

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus – Room 198

1901 N. DuPont Highway, New Castle, DE

FINAL

Meeting of April 10, 2007

MINUTES

Commission Members Present: Karen E. Gallagher; Representative Pamela S. Maier; Brian L. Posey; Yrene E. Waldron; Dr. McKinley Wardlaw, Jr.; Wayne A. Smith, President & CEO of Delaware Health Care Association; Senator Robert I. Marshall; Patricia C. Engelhardt; Thomas P. McGonigle, Esq. (Chairman)

Commission Members Absent: Walter E. Ferris; Vicki L. Givens.

Others Present: Margaret E. Bailey, Tom Murray, Deputy Director; Mitzi Murphy, Support Staff (Division of Long Term Care Residents Protection - DHSS); Sue Hansen, Aid to Ms. Gallagher; Bonnie Hitch, DART Customer Service Manager; Kathy Wilson, DART Para Transit Manager; Frank Monaghan, LTRCP Investigator; Dean Reid, Delaware Veterans Home Administrator.

1. Call to Order:

The meeting was called to order at 10:07 AM by Chair Tom McGonigle. A special welcome was extended to Wayne A. Smith for joining the commission.

2. Approval of the March 13, 2007 meeting minutes was motioned and seconded following a few typographical changes to the draft.

3. Discussion:

- DNHRQAC member renewals/reappointments- Chairman Tom McGonigle mentioned a number of members appointments are being held over or about to expire. He called the Governors office, as did Ms. Bailey, and has not heard back from Lydia Prigg regarding the appointments. Mr. McGonigle asked effected members to let him know privately if they are interested in reappointment or not. He would like to be able to communicate to the Governors office as to everyone's interest. He further mentioned that it's the Governors prerogative to reappointments or not, but the Governor's office will want to know the individual commission member's view. Chairman McGonigle asked to have the commission members contact him by email or phone so he can speak to Ms. Prigg this week upon her return. There is also a vacant seat on the commission, geographically required to be a City of Wilmington resident and a republican. Wayne Smith offered to make a few calls to see if he could locate any interest in the vacant position. Chairman McGonigle asked other commission members to let him know if there are individuals they would suggest for the vacant position so the information could be forwarded to the Governors office for review.
- DLTRCP Quarterly Assurance Review Team Report- Chairman. McGonigle mentioned that the QA Report was developed after last year's Sunset Committee review. The idea was that the Quality Assurance Review Team would review assessments, sometimes upgrading or downgrading them for serious deficiency charges and that the commission would receive a report quarterly to monitor the number of charges that were changed after review. The report being discussed is from the first quarter of 2007. Tom Murray stated that it is comprised from LTRCP's surveys between 12/16/06 and March 15, 2007. 21 separate survey reports reflected that no change was made to upgrade or downgrade any "G Level" or above deficiencies. There were 14 "G Level" or above deficiencies or citations given during the time period. Mr. Wayne Smith asked how a "G Level" appears on the severity scale. Mr. Murray explained that the least or lowest level of deficiency would be an "A Level". The levels progress up to "L Level". "G Level" means that there was harm/injury to an individual at a facility. Chairman McGonigle asked Mr. Murray if he would chart the severity steps for the commission members and explained further that it's not just the severity that rates a deficiency, it's also reflective of how many people are affected by the deficiency. Ms. Waldron asked if the chart could be attached to future quarterly reports and Tom Murray agreed. Mr. Smith asked why we survey

only 21 facilities in the report. Mr. Murray mentioned that we only survey a portion of the facilities each quarter. All the certified facilities (those that receive Medicaid or Medicare) have to be surveyed once within a fifteen month period. A minor incident affecting one person would be an "A Level". If it effects three or more people it becomes a "B Level". More than three people affected would be a "C Level" deficiency. The graph goes up in severity based on the issue. There are 4 levels. The "G" level refers to harm to a singular occurrence; "H Level" deficiency refers to three or more individuals harmed and "I Level" references harm pervasive throughout the entire facility.

Senator Marshall asked for the process to be reviewed where field surveyors could identify a violation, define it and move it on to the division for review to determine if an upgrade or downgrade should occur. Mr. Murray mentioned that it's an informal process where the field surveyor would come back and inform the division regarding a "G Level" deficiency. An informal process was followed. It would move through QA, Jean Marie McKinney, and if approved would move on to a meeting with Jean Marie, Rob Smith, Carol Ellis and him. They would further review the situation from an objective stand point of the severity as well as if there was enough evidence to support the charge. According to Murray, any of the facilities have a right to an appeal hearing on the charge(s) and LTCRP wants to make sure at a senior Division level that there was documentation and proof should there be a hearing. Now the process is formal, at the recommendation of the Sunset Committee. It's composed of Carol Ellis, Director; Tom Murray, Deputy Director; Rob Smith, Chief of Licensing; Jean Marie McKinney, Quality Assurance; and Dr. Louvis, Medical Director. Immediate jeopardy was defined: levels J, K and L are when a survey identifies risk to residents. An example would be if a fire alarm/detection system is not working properly. If immediate jeopardy would be imminent, CMS would be involved immediately instead of waiting for LTCRP to file a report and LTCRP would demand immediate correction.

Representative Maier asked if there was ever an occasion involving immediate jeopardy in any of the facilities. Mitzi Murphy mentioned situations where immediate jeopardy has been discovered before: sewage backup, loss of water, air conditioning not operable in 95 degree weather. LTCRP goes to the facility to make sure immediate changes have been made.

Mr. McGonigle stated he thought 14 out of 21 facilities with a "G Level" deficiency seemed high. Tom Murray mentioned it was a little high and stated it is usually about half. Chairman McGonigle reiterated that the numbers on the report correspond to actual facilities and that if last years 4th quarter report was reviewed one would be able to see how it compared to this years 4th quarter report. Mr. Wayne Smith asked why the report focuses on whether there are upgrades or downgrades instead of the severity of the citation. Mr. McGonigle and Mr. Murray concurred that LTCRP is following the direction from the Sunset Committee. Chairman McGonigle further explained the Sunset Committee had concerns that the Division was overriding surveyors and determining whether a deficiency should be upgraded or downgraded. To help address this, the above-referenced committee was established and it was recommended the Commission to review upgrades or downgrades.

Ms. Waldron asked if the 14 "G Level" deficiencies occurred at 1 facility or did more than 1 facility have more than 1 "G Level" deficiency. Mr. Murray mentioned there were 3 facilities with more than 1 "G Level" deficiency. Representative Maier asked if all deficiency levels are being tracked per facility and whether it's being reviewed. Mr. Murray mentioned that there is a penalty track when a LTCRP visit occurs at a facility with a "G Level" deficiency. If another "G Level" deficiency is noted, the facility is placed on a severe penalty track with CMS and civil penalties could be imposed. Mr. Wayne Smith asked if there was an annual report available per level of deficiency per facility and Mr. Murray responded that there was not. Ms. Waldron mentioned that

CMS has useful information in Delaware and across the country available for the public to review citations issued to facilities. Mr. Brian Posey mentioned that due to the exchange of questions at the meeting that it is often hard to compare facilities and extremely difficult for a family trying to find a suitable facility and also perhaps locate the facility quickly due to time constraints. He mentioned the Medicare.gov and Nursing Home compare's website can provide some assistance, not always the most current and that there isn't something the State of Delaware has available for residents. Mr. Murray mentioned that the State of Delaware transfers information directly to the federal system. Although the state of DE loads the information directly, there are still inaccuracies from information the state has provided.

Ms. Waldron mentioned that a program called the Crosswalk was being used to eliminate misconstrued information; however it is not working because often time facilities will go in and review old and incorrect data. Discussion about inaccuracy of information sparked Representative Maier to request Jay Lynch, Division of Public Health; PR of Communications, to attend the May 8, 2007 commission meeting to see whether the state of Delaware could create facility ratings and have information available on the internet for families to review. Mr. McGonigle mentioned it might be helpful if a system was developed and provided information more current and user friendly. Several Commission Members felt that the work Long Term Care Division is doing would be useful for families making decisions about choosing a facility. Ms. Waldron mentioned that families can call the Division of Long Term Care to get information and that surveys are posted. Ms. Engelhardt mentioned that Division of Aging and Person's with Disabilities website is user friendly.

Senator Marshall mentioned that one of consumer's biggest issues is having information of staffing ratios per shift which will help aid or guarantee the quality of care. He further asked Mr. Murray how the buildings state-wide are complying with staffing rations per shift under Eagle's Law and whether it could be an indicator the consumer could use to gage the quality of the home. Mr. Murray mentioned that if a facility was not meeting the Eagle's Law requirement, the facility would be cited and receives a violation. Mr. Murray mentioned that the Staffing Report produced by Rob Smith's area, looks at 3 weeks worth of staffing attendance records per facility to develop the report and determine if the facility is in compliance to the staff ratio requirement by statue. Ms. Waldron mentioned that the staffing ratios are publicly posted at each facility. The question was posted by Chairman McGonigle, could a family see information from 2 months ago if a particular facility received a citation. Ms. Waldron stated that families could call Long Term Care for the information. Mr. McGonigle further asked why the reports are coded if it's public information and why the information isn't being presented when the facilities are in compliance. Ms. Englehardt and Ms. Waldron mentioned that the reports are coded so there isn't any prejudice. Mr. Murray replied that he thought the reports are coded because their purpose is to illustrate the activities of the Division not the facilities. Several commission members agreed that discussions with Jay Lynch, Delaware Health and Social Services, would be helpful to determine what information could appear on a website and if there are any system constraints. Chairman McGonigle asked other Commission Members to bring ideas to the May 8th commission meeting about what they would like to see on the website.

- Delaware Veteran's Home Update- Dean Reid, Administrator, provided handouts to commission members about the facility. The homes ground breaking was August 2005. The facility is on target for the first resident in the spring 2007. Brochures and applications were distributed state-wide which included eligibility requirements and features of the home. The DE Veteran's Home has sent out 150 applications and received 70 completed applications returned. It is a 150 bed facility; 120 beds are duel certified for intermediate and skilled level care. In the 120 beds, 30 of the beds are in a secured unit for residents that suffer from dementia. The facility is 106,000 square feet. The Commission was invited to have a future commission meeting at the Delaware Veteran's Home. There is a multi-purpose room and a chapel in the

facility. The Veteran's Home is in the process of growing their staff. The authorized staff for the facility that far and above exceeds Eagle's Law. Senator Marshall asked if the recruitment process is challenging. Mr. Reid replied that it is not challenging at all. He further mentioned that there were 400 CNA applications for the homes initial 16 CNA position search. The Delaware News Journal covered the ground breaking and dedication ceremony. WHY? has also been to the facility and aired featuring articles. The governing board for the DE Veteran's Home is the Delaware Commission of Veteran's Affairs. Dr. Wardlaw asked how long the facility has been open and whether DE Veteran's Home has visited McBeth House on High Street who has a 300 bed veteran facility. Dr. Wardlaw asked whether there are grants available to assist in offsetting funds for residents in this facility. Mr. Reid mentioned that the DE Veteran's Home will receive a per diem for every veteran resident through the Department of US Veteran's Affairs. Mr. Posey asked if veteran's spouses are permitted in the facility. Mr. Reid stated if a resident's spouse develops a need for care in an intermediate or skilled care facility, and if there is space available and they are able to fund their care then a spouse will be authorized. For the first 18 months, this facility will not be considering placement of spouses. After that period, if all three spousal requirements have been met, then the facility would permit the spouse to enter. There are a maximum 25 % of non-veteran individuals permitted in the home for the facility to maintain its veteran's home status. Representative Pam Maier asked for website/phone information. Mr. Reid mentioned that the Department of State has revamped their website(s) within the last week, so he will forward the information to the commission. Mr. Reid mentioned that opening the facility will occur in three phases. One 45 bed unit and domiciliary will open at the very beginning (June 2007). The next phase will be the dementia unit September, 2007. The beginning of 2008, the third 45 bed unit will open after adequate staffing needs have been met.

Ms. Waldron asked if there have been any efforts to reach out to homeless shelters since it appears that veterans can be homeless. Mr. Reid has contacted the Home of the Brave, Richard Corey, to make sure their efforts have not been lost. Ms. Waldron asked if Father Ron, Ministry of Care, has been contacted and said she'd provide Mr. Reid with information to get in touch with him. Mr. Reid said he's been in touch with a few other homeless contacts. There is an admission criteria (demographic and level of care) for Delaware Veteran's Home residents, however administration has been in contact with DHCI about the staging area (Delaware Hospital for the Chronically Ill) to make sure that patients are stabilized before entering the Delaware Veteran's Home. Dr. Wardlaw asked how the program is going to be financed. Mr. Reid stated that all staff will be state employees within the merit promotion system except for contract staff brought in for medical and rehabilitation services. This veteran home is upfront financed by the state with the expectation that all forms of reimbursement will be vigorously pursued. There is a \$210 daily rate, per diem, for the cost of skilled and intermediate care in the home. The Department of Veteran's Affairs offsets the daily \$210 cost of about \$70 per day. Dr. Wardlaw asked what about disabled veterans that cannot afford \$140 per day. Mr. Reid mentioned that all financial streams such as pension, disability, annuities, etc will be explored to aid the residents care, similar to Long Term Care facilities.

Chairman McGonigle asked if there is a preference or restriction for non Delaware residents. Mr. Reid mentioned that there are three residency requirements preceding the date of application. A wish list was provided to commission members listing items the Delaware Veterans Home is hoping to have donated, including a Play Station 3, with the rational that all veterans will range in age and various interests. Delaware Commission of Veteran's Affairs is the board appointed by the Governor for this home. Ms Waldron mentioned she might have a lead on an organ and Mr. Smith mentioned that audio books from the Delaware Division for the Blind might be an avenue to explore.

Senator Marshall asked if the brochure distributed a while back asked for donations. Mr. Reid mentioned there were 2 donation funds set up: Veteran's Home Fund and Friends of the Delaware Veteran's Home. Ms. Maier asked about the bond money for the construction, which Mr. Reid stated was a 33/66 match. The operating costs are born by the state, but there are other programs the VA has for large capital projects.

Chairman McGonigle questioned the admission requirements asking whether an individual would need to be eligible to retire at 60 years of age and have completed 180 days of active duty or whether they would qualify if they completed 180 days of active duty but less than 60 years of age. Mr. Reid indicated 180 days of active duty was sufficient. Mr. McGonigle suggested the application be reviewed to rephrase the requirements to make this clear. Ms. Maier asked whether there is opportunity to expand the facility in size should there be need. Mr. Reid mentioned that the maximum amount of state operated beds is 165, however the facility has anticipated that should dementia care increase, the facility has outfitted another unit with infrastructure consistent with the dementia unit to create a second dementia unit. Ms. Maier asked if the medical records system being used is similar to the Delaware Health Information Network. Mr. Reid stated it is in the discussion phase and Ms. Maier provided Gina Perez as a contact person. Mr. Reid informed the commission that Delaware Veteran's Home is in the process of developing an electronic medical records system, since Long Term Care facilities cannot utilize the VA's software. The remedy is to develop an interface with the VA replied Mr. Reid.

- Old Business/New Business- DART First State Para Transit Customer Service Manager, Ms. Bonnie Hitch and DART First State Para Transit Manager, Ms. Kathy Wilson spoke regarding commuter updates at the request of Ms. Karen Gallagher. Packets were distributed to commission members in response to the Sunset Committee Review and also included was a Para Transit Information Guide, in draft form. The guide will be updated and distributed to EDTAC members in May 2007. There are currently 7,000 active customers who utilize Para Transit services. An active customer is an individual who has used Par Transit services in the last 18 months. Ms. Gallagher asked DART managers if they could respond on several issues she has encountered like being picked up late or at the wrong door. Ms. Gallagher presented a letter she drafted to Ms. Hitch and Ms. Wilson. Ms. Hitch mentioned that DART Para Transit is reviewing staffing issues in the Para Transit community. There appears to be at a 1% vacancy level state-wide. DART's Human Resources is working diligently to hire more drivers, but face issues in hiring qualified operators. HR could start with 100 applications, 20 drop off after drug screening, more that drop out after background checks and then testing decreases the applicant pool further. In addition, there are some individuals hired as operators that decide they do not want to continue as a Para Transit driver and terminate employment. Ms. Wilson mentioned that during the staffing shortage, particularly in New Castle County; there were only 78 operators 6 months ago. Currently there are 105 operators in New Castle County. It's very difficult finding that right person to be a Para Transit driver; it's not like driving a bus. Some issues driver face include: weather, facilities and customers not being ready. Door to door service and spot checks are being addressed. There have been issues with contracted services and therefore DART has cut back on them. Service is available 6 days a week and vehicles are being thoroughly inspected. Contractors are being held with high standards and inspectors are going to contractor locations on Sundays to ensure vehicles are clean. Ms. Hitch mentioned that Ms. Gallagher has been instrumental in changing some of the policies at DART specifically regarding call center hours. As a result, the call center is open later to ensure nobody has been stranded. The last pick up is 10 PM during the week and the call center is open until 11 PM or until dispatch notifies that all customers on the schedule have been picked up. Ms. Engelhardt asked who are the contract service companies being used. Kraft Coaches, a private entity that provides a portion of services on behalf of DART. Logisticare(sp?) is another contracted company and serves as DHSS's broker. Ms. Gallagher had to leave due to ride arrangements but asked if commission members could speak on her behalf. Mr. Posey asked Ms. Bailey to help field answers based on Ms. Gallagher's letter submitted to DART and commission

members during the meeting in Ms. Gallagher's absence. DART managers will respond back to the commission. Ms. Waldron suggested to DART managers that there are resources available for pre-employment psychological testing to see if an individual is best suited to cope in a particular job setting and that DART might want to explore those resources to aid in hiring the right candidates. Ms. Waldron will locate the resource information and forward it to Ms. Hitch and Ms. Wilson. Mitzi Murphy asked about DART's background checks and drug testing requirements, both pre and during employment. Ms. Wilson mentioned the pre-employment testing is required to meet regulations and that random drug testing occurs during employment for CDL licensed individuals. Complaints are immediately investigated. Criminal background checks are done at the state level and child/adult abuse registry is checked. Ms. Hitch mentioned that efforts to implement recommendations made by the Sunset Committee are on-going and reports are being developed for higher level of accountability and on time staff performance. Ms. Hitch and Ms. Wilson will address Ms. Gallagher's concerns and respond back in writing. Ms. Maier expressed her wishes to have the driver and customer communicate via cell phone to ensure contact could be made. She further states that it appears that the current dispatcher layer gets in the way of communication. Ms. Hitch has spoken to Mr. Kingsberry extensively about it and all possible alternatives are being explored. Mr. Posey asked what happens if a driver goes to pick someone up and they are not there. He further asked what the next step would be for the driver. Ms. Hitch informed the commission that the driver calls dispatch who verifies the driver is at the correct pick-up location /address. Ms. Hitch states that the DART Para Transit vehicles have an automatic vehicle locator that can verify whether the operator is at the correct address. Mr. Posey asked if there is follow up afterwards and Ms. Hitch responded that a tag is left on the door and the customer is contacted after it occurs. This has been instrumental in helping in cases where a customer has fallen in their home. Mr. Posey suggested this extra level of care should be noted in an annual report. Ms. Hitch further mentioned that sometimes individuals are transported to their homes and they do not have access to their home, which then causes the driver to fall behind on their next customer and keep the individual on the bus longer than anticipated. Chairman McGonigle commended the DART managers for attending the commission meeting and for the efforts made to safely commute individuals state-wide. Mr. Posey asked if transportation is provided by DART Para Transit for Nursing Homes and what issues have been encountered. Ms. Hitch responded that DART frequents nursing homes and that the biggest issue is whether the nursing home or the individual should pay for the fare. Ms. Maier suggested DART contact the Division of Long Term Care should the issue arise.

- Chairman McGonigle suggested that any legislative issues or ideas should be explored at this time. Ms. Englehardt mentioned that she wrote to Nickner about Senate Bill 29 (Statue of Limitations) to see if we could adopt a similar bill for the elderly. Ms. Maier mentioned that if it's in the house and we need an amendment, then she and Ms. Engelhardt should talk. Mr. McGonigle mentioned that the issue of disclosures as they relate to staffing plus other things the Division of Long Term Care is doing and if there was consensus, a bill could be formed perhaps. Ms. Engelhardt mentioned that Representative Pam Maier last week got passed and signed in both houses CNA Resolution HCR #15.
- DNHRQAC Bi-Laws- Chairman McGonigle asked commission members to review the DNHRQAC Bi-laws and asked members to be ready to discuss them at the next commission meeting. If all are in agreement, the commission will draft an amendment and vote on it at the June 2007 commission meeting.

4. Public Comment

- There was not public comment made during the meeting.

5. Next meeting will be Tuesday, May 8, 2007, at 10:00 AM. The location will be DHSS Campus, Main Building, Room 198.

6. Adjournment

The meeting was adjourned at 12:14 PM.

FINAL MINUTES - The March 13, 2007, Minutes were approved with minor typographical changes to the written draft.