

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Meeting of July 9, 2002
Brandywine Assisted Living at Seaside Pointe 100 Seaside Boulevard
Rehoboth Beach, Delaware 19971

MINUTES

Commission Members Present: Patricia C. Engelhardt; John A. Fogelgren, Jr.; Karen E. Gallagher; Sen. Robert I. Marshall; Thomas P. McGonigle, Esq. (Chairman); Phyllis R. Peavy; Dr. McKinley Wardlaw, Jr.

Commission Members Absent: Rep. Pamela S. Maier

Others Present: Joseph Letnaunchyn, President, CEO (Delaware Health Care Association); Steve Tanzer, Administrative Assistant to Sen. Marshall (State Senate); Yrene E. Waldron (Delaware Health Care Facilities Association); Carol Ellis, Director, and Joan Reynolds, Staff Support (DHSS Division of Long Term Care Residents Protection, DLTCRP)

1. Call to order

Chairman McGonigle called the meeting to order at 9:45 a.m.

2. Approval of the Minutes of the May 14, 2002 and June 11, 2002 meetings

The Minutes of May 14, 2002 and June 11, 2002 were approved as written.

To answer a question about Quality Insights' request for a member of this Commission as well as other representatives of nursing homes to be on a Steering Committee as noted in the minutes, Chairman McGonigle said he would contact Mr. Daniel Jones. This question was not a Minutes' correction.

3. Other/old business

- Discussion of Sen. Marshall's Petition for Regulation-Making Proceedings with the Dept. of Administrative Services concerning Medicaid funds.

Sen. Marshall expressed concern that regulations were not being promulgated as required by Eagle's Law. He asked that a methodology be developed between the Division of Long Term Care and the Medicaid office so that it would be known how funds are moving through the system, that Medicaid dollars are going for direct care. The Division in its annual surveys doesn't show that dollars that are dedicated through Eagle's Law are going to direct care. Ms. Ellis said that Long Term Care Residents Protection surveys don't deal with money issues, the surveys deal with staffing issues. The money issue is Medicaid's bailiwick. Ms. Ellis' understanding of the money side of this issue is that whatever Eagle's Law requires as minimum, whether it's 3.0 or 3.28, that Medicaid starts with the presumption that 3.28 is the staffing that will be maintained as a minimum by the facilities and it's the duty of Long Term Care Residents Protection to enforce the people part. Then Medicaid, on a quarterly basis, goes into the facilities and evaluates each of the Medicaid patients in terms of their acuity. Depending on the acuity of each individual patient there will be add-ons above the 3.28 and that's evaluated every quarter and presumably will go up and down accordingly. At the end of the year when the facilities get their cost reports from Medicaid, then it is determined whether the money that had been allocated has been appropriately allocated.

Senator Marshall said it would be a challenge taking time and effort for Medicaid and Long Term Care Residents Protection to develop a methodology to share and review, per requirements under Eagle's Law, the staffing ratios and Medicaid reimbursements. Ms. Ellis said that Medicaid does not use this in determining acuity levels. Senator Marshall said that the issue is they need to change and there needs to be some accountability that staffing is matching the approximately \$130 million investment.

It was suggested for better understanding to have Phil Soule, Bruce Ashbaugh or Mike Shawn and Medicaid nurses who do the actual reviews, speak to the Commission on these issues. They could explain how they married the quality of care to the funding. A request was made to ask surveyors to come in at the same time to discuss how they look at staffing. It's two different issues with three different groups of people who are all looking at the same thing and the goal is for Medicaid patients and consequently all patients, to get quality care.

Chairman McGonigle stated that the motion on the floor is to support the request Petition and to invite Phil Soule to a Commission meeting to talk through what needs to be done, what the plans are, and the timeline. The Commission is to monitor that as much as Eagle's Law and other protection laws for long term care. Chairman McGonigle will send a letter to that effect to Phil Soule if the Commission supports the Petition. It was suggested that Secretary Meconi should be the primary person to receive Commission communication with cc's to Phil Soule and Elaine Archangelo. The Motion passed unanimously.

- Discussion of the presentation regarding the Centers for Medicare Medicaid Services (CMS) Nursing Home Public Reporting and Quality Initiative by Quality Insights of Delaware. Commission member needed for Steering Committee by this group.

Chairman McGonigle will call Dan Jones requesting information on the time commitment for representing this Commission on the Steering Committee.

- Commission brochures

The brochures have been completed and printed. One hundred copies of *Introduction to the Delaware Nursing Home Residents Quality Assurance Commission* were sent to each nursing home facility with a cover letter signed by Thomas P. McGonigle, Esq. Copies were given to each Commission member as were copies of *Visiting Long Term Care Facilities* brochures.

- Annual Report to the Governor and General Assembly

Chairman McGonigle made recommendations of what should be included in the Annual Report:
First Section - Agency reviews, findings, conclusions reached and recommendations of the Commission
Second Section - Reports, initial staffing issues, Eagle's Law issues and legislative issues
Third Section - Reviewing regulations: Assisted Living, Residential Facilities, Pediatric Nursing, Mental Health

Information can be found in Commission Minutes. It was suggested that the Commission include their evaluations of trends it has identified to be addressed or needing attention. Chairman McGonigle said it would be helpful to review what the Commission has done, where it's been, and where it's

going. Thus, an aid in setting the agenda for the next year or two as well. The report should be completed by October or November. Each Commission member will play a role in terms of drafting and fine-tuning the report. At the next meeting Chairman McGonigle suggested having specific assignments for members.

- Post Survey Meeting Schedule - It was requested that both time and completion date of survey be posted on the schedules.

Canceling the August meeting, the Commission will meet in a New Castle Co. nursing home on Tuesday, September 10th, allowing time to gather raw material for the Annual Report. If needed, a meeting may be held September 24th to complete the Annual Report.

Ombudsman Training The Friendly Visitor Program - Phyllis Peavy reported attending the training session and giving an overview of DNHRQA Commission explaining its role. Another program for volunteers will start in the Fall.

4. Public Comment

In answer to when two vacant positions on the Commission would be filled, it was suggested that after June and legislature is no longer in session, there is time for the Governor's office to handle such business as making appointments to the Commission.

The Assisted Living Regulations published in the August Registry will be in their second set of public hearings in September. If everything goes perfectly with no comments requiring additional action, they could be published as final regulations October 1st.

5. Next meeting

The next meeting is scheduled for Tuesday, September 10, 2002, at 10:00 a.m. with a hold on September 24, 2002.

6. Adjournment

Chairman McGonigle adjourned the meeting at 10:35 a.m.

FINAL MINUTES approved at September 10, 2002 meeting