

DELAWARE NURSING HOME RESIDENTS
QUALITY ASSURANCE COMMISSION

Meeting of February 12, 2002

Herman M. Holloway, Sr. Campus, Springer Building Training Rooms 1 & 2
1901 N. DuPont Highway, New Castle, DE

MINUTES

Commission Members Present: Patricia C. Engelhardt; John A. Fogelgren; Karen E. Gallagher; Rep. Pamela S. Maier; Sen. Robert I. Marshall, Thomas P. McGonigle, Esq. (Chairman); and Phyllis R. Peavy.

Commission Members Absent: Bonita J. Maull; Dr. McKinley Wardlaw, Jr.

Others Present: James Adams, Administrator, and Ila Klingler, Silver Lake Center; Ann Marie Ackerman, Administrator, Churchman Village; Jeff Berenbach and Betty Scott, Regional Vice President, Genesis Eldercare; Fred Comegys and Kim Douglass, The News Journal; Kathleen Duca, Hillside Center; Karen Friedman, Executive Director, and Carol Williams, RN, Director of Nursing, Milton & Hattie Kutz Home; Eileen K. Hanhauser, Administrator, Milford Center; Tim Hoyle, Ombudsman (DHSS Division of Services For Aging & Adults With Physical Disabilities, DSAAPD); Lon Kieffer, Administrator, Seaford Center; Ruth Marinelli, Administrator, Michael Salitsky, Administrator, and Debra Baich-Pietlock, ManorCare Health Services; E. Ray Quillen, Administrator, and Sandra Schurman, Owner, Courtland Manor; Steve Tanzer, State Senate staff; Sarah Thankachan (Delaware Healthcare Association); Yrene E. Waldron and Laird Stabler, Esq. (Delaware Health Care Facilities Association); Carol Ellis, Director, Catherine McMillan, Deputy Director, and Judith E. Johnston, Ph.D., Quality Improvement Administrator (DHSS Division of Long Term Care Residents Protection, DLTCRP)

1. Call to order

Chairman McGonigle called the meeting to order at 10:15 a.m. and requested a roll call of Commission members, for the non-Commission members present.

2. Approval of the Minutes of the January 8, 2002 Meeting

A correction was made on page 3, under Assisted Living Regulations, second paragraph, first line, to strike the verb "is", letting "will" stand. The minutes were approved as corrected.

3. Review of Waiver Requests by Nursing Facilities for Phase II of Eagle's Law (Minimum Nursing Staffing Requirements)

Chairman McGonigle said there were originally eleven waiver requests for the minimum staffing requirements for Phase II of Eagle's Law, but several have been withdrawn. Dr. Johnston read the names of the following four facilities that had withdrawn their waiver requests: Capitol Healthcare Services, Parkview Nursing and Rehabilitation Center, Kentmere, and Green Valley Terrace. The remaining seven requests were for the five Genesis facilities (Churchman Village, Hillside Center, Milford Center, Seaford Center, and Silver Lake Center), Courtland Manor, and the Milton and Hattie Kutz Home.

Dr. Johnston read the written explanation for withdrawing the waiver request received from the Kentmere administrator, Eileen Mahler. She listed three factors that contributed to rescinding the waiver request: 1) new recruitment efforts have been helpful in filling positions; 2) numerous employees being out sick because of a respiratory epidemic in January has been resolved; and 3) the facility is focusing on additional retention strategies.

Chairman McGonigle gave an overview of the parameters of the waiver, pursuant to the statute. Waivers are to be granted for a time-limited period and under exigent circumstances only. The request is to include documented evidence of the facility's best efforts to meet the minimum staffing standards. He stated that a letter had been sent to each facility that requested a waiver, laying out the requirements. Chairman McGonigle asked each facility requesting a waiver to make a presentation to the Commission, giving the reasons for the request. This would be followed by questions by Commission members and then a decision would be made by the Commission.

Presentation for the Genesis facilities. Mr. Lon Kieffer, Administrator of Seaford Center, made a combined presentation for the five Genesis facilities, as previously requested by Chairman McGonigle. Mr. Kieffer passed out and reviewed a handout for Genesis ElderCare entitled, "A combined summary and presentation of waiver requests of the Matrix aspect of Phase II of Eagle's Law." Mr. Kieffer stressed that Genesis is focusing more on the matrix (minimum staffing shift ratios) aspect than the per resident per day (PPD) requirement of Phase II. Mr. Kieffer said that Genesis ElderCare is an industry leader in the area and is proactively trying to address the issues of staffing and meeting Phase II of Eagle's Law. However, while supportive of the law, Mr. Kieffer stated there are limitations, and Genesis needs a short period of time in order to meet the matrix aspect of the law.

Mr. Kieffer said that while his presentation is specific to the Genesis facilities, these are circumstances being felt throughout the whole industry in Delaware. Mr. Kieffer said that Genesis's five facilities in each of the three counties collectively represents almost 600 beds, or 12% of the beds in Delaware. He covered the following areas in his presentation: 1) the number of additional staff needed in the five facilities to move from the PPD of Phase I to Phase II, and, using Genesis as an example, the number of additional staff that would need to be added for all of the facilities; 2) current vacancies at the Genesis facilities, as well as national and State of Delaware (by county) unemployment; 3) funds spent by Genesis on nursing salaries and benefits and on direct recruitment; and 4) recruitment and retention data and activities. Mr. Kieffer said that the data show many terminations at the five facilities, but there is a 43% turnover in Delaware for licensed professional staffing. Genesis's average is 37%; Genesis is keeping personnel to a greater degree than the industry as a whole in the State. Mr. Kieffer handed out an article from RN NEWS WATCH magazine about turnover issues, which gave national turnover trends and vacancy rates. The turnover rates for RNs, LPNs, and CNAs for Genesis are lower than national rates.

Mr. Kieffer clarified that Genesis has had been successful getting CNAs and is therefore asking for a waiver for the professional nursing side of the matrix.

In response to questions about certified nursing assistants (CNAs), Mr. Kieffer said in his experience 10%-20% of trainees do not finish a CNA course. There is an overall passing rate of roughly 80%, but he would need to get figures for the passing rate of those taking the test the first time. He stated that there is a great disparity of results according to where the test is taken.

Chairman McGonigle noted some of the efforts mentioned in the waiver request by Hillside to attract and retain staff, such as bus tickets. The issue of transportation was also raised in the Rhodes report on minimum staffing. Ms. Duca, Administrator at Hillside Center, said that Hillside has specifically addressed transportation issues, because most of the Hillside staff's use public transportation. They have corporate support in dealing with this issue. Bus tickets are given to staff until they receive their first pay. Mr. Kieffer said transportation is a significant issue in Delaware, particularly in lower Delaware.

Mr. Kieffer said it was important to note that the survey in the Rhodes report said that 40% of the facilities in the State would not be prepared to meet Phase II, but 40% are not represented at this meeting.

Ms. Peavy asked if Mr. Kieffer had any statistics regarding injury rates in the Genesis facilities. This is a problem nationally, and she wondered if this is a factor in hiring difficulties. Mr. Kieffer said he did not have those figures, but nursing as a whole is a tough profession. It is physically demanding, there is exposure to infectious disease and residents' unpredictable behavior. Ms. Duca spoke of Hillside's specialized equipment that new hires are all trained to handle, to prevent physically lifting of anyone. Mr. Kieffer stated people do not perceive their facilities as a dangerous environment in which to work. This may be an overall industry issue, but it is not for Genesis. Ms. Scott, Regional Vice President for Genesis who covers the Delaware & Eastern Shore area, said that on a monthly basis she receives reports on any injuries or accidents from nine Genesis facilities. Out of 2000 employees, there are an average of 3-4 people claiming injuries on each monthly report. Ms. Scott stated that Genesis has a very proactive safety health program.

Senator Marshall spoke on the issue of supply and demand of nursing home employees, noting that at the Delaware Skills Center, there are a lot of people seeking CNA training. Over 100 individuals have applied for admission to the training, so it appears there is an ample supply of CNAs. Sen. Marshall said that recently Ingleside hosted a workshop for facilities to share information about a state-sponsored transportation program for workers who cannot access their place of employment. Mr. Tanzer was asked to further explain the details of this innovative program. He said that the Delaware Transportation Association has tried to develop creative transportation alternatives to address problems that both employers and employees have. The program basically provides door-to-door transportation for second and third shift workers. Evenings, weekends, and holidays are also covered, and costs to the facilities are minimal. Mr. Tanzer said this service would make facilities more competitive with agencies which, he understands, run vanpools. Senator Marshall suggested calling Mr. Tanzer for the agency name, contact person, and telephone number. Chairman McGonigle stated that since one of the requirements of the statute is a time line and a plan for compliance, this information is important.

Chairman McGonigle asked Genesis for its plan for compliance with Phase II. Ms. Scott said that Genesis has focused its resources in Delaware, and they requested a waiver through June 30th to allow Genesis the time to take advantage of the resources. She said the focus is to take all these programs and to really put the Genesis resources, including herself, recruiters, and the retention specialist in Delaware for six months, to focus on getting all centers where they need to be. Ms. Scott said there will be CNA classes in each of the centers on a monthly basis until they meet the requirement. Chairman McGonigle asked whether Genesis has considered the issue of day care as mentioned in the Rhodes Report. Ms. Scott said Genesis has discontinued day care in facilities due to lack of space in the centers. She said the company continues to look at this issue and perhaps day care vouchers could be made available to help employees.

Chairman McGonigle asked Genesis what exactly it is looking for in terms of its waiver. Ms. Scott said Genesis is asking for a waiver through June 30th. Mr. Kieffer clarified that Genesis is asking for a waiver of the licensed nurse staffing ratio matrix, for the increase from Phase I to Phase II. Ms. Scott said their greatest concern is recruiting the additional licensed nurses required and getting them in place, and this would take time. Ms. Scott said six months is what they need, and it will be tough even in six months to meet the requirement.

Sen. Marshall said that he had learned that there are a few facilities that might be out of compliance with Phase I and wondered if civil penalties should be imposed, in order to force compliance.

Ms. Scott said that to meet the 3.0 of Phase I, Genesis had to staff at about 3.4. So to meet 3.28, Genesis would probably have to staff or schedule about 3.6 or 3.7. Mr. Tanzer said that the Division of Long Term Care Residents Protection reported that the five Genesis facilities were staffing at about 2.75 or 2.76 when Eagle's Law passed. Ms. Scott said the state's minimum at that time was 2.5. Genesis's figure was 2.98, but she thought the difference was because Genesis included some positions that were not included in the Law.

Ms. Duca gave data on the number of times in January that Hillside had to use temporary agency staff. She said she would much rather be given the time and the opportunity to get good quality staff who will provide good quality care to the residents, rather than be punished for not meeting the 3.28.

Sen. Marshall asked if Genesis management has an aggressive recruitment and retention plan today that within, hypothetically, 90 days, would allow the company to focus on Delaware in order to meet the requirements of Phase II of Eagle's Law. Mr. Kieffer said those programs are in existence and are going forward more aggressively. He said additional resources are full-time human resource specialists who are exclusively in this region. The other expenditures that have already been demonstrated continue and are going forward. He said Genesis, on both a national and a state level, has a better than average retention rate. Sen. Marshall asked if Genesis has confidence that they can meet Phase II. Ms. Scott said yes, within a reasonable time; they have to.

In response to a question, Sen. Marshall said that the LPN course is offered at the Delaware Skills Center once a year. Presently, the Workforce Investment Board provides funding for scholarships. The course is free to those who are eligible and qualified. He said he would be willing to sit down and look at expansion, including having evening, weekend, and condensed versions of the course. To expand the number of courses, Sen. Marshall said providers' organizations and the State could contribute towards the tuition to reduce costs, because the key incentive is free tuition.

Sen. Marshall said a CNA course is offered seven times throughout the year at the Skills Center. There is a significant waiting list. He said a second CNA course could easily be run. Ms. Engelhardt said the Skills Center CNA program has a job fair, but they have a hard time getting the facilities to go. Sen. Marshall gave the name and phone number of the person at the Skills Center to call for the date of the next job fair.

Ms. Peavy asked if Genesis does exit interviews when employees leave, and, if so, are there any trends. Ms. Scott said that starting in January 2002, Genesis has a process in place in which Genesis meets with

any licensed nurse who leaves, to find their reasons for leaving. She said if an area is identified as a problem, then we go in and look at that area. She does not have information on trends; that is summarized by the corporate office. For CNAs and dietary aides, employees are given the phone number of an outside firm that they can call when they leave.

At the end of the Genesis presentation, Chairman McGonigle thanked Genesis for the well thought-out and researched presentation. He said that the Commission's charge under the statutes is to try and improve quality and care. One of the things indicated in the Rhodes report is that there is a nexus between staffing levels and quality. At the same time, the Commission appreciates Genesis's point that quality takes time.

Courtland Manor. Mr. Quillen, Administrator of Courtland Manor, provided handouts for his presentation. Mr. Quillen said that Courtland Manor has been a family-owned business for thirty years. Mr. Quillen said he was requesting a waiver of the matrix part of the law. The matrix does not work, and it is overly intrusive in the facility's operation. Mr. Quillen said that the Phase II matrix requires facilities to make a 25% increase in day-shift nurse hours and an 8% increase for the evening shift. Mr. Quillen presented data from the November 15, 2001 meeting of the Delaware Health Care Commission chaired by Lt. Gov. John Carney. Mr. Quillen said that there is a shortage of nurses nationally and in Delaware. For the waiver, Mr. Quillen said Courtland Manor is looking to replace nurses with aides. Courtland Manor's exigent circumstance is an absolute shortage of nurses. He did not have a length of time specified for the waiver, and he asked for the maximum. Mr. Quillen said that either the facility gets the waiver or it closes, and 66 residents will lose their home. Courtland Manor does not have a corporation to rely on. This problem may not be necessarily be short-term; it may be long term.

Courtland Manor continues to advertise daily for staff, spending \$8000 on advertising this past year. Mr. Quillen said since the facility does not bring in patients in excess of required staffing; they have a lower census than their licensed capacity. Consequently, the facility is penalized under Medicaid's 90% rule. The facility is 66% dependent upon Medicaid. Mr. Quillen said that Courtland Manor has a good employee environment. There is turnover, but again, nurses are the problem. He said nurses' wages are actually at a higher start rate than the local hospital. Mr. Quillen said that Courtland Manor's policy is not to use temporary agency staff. To use agency staff eats up resources at a totally unacceptable rate and provides nothing but regulatory or legal compliance.

Mr. Quillen said the actions and operation of the facility are reasonable, but the facility is still unable to produce the required number of nurses. Currently, the need is for four additional nurses for the current census of sixty-eight. Mr. Quillen said the facility has its own CNA training program. Courtland needs the Commission's help, and it needs time. He then introduced the President of the Board, Ms. Schurman.

Ms. Schurman said that for the facility to meet the Phase II matrix, it would have to go down to 53 patients, and the facility could not survive. She said that there is a need to get schools involved in training more nurses and aides. Ms. Schurman gave data on the number of nurses and CNAs employed at the facility. Ms. Schurman said that if Courtland does not get this waiver and things do not change, Courtland Manor will cease to be a nursing home. Ms. Schurman said she fears for that and fears for the almost 100 staff.

Mr. Quillen said that Courtland is specifically asking for a waiver of the licensed nurse matrix for Phase II, not the per resident per day requirement.

Sen. Marshall, citing the problem of hiring and retention of employees who quit and move on to other employment opportunities, asked what the facilities are doing as a system to critique how they are conducting business, how they employ and retain staff and then come up with a working model to attract and retain staff. Sen. Marshall said that he thought that the right people are out there, but due to weaknesses in facilities' systems, they are unable to retain substantial numbers of employees.

Mr. Quillen said the hardest retention area for Courtland is the night shift. They have high turnover on that shift. He said he thought that people choose that because of their life circumstances. When that changes, the employee wants different hours. Mr. Quillen said Courtland Manor management, employees and residents are "family."

Sen. Marshall said that the State, in its role as regulator and funder, matching federal Medicaid money, and the federal government are also part of the extended family. The State changed the formula as part of the wage survey and has made an effort in terms of requests to provide State policies that can advance the interest of nursing homes in terms of hiring and retention. We need to look at the long-term goal of providing the best possible quality services to those who are entrusted in our care. He said that the more discussions we have, the more he is certain solutions can be found to provide facilities with the opportunity to increase the number of employees to meet Phase II.

Kutz Home. Karen Friedman, Executive Director of Kutz Home, introduced Carol Williams, Director of Nursing. They provided a handout as part of their presentation. Ms. Friedman said that Kutz Home is requesting a 90-day waiver because the facility is having difficulty meeting the nurse matrix. Presently, the facility has sufficient CNAs due to an influx of applicants for CNA positions. To illustrate the difficulty in the hiring and retention of registered nurses, Ms. Williams gave data to illustrate the difficulty in hiring nurses. Ms. Williams stated that since January 2002, Kutz Home hired four RNs. However, three are from one facility, so what Kutz Home has gained, it has taken from another facility. Ms. Friedman said the Kutz Home board is presently reviewing salaries and basically anything else that will help retain personnel. Ms. Friedman said they are fortunate in having an auxiliary that raises funds for special needs such as a tuition reimbursement program. Ms. Friedman emphasized that the facility is doing everything possible to gain staff, but the fact is that facilities are taking personnel from each other.

Chairman McGonigle asked what Kutz Home's compliance plan is. Ms. Friedman said that the personnel committee would be meeting the following night to discuss ways of hiring and retaining staff. One of the things they would look at is a shift differential. In response to a question from Chairman McGonigle, Ms. Friedman said they are aware that transportation is a problem for staff.

Ms. Friedman clarified that Kutz Home is asking for a 90-day waiver for the licensed nurse matrix part of Phase II, not the 3.28 PPD.

At the conclusion of the presentations and questions, Chairman McGonigle called for a short break. When the group returned, he opened up the meeting for discussion by the Commission.

Senator Marshall said that in view of the presentations made today representing seven facilities, it seemed appropriate for the Commission to allow some time for facilities to come into compliance with the matrix

part of Phase II of Eagle's Law. Sen. Marshall asked that the Commission consider allowing facilities a 90-day time frame to come into compliance. He asked that the Division make a thorough and detailed survey of the facilities' compliance and report back to the Commission at the March meeting about their level of compliance and the enforcement taken by the Division. He stated that he would like to know the level of enforcement that the Division would recommend regarding facilities being out of compliance after the exemption period ends. Sen. Marshall said that we need to recognize and reward the facilities that are in compliance with Phase II of Eagle's Law.

Chairman McGonigle stated that he was concerned that the problems the Commission heard about today affect all the facilities and, therefore, the waiver should perhaps be granted for everyone, so that no facility is penalized. Under the statute, this must be a time-limited waiver. Any waiver that would be granted would be given so that facilities can gear up to meet the Law. He said that the Rhodes report clearly indicated that quality is linked with staffing and good quality takes time, but the report also noted that there is a relationship between heavy use of temporary agency staff and quality problems.

Discussion among Commission members followed regarding the suggestion to grant waivers to the facilities. The consensus was that the waivers should be given, but they should be time-limited. Also, resident care must be provided. Members also noted that problems of hiring and retention go back a long time and are not new problems. The industry has had a while to address the problems. The members said that granting the waivers for a set period of time should allow facilities to work diligently towards meeting the requirements of the Law.

Chairman McGonigle noted that he did not think that the Commission's waiver would address the larger issues raised by Mr. Quillen in his presentation for Courtland Manor. The Commission's authority is restricted to giving time-limited waivers.

Sen. Marshall said a question had been raised about liability issues for the Commission. If the Commission grants waivers and a facility has serious problems, would the Commission be held liable. Ms. Ellis stated that as long as the Commission is acting within its authority, with good intentions and without malice, she thought that the Attorney General's office would defend the Commission in a lawsuit. She did not think that the Commission was placing itself in legal jeopardy by giving waivers.

There was no further discussion. The Chairman proposed a motion to give the facilities a 90-day waiver beginning February 13, for the staffing matrix aspect of Phase II. The Division is to give consideration as to how it will exercise enforcement once the 90-day waiver period is up. Chairman McGonigle said that although facilities are allowed by law to ask for another waiver, the Commission would be less inclined to grant future waiver requests, and its expectation is that facilities will give their best efforts to meet the requirements of the Law. The motion was seconded and passed unanimously. Chairman McGonigle said that Rep. Maier, who had to leave early, indicated her support for a waiver of the matrix part of Phase II.

Senator Marshall requested from Ms. Ellis a report on Phase I compliance, non-compliance, and actions taken by the Division by the next Commission meeting. Ms. Ellis stated that at the present time, no actions have been taken. Sen. Marshall said that this would not preclude action being taken between now and the next Commission meeting. Ms. Ellis said there is almost total compliance with Phase I. At last check by the Division, there were facilities that might be at about 2.9 PPD, rather than 3.0. Regarding Phase II, Sen.

Marshall said that since it went into effect January 1, he was trying to get a sense of compliance and enforcement activities on the Division's side. Sen. Marshall asked Ms. Ellis for a report within a couple of days of the name of the facility, the administrator, and all the details, as well as a summary of surveys to see how the facility is performing, for the facilities not in compliance. Ms. Ellis said she would give him a report on the two or three facilities that might not be in compliance. Sen. Marshall asked that in the event there is non-compliance with Phase II beyond May 13, the last day of the waiver, the Division have recommendations and penalties in place to present at the March Commission meeting.

Chairman McGonigle stated that there is nothing from today's Commission meeting that should prohibit enforcement of the Phase I matrix and the Phase II PPD of 3.28.

Ms. Waldron asked to make a comment. She thanked the Commission for listening to the providers who presented their requests today. She said that there are many more who are struggling with the matrix. The problem is not with the minimum of 3.28, but with the matrix and the way it was constructed. The model fits a facility was a certain census, with an 8-hour shift. Ms. Waldron suggested that a possible solution would be an amendment to the statute that has language that gives the authority and accountability to the Division of Long Term Care Residents Protection for assuring that the correct staff-to-patient ratios are in each building to the Division, because the Division knows the configuration of each building, knows the bed capacity of each building, and knows the acuity levels of the residents in these buildings. Ms. Waldron said this is just a recommendation, and she could share potential amendment language. She said she felt that, until the matrix issue is resolved, the Commission will be seeing more facilities at the meetings and that many facilities, while not here today, will be found to have problems with the matrix.

Chairman McGonigle said that he wanted to make it perfectly clear that the waiver would apply to all facilities, not just to the facilities that requested the waiver.

4. Old/other business

Update on consultant for report on nursing supervisor time. Ms. Ellis reported that Linda Rhodes, Ed.D., is willing to do the Commission's required report on nursing supervisor time. There will be a working group of advocates, providers, and interested parties, and Dr. Rhodes will serve as facilitator for the group. Dr. Rhodes will assemble options for the Commission to consider. A motion was made and passed for Dr. Rhodes to proceed with the report.

Proposed revised assisted living regulations. Chairman McGonigle asked for comments on the proposed assisted living regulations. Dr. Johnston asked for clarification regarding if comments given at the meeting would be considered as part of the public comment process for the regulations, since the proposed regulations are now out for public comment. Chairman McGonigle said he thought it would be. Ms. Ellis said comments could be included in the minutes, and the Division can use the minutes as public comment for the proposed regulations.

Ms. Peavy asked if the assisted living regulations are designed to be in compliance with the Fair Housing Amendments Act. Ms. Ellis said yes. Ms. Peavy said that an assisted living facility has been defined in some cases as the individual's medical home. In one instance in another state, the residents were so infirm that a state regulatory agency wanted to move the people out of an assisted living facility. The regulatory

agency thought that the facility was operating as a nursing home without a license. However, families are generating lawsuits to block actions by the regulatory agencies to remove residents from assisted living. Because of lawsuits in other states, there seem to be some issues around how much a facility can limit the care given.

Ms. Ellis said that the Division placed in the proposed regulations specific prohibitions in terms of conditions that would bar admittance or retention in an assisted living facility; this tries to address exactly the situation that Ms. Peavy is talking about. Ms. Ellis said that the acuity level in both assisted living and nursing homes is rising. Additionally, a person with behavioral problems who may not be acceptable for an assisted living facility may not be accepted anywhere else, either. She said she was not aware of any Delaware lawsuits in this regard, and she assumed that the Attorney General's office would defend the statute and regulations in place.

Mr. Tanzer asked if specifying the Federal Fair Housing Amendments Act in the assisted living regulations might create a situation in which the state rules and regulations could be in conflict with the federal definition of assisted living as a person's medical home. Ms. Ellis said that the reference to the federal law is there to protect people against discrimination. Mr. Tanzer wondered if this could be done without specifically naming the federal law, which seems to expand the definition of assisted living facilities. Ms. Ellis said that this probably needs to be discussed with the Division's legal counsel, to see if leaving out the reference to the Fair Housing Act might result in losing the law's protection against discrimination or, conversely, if the reference is included, would this potentially result in a situation like the ones described by Ms. Peavy.

Chairman McGonigle said he did not think the reference to the Fair Housing Act should just be taken out, but he suggested clarifying if the definition of a person's medical home applies or not. If defining assisted living as a medical home does not make sense, then we would not want to be subject to it. He agreed that the Division's deputy attorney general should be consulted to resolve the issue.

Ms. Engelhardt asked why the Uniform Assessment Instrument (UAI) for the proposed assisted living regulations was not included as part of the public comment process. Ms. Ellis said the Registrar suggested the UAI not be published, since it is required in the body of the regulations. The Division has the regulations requiring the use of the UAI, and this gives the Division more opportunity to make adjustments to the instrument, if needed. Ms. Engelhardt said she had sent in comments about the UAI, and she re-emphasized that the first several pages of health information in an earlier version of the instrument were there so that they could be used as a transfer form to the hospital. While the information might be in the document in other places, Ms. Engelhardt said that it would be better if information such as substance abuse, allergies, and vaccinations should be included at the beginning of the UAI. This would simplify the intake process at hospitals.

Commission brochures. Chairman McGonigle announced that the two brochures were finished. There was a motion to adopt the brochures. The motion passed unanimously. Sen. Marshall moved to not only endorse the publication, but specifically that the distribution process include the Division setting in place a policy whereby every nursing home will be obligated to provide every resident admitted and family a copy of the Commission's brochure. The motion was seconded and passed unanimously.

6. Next meeting

The next meeting will be held on Tuesday, March 12, 2002. The meeting will start at 10:00 a.m.

7. Adjournment

Chairman McGonigle adjourned the meeting at about 1:00 p.m.

FINAL MINUTES

The Minutes of February 12, 2002 were approved by the DNHRQA Commission on March 12, 2002