

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus – Room 198

1901 N. DuPont Highway, New Castle, DE

FINAL

Meeting of March 13, 2007

MINUTES

Commission Members Present: Karen E. Gallagher; Walter E. Ferris; Vicki L. Givens; Rep. Pamela S. Maier; Brian L. Posey; Yrene E. Waldron; Dr. McKinley Wardlaw, Jr.; Sen. Robert I. Marshall.

Commission Members Absent: Patricia C. Engelhardt; Thomas P. McGonigle, Esq. (Chairman)

Others Present: Margaret E. Bailey, Sean Finnigan (State Senate); Victor Orija, State LTC Ombudsman (Division of Services for Aging and Adults with Physical Disabilities); Tom Murray, Deputy Director; Mitzi Murphy and Joan Reynolds, Support Staff (Division of Long Term Care Residents Protection - DHSS); Wayne A. Smith (Incoming President & CEO of Delaware Health Care Association and DNHRQAC member); Sue Hansen, Aid to Ms. Gallagher.

1. Call to Order

The meeting was called to order at 10:01 AM by co-chair Brian Posey and co-chair Yrene E. Waldron. A special welcome was extended to Wayne A. Smith who joined the table since he will be a member of the commission soon due to accepting the position as President & CEO of the Delaware Health Care Association. The DNHRQAC members and guests introduced themselves to Mr. Smith.

2. Approval of the Minutes of the meeting of February 13, 2007, with one change to the draft. At the request of Senator Marshall, the word **employees** should be added to the minutes in section # 3....Chairman McGonigle suggested meeting with Senator Marshall and touring the Skill Center to observe their operations and how they generate skilled nursing **employees** for Delaware. The Minutes of March 13, 2007, were approved with the one addition to the draft.

3. Discussion

- Long-Term Care Regulation(s) Update –Tom Murray, Deputy Director for LTCRP, provided an update to the DNHRQAC regarding Long-Term Care regulations. Joint Sunset Committee directed LTCRP to revise four sets of regulations that had not been updated since the 1990's. The proposed updates have not been provided to the public yet. Once a set is ready to be presented, LTCRP will present the commission with a completed draft before going public. Comments would be accepted from any of the commission members. Carol Ellis has been working on the regulations while at home and Tom is hoping that LTCRP makes a lot of progress because she will be at home, uninterrupted to work on them. There are skilled facility regulations, and the intermediate facility care regulations. The intent is to collapse them together. Carol is a big believer of simplicity and directness and felt if they were collapsed together, there would be language to include both levels of care. ICF is lower than skilled care facilities. The physical plant and the qualifications of the DON would be identical. There are only three Residential Care facilities in the state. DLTCRP started collapsing the regulations and then realized there are other agencies impacted by them. DLTCRP thought that there was a need to have a meeting of all of the agencies, which was in late January 2007 (28th or 29th). DLTCRP met with DSAAPD, DDDS and DCM all of which place people in residential family care homes. As a result of the meeting LTCRP has gone back to the drawing board because it seems there are two maybe three different levels of care and DLTCRP is going to need to lay them out in the regulations. The reason for the three levels of care is because of the contact they have with the other agencies. DDDS has monthly contact with families in residential care homes. Private pay with no sponsoring agency, if you will, DLTCRP will put them in a

different level which would cause a heightened oversight in those facilities. Yrene asked for clarity about the group homes and rest residential collapsing. Mr. Murray clarified that it is the res. family care homes and res residential regulations that would be collapsed. Yrene asked how the collapse of regulations affect the staffing regulations since res residential falls under the staffing standards and rest family care does not. Mr. Murray said he would check into it. Ms. Waldron said that would be her only concern in collapsing the regulations and that there should be clarity on the staffing question before proceeding. Mr. Posey asked Mr. Murray for a broad definition of the four categories: skilled nursing, intermediate, rest residential and family care residential. Skilled nursing is what DLTCRP commonly refer to as a nursing home. There are nurses on staff 24 hours a day. They are the standard nursing home. The ICF (Intermediate care facilities) are closest to assisted living facilities where the care level is lower. The residential family care homes are very small homes. They are like the spirit of the regulations and provide a home like atmosphere instead of an institutional like or hospital like environment for the residents. There are requirements for interaction and recommendations on feeding in a family type atmosphere rather than coming into someone's room and feeding them. There are only three licensed as res residential in DE. There are facilities that have beds tagged as res. residential beds: Jean Jugan, Masonic, Gilpin and Brocks (three beds). Sen. Marshall asked if Jean Jugan is rest residential. Ms. Waldron and Mr. Murray confirmed it is transitional. Mr. Murray said that LTCRP's intention is to roll the res residential care regulations into the res family care regulations. As facilities transition or go out of business, it will cease to exist. Rep. Pam Maier asked which two facilities are not certified. Masonic and Brocks. DLTCRP will discuss with the facilities as a courtesy about the change in regulations. Mr. Murray does not see Masonic seeking recertification nor would Brocks. They are private facilities and have more autonomy if not certified by CMS. Ms. Waldron stated that the survey is the same for both of these facilities as it is with every other facility. In addition, she mentions that the licensure type does not preclude the oversight. The oversight is there regardless of the license held. There hasn't been a rest residential license submitted for at least seven years.

- DNHRQAC Subcommittees-commission members discussed the present subcommittees:

Agency Review
Legislative/Regulatory Review
Quality Initiatives

- Ms. Waldron felt that the purpose of developing the subcommittees was because the commission did not have a full-time person on board to take the ball and run with it. She further mentions the importance of having commission members still tied to the subcommittee positions to assist Ms. Bailey with issues. Ms. Waldron asked if the subcommittees should function on their own or whether members should work in conjunction with Ms. Bailey to provide guidance regarding sub topics. Further request was made to have regularly scheduled speakers at the commission meetings such as the AG's office or LTCRP's Ombudsmen and anyone else. Sen. Marshall agreed and also invited the opportunity of nursing home administrators, managers and head nurses to come and speak about concerns/issues they have with the states involvement with the division. Quality Insights should be another agency to come to the meetings and speak suggested Ms. Waldron. She further mentions that Sandy Dole, although extremely busy at this time, would be a great individual to come and present. Ms. Waldron will provide Ms. Bailey with contact information. Commission voted to have the subcommittees be disbanded and the resources to be used on a need basis only. The vote was seconded.
- DNHRQAC Website (<http://courts.delaware.gov/AOC/?dnhrqac.htm>) was discussed. Ms. Bailey will add past approved meeting minutes to the site. The website lists upcoming meetings and their agenda.

Commission members suggested adding member information to the site. Brian Posey asked Tom Murray if there was any update regarding Delaware Nursing Home Compare website link that has been discussed from time to time at past commission meetings. Mr. Murray mentioned that Jay Lynch, who is DLTCRP communications person, has this on his radar screen. Pam Maier offered to send Jay Lynch an email to follow up about the DE Nursing Home Compare progress. Yrene Waldron mentioned there is no need to reinvent the wheel and that DLTCRP may want to speak with Mary Rogers, Quality Insights first.

- Facility Visits- Ms. Bailey suggested commission member interaction at the facilities as well as herself to create awareness. Also suggested by Senator Marshall was having Administrators and/or Head Nurses from different facilities come to future commission meetings to voice feedback regarding LTCRP.
- Commission member business cards/brochures: Discussion regarding both was explored. The brochures, although presented, will be revised to reflect information to include commission incumbent, Wayne A. Smith. There was discussion about the commission member id badges. Tom Murray has offered to have new or replacement id badges made to include a photograph for each member.
- Pam Maier asked about the DNHRQAC member vacancy. Ms. Bailey mentioned that she has been in contact with Lydia Prigg (Governor Appointed) and Mary Ann Hearne (Pro Tempore) about the vacancies. Mitzi Murphy provided clarification regarding the demographic DNHRQAC members. Brian Posey asked Ms. Bailey to contact Tom McGonigle before the next commission meeting to see how he would like to proceed in filling the last position.
- Annual Report- The annual report was last presented in 2001-02. The possibility of creating a more current annual report was explored. Sen. Marshall suggested the report to reflect 2006 activities exclusively. All were in favor. It was second. The report will be completed by June 1, 2007. The information will be gathered from commission members and coordinated by Ms. Bailey. It was suggested that Ms. Engelhardt would be a great resource for the annual report, but all members are available for assistance.

4. Old Business/New Business

- Rep. Maier asked for assistance with a family regarding restraints. Discussion was made as to whether a doctor's note would suffice or not. Ms. Givens mentioned that many facilities are restraint free which is a recommendation of CMS. Ms. Waldron stated that a measure of common sense needs to be used going forward regardless of the major regulation and hope/wishes of the family. It was further mentioned that nobody wants to restrain an individual, but if there is a medical concern then a family should be able to appeal to the facility for soft restrain use so the patient would not be harmed. Chemical restraints were also discussed. Ms. Givens mentioned there are additional requirements that must be met in addition to a doctor's note for restraints that include: time frame review, behaviors, joint commission rules and regulations and frequent patient contact. Victor Orija, State LTC Ombudsman (Division of Services for Aging and Adults with Physical Disabilities) asked Pam Meier to call him to discuss this issue further when she has specific information to share.
- Bonnie Hitch, DART Para Transit Customer Service Manager, was not able to attend.
- Lloyd Schmitz, EDTAC member, was not able to attend.
- Senator Marshall suggests Steven Kingsberry be contacted to attend the next commission meeting.

5. Public Comment

- There was not public comment made during the meeting.

6. Next meeting will be Tuesday, April 10, 2007, at 10:00 AM. The location will be DHSS Campus, Main Building, Room 198.

7. Adjournment

The meeting was adjourned at 11:13 AM.

FINAL MINUTES - The February 12, 2007, Minutes were approved with one additional word added to the written draft.