p><b>Provide the Appropriate Level of Care for Residents</b></p> <p>Through licensure, empower boarding home operators to assume responsibility for residents who need personal care services and supervision, such as medication oversight, and ensure residents connect with supportive services in the surrounding community to meet their needs.</p>	<p>In order to afford these additional responsibilities, boarding homes would have to raise their rental rates which could create homeless for those who could not afford the rate increase.</p>



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# Future of Boarding Homes in New Mexico

Barriers	Potential Solutions	Potential Advantages
<p><b>Complying with Regulations is Costly for Boarding Homes</b></p> <p>Operators do not qualify for any reimbursements, causing them to rely on residents' SSI as their primary source of income. The cost of meeting licensing requirements in addition to providing services to residents can be large expenses for operators to manage.</p>	<p><b>Incentivize Licensing through Funding for Boarding Homes</b></p> <p>Operators will more willingly and openly comply with state rules and regulations if there is funding available to help offset costs.</p> <p>Leverage Medicaid Comprehensive Community Support Services and Medicaid Intensive Outpatient.</p>	<p>Operators will have revenue stream to support needed improvements and expansion of services.</p> <p>Both of these services are currently covered by Medicaid and could be administered by licensed boarding homes.</p>



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# Other State Boarding Home Regulations

State	Key Features
<a href="#">California</a>	Adult Residential Facilities (ARFs) are non-medical facilities that provide room, meals, housekeeping, supervision, storage and distribution of medication, and personal care assistance with basic activities like hygiene, dressing, eating, bathing and transferring. This level of care and supervision is for people who are unable to live by themselves but who do not need 24-hour nursing care. <b>They are considered non-medical facilities and are not required to have nurses, certified nursing assistants or doctors on staff.</b>
<a href="#">Missouri</a>	Reimbursement options for Assisted Living Facilities include but are not limited to federal Medicaid waivers, state plan amendments, and provisions of the federal Deficit Reduction Act of 2005 that will allow a <b>tiered rate system via a bundled monthly rate for all services not included in the room and board function of the facility.</b>
<a href="#">New Jersey</a>	All rooming and boarding homes and free-standing residential health care facilities in the State are evaluated for the physical safety and social well being of the resident population. <b>Physical and social evaluations are conducted yearly by the bureau as a prerequisite to license renewal.</b>
<a href="#">New York</a>	Adult Care Facilities (ACF) provide long-term, non-medical residential services to adults who are substantially unable to live independently due to physical, mental, or other limitations associated with age or other factors. Residents must not require the continual medical or nursing services provided in acute care hospitals, in-patient psychiatric facilities, skilled nursing homes, or other health related facilities, as <b>Adult Care Facilities are not licensed to provide for such nursing or medical care.</b>
<a href="#">Washington</a>	The Washington State Department of Social and Health Services designed a <b>Medicaid pricing model to produce a per resident day market rate for providing boarding home care and services</b> , including, staff salaries and wages, payroll taxes and fringe benefits, occupancy rate, and capital costs. The department set the Medicaid rates using the rate structure based on this methodology and adjusted to match appropriations.
<a href="#">Wyoming</a>	Boarding Home is a dwelling or rooming house operated by any person, firm or corporation engaged in the business of operating a home for the purpose of letting rooms for rental, and providing meals and personal daily living care, but not habilitative or nursing care, for persons not related to the owner. Must be licensed before allowed to provide services as a "Boarding Home Facility". <b>Provisional license issues upon completion of construction review.</b> Must request health survey in writing- unannounced first visit- if found in compliance ,permit is issued. Does not enroll or certify a provider or supplier of healthcare services to participate in federal certification programs (Medicare/Medicaid).

# Conclusions

- Regulations in place but “one size does not fit all”
- Additional NMDOH Division of Health Improvement resources needed
- Additional revenue needed by operators to support boarding home level of care
- There is a delicate balance that must be achieved over time



# Example Scenarios

Boarding Home Type	Regulatory Requirements	Reimbursement
Tier 1 Boarding Home	Basic environment of care standards and delivery of services	SSI – assigned from resident to operator
Tier 2 Boarding Home	Current environment of care standards and delivery of services	SSI – assigned from resident to operator  Medicaid payment for covered services
Boarding homes that do not seek licensure	None: These either become landlord/tenant relationships or residents are discharged from the home	?



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# Questions?