

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus, Main Bldg., Room 301

1901 N. duPont Highway, New Castle, DE

Meeting of April 8, 2003

MINUTES

Commission Members Present: Patricia C. Engelhardt; Karen E. Gallagher; Vicki L. Givens; Rep. Pamela S. Maier; Sen. Robert I. Marshall; Thomas P. McGonigle, Esq. (Chairman); Dr. McKinley Wardlaw, Jr.
Commission Member Absent: John A. Fogelgren, Jr.

Others Present: Bruce J. Ashbaugh, (DSS Medicaid); Sandra Dole, President (Delaware Council of Activity Professionals); Lisa Gaylord, (Delaware Healthcare Association); Tim Hoyle, Ombudsman LTC, Allan Zaback (DHSS/DSAAPD); Paul Omrod, (Knaup & Associates); Brian Posey (AARP); Terri Sanginiti (THE NEWS JOURNAL); Steve Tanzer (Administrative Assistant to Sen. Marshall - State Senate); June Valentine (Delaware Association of Homes and Services for the Aging); Yrene Waldron (Delaware Health Care Facilities Association); Carol Ellis, Director, Catherine McMillan, Deputy Director, Tom Murray, Investigations Section Administrator, Mitzi Murphy 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 10:08 a.m.

2. Approval of the Minutes of February 11, 2003 Meeting.

The Minutes were approved as written.

4. Review and discussion of the Annual NHRQA Commission Draft Report #4 Revision.

Discussion of the Annual Report included statements that were updated to show they had occurred and "Commission Recommendations" was returned to its more comprehensive paragraph.

The Nursing Home Residents Quality Assurance Annual Report was approved with the above changes and a cover letter to be sent to the Governor, DHSS Cabinet Secretary, and Members of the General Assembly.

3. Discussion of "Private pay rates in LTC facilities" by Tim Hoyle, DSS Ombudsman Office.

Mr. Hoyle, in answer to a request by the Commission, presented his research on private pay rates and how this issue affects staffing in nursing homes. He referred to a letter received from a concerned family member requesting Mr. Hoyle to advocate on her behalf regarding a recent increase in the cost of a resident's care in a Delaware nursing home. This family member indicated that it was required to pay \$1500 more a month, a 38% increase in the daily rate. The issue of private pay rates is not a regulated price rate structure thus beyond the advocacy of the long term care program. In response to the Chairman's request for an analysis of costs in long term care, this issue is brought to the attention of the Commission. Using two graphs, copies given to members, Mr. Hoyle showed how home health care costs both inside and outside nursing homes are on the rise. The General Accounting Office (GAO) stated home health costs have risen an average of 33% from 1989-1996. In June 2002, the GAO reported that "costs for nursing homes have almost doubled between 1990 and 2000, that represents a 74% increase during that period". Locally, Delaware Medicaid daily rates have risen an annual average increase of 14% from 1997 to 2002. The graph shows the Medicaid weighted average rate (i.e. includes all levels of care provided to residents) is a little higher than the semi-private average daily rate. From a graph showing four different surveys, Mr. Hoyle noted a statewide, overall 16% increase in average daily rates in Delaware with semi-private pays being slightly below Medicaid rates. This emerging data suggests that some facilities may be increasing their rates to get some parity with Medicaid rates.

Discussion followed about other factors impacting on facilities' rate increases. Problems cited include high operational costs, paying exorbitant charges for agency nurses due to shortage of full-time nurses, requirements for activity directors, food services, overtime to cover shifts, higher utilities' expenditures, liability insurance and workman's comp all increase the cost for a better quality of care. Mr. Paul Omrod from Knaup & Associates stated that the providers he worked with, when the Medicaid rate is set, do an analysis of all rates involved including

private pay, Medicare, and Medicare less co-insurance. If a differing Medicaid rate is entered an area of exposure for the providers will become evident. If a facility can maximize its efficiency, the average unit costs should go down. Providers are still short about \$13 per day between actual costs and Medicaid, the largest disparity between the rates is in the primary side where providers have difficulty getting to the 3.28. It was requested that Mr. Ashbaugh give a presentation and explanation of cost reports to the Commission. Ms. Waldron will facilitate this for a future meeting.

5. Old Business/New Business

Chairman McGonigle requested a discussion of the next issue on the agenda, that of DLTCRP Investigators having access to F.B.I.'s criminal data information. After reviewing all correspondence between the state and federal government, it is clear the basic problem is that Division Investigators are not Special Investigators in the way they are defined for the Division of Family Services, two critical points 1) they don't have statewide arrest authority 2) they are required to refer all their cases to law enforcement agencies. To solve this critical problem of not being able to track criminal histories in other states, will require a legislation solution, a bill to amend the Division's enabling legislation to provide for certain designated, special investigators with very specific extensive law enforcement experience to have these powers. The Division could then inform the F.B.I. that these special investigators are part of the criminal justice system. Working with Sen. Marshall and Rep. Maier, Chairman McGonigle will provide the first draft of legislation to be introduced this session followed by making application to the F.B.I. in the summer and getting a turnaround by Fall for the needed access.

Sen. Marshall reported on his unannounced visit to Gov. Bacon Health Care facility as being very positive. The administrator was professional, the staff cordial and committed, residents were supportive of the quality of care and in good spirits, the physical plant in good condition. Staff is paid a decent wage and a good benefit package without relying on agencies. He is recommending to the JFC and Gov. Minner that Gov. Bacon Health Care facility should remain open because of the quality care provided to its residents.

Discussion followed on H.B. 15. which provides a dedicated smoking room for nursing home residents. Sen. Marshall offered the Commission, if they so desired, the opportunity to take a public position on whether that is a good or bad idea. Concern for patients' rights was addressed, for those patients with lifelong smoking habits, health related problems of smoking and the issue of the Fire Marshal's enforcements of safety codes. Several attendees felt that appropriate accommodations for smoking should be explored. Sen. Marshall asked that the Commission discuss at the May meeting S.B. 63, S.B. 64 and S.B. 113 regarding issues of administration and enforcement. Sen. Marshall invited Commission Members to a sunset review of Delaware agencies that govern nursing home care on April 23 and 24, beginning at 1 P.M., Carvel State Office Building, Conference Room of the ABC Commission. Agencies to be reviewed are: Division of Long Term Care; Office of the Attorney General; Medicaid Office; and the Ombudsman.

It was requested that this Commission be represented on the Quality Insights of Delaware website. Information was requested concerning how residents have fared after the Newark Manor fire, and the incidents at Lewes and Harbor Health Care. Both investigations and surveys were completed and findings were made at Lewes but not at Harbor Health Care in terms of criminal action.

6. Public comment.

On October 6th the DCAP Annual Conference will feature Eric Haider who has the Ideal Nursing Home in Bethany, Missouri. The 2nd Resident Rights Rally will be held October 9th. On May 21, 2003, Delaware Health Care Facilities Association will present the All Stars Awards, invitations will be sent.

7. Next meeting.

The next meeting will be held on Tuesday, May 13, 2003. The meeting will start at 10:00 a.m. at the Smyrna Rest Area Conference Room, Smyrna, Delaware.

8. Adjournment.

Chairman McGonigle adjourned the meeting at 11:40 a.m. Final Minutes approved June 10, 2003.