

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus – Room 301

1901 N. duPont Highway, New Castle, DE

Meeting of April 12, 2005

MINUTES

Commission Members Present: Patricia C. Engelhardt; Vicki L. Givens; Joseph M. Letnaunchyn; Rep. Pamela S. Maier; Thomas P. McGonigle, Esq. (Chairman); Brian L. Posey; Yrene E. Waldron

Commission Members Absent: Walter E. Ferris; Karen E. Gallagher; Sen. Robert I. Marshall; Thelma G. Mayer; Dr. McKinley Wardlaw, Jr.

Others Present: Sean Finnigan (Senate Staff); Meghan Gorman, Esq. (Disabilities Law Program); June Valentine, Executive Director (Delaware Association of Homes & Services for Aging); Tom Murray, Deputy Director; Rob Smith, Administrator, Licensing & Certification; Mitzi Murphy and Joan Reynolds, Support Staff (Division of Long Term Care Residents Protection).

1. Call to Order

The meeting was called to order at 10:10 A.M. by Acting Chairman, Brian Posey.

2. Approval of the Minutes

Minutes for January 11, 2005 were approved as written.

Minutes for February 8, 2005 were approved as written.

3. Discussion of

▪ NCIC access update – Tom Murray, Deputy Director DLTCRP

Mr. Murray announced that the FBI has granted approval to the Division of Long Term Care Residents Protection Investigations Unit for access to NCIC. This access will allow Investigators to check in the home state of individuals seeking employment in Delaware nursing facilities, for any criminal history. It affords a method of communicating with other law enforcement agencies as a quasi-law enforcement agency. The Investigators cannot disqualify an individual unless there is a conviction on the record however, facilities have the option of dismissing an employee under suspicion pending investigation. Mr. Murray stated that the Commission's support of the Investigators' request for access to NCIC, and the endorsement of Michael McDonald was instrumental in the granting of FBI approval. Passwords and connections will be installed between FBI computers and DLTCRP Investigators' computers. Eligible investigators to use this system from the Wilmington office will be Frank Monaghan, Investigations Administrator; Ken Thompson, Criminal Background Check Supervisor; and Steve Scotolati, Retired New Castle County Officer. From the Milford office, Garold Sherwood, Retired Delaware State Trooper is the eligible investigator. There will be safety checks and balances so that this system will not be used inappropriately. Mr. Murray will request audits during the first several months of use. Coordination and communication with the Office of Attorney General is planned. Mr. Murray was thanked for his follow-up in the long process of gaining approval from the FBI for the use of NCIC.

Chairman McGonigle resumed chairing the Commission meeting.

▪ Quarterly report from the DLTCRP – Rob Smith, Licensing & Certification Administrator, DLTCRP

Mr. Smith reported that Delaware facilities are staffing to the law and in many cases, above the law. He gave a copy of the DLTCRP Quarterly Staffing Report to each member and explained the statistics to the Commission. He stated that the cumulative on the December Quarterly Report was 3.70. The present cumulative is 3.74. It is very seldom done but facilities report in advance to the Division if they are using Phase I or Phase II. This Quarterly Report is based on 3 weeks period of staffing during any time of the 3 month period per facility. In answer to Chairman McGonigle's question, Mr. Smith explained the surveying procedure of a facility. Surveyors examine facility sign-in sheets to verify attendance of staffing for the previous 3 weeks, and staffing forms completed by the facility. They also examine posted clinical assignment sheets, and payroll sheets. Surveyors examine charting and may ask for specific dates, shifts, etc. The information generated is validated by a DLTCRP analyst. Surveyors see that the raw numbers given by the facility are matched with the assignment papers to get head counts. A year ago, in a single incident involving the failure of a name

appearing on the sign-in sheet and not on the payroll, the facility was investigated by the Medicaid Fraud Unit, and the Division issued deficiencies and a Civil Money Penalty. Payroll is checked when there are systemic problems. Chairman McGonigle requested a fair representative sample of how many times the Division checks payrolls against assignment sheets. Chairman McGonigle's concern is the integrity of staffing numbers being confirmed by sign-in sheets and payroll records to determine if there is a disconnect between reported numbers vs. actual payroll numbers. This can be a major potential for fraud.

Ms. Waldron requested along with the Quarterly Reports, reports on outcomes and improvements in the care being delivered in nursing homes since the facilities are meeting or exceeding staffing standards in most cases. What do the results of those staffing standards mean?. Quality Assurance Commission members should be concentrating on the quality of care for residents. Mr. Smith said there are few deficiencies over Level G. There have been no patterns of actual harm, or immediate jeopardy. When giving the next Quarterly Report, Mr. Smith will present a report comparing the number and the level of citations issued in 2004 with this present year. Ms. Waldron said an article in USA TODAY states that at the national level, citations and Civil Money Penalties have decreased due to nursing home quality improvement and the work CMS is doing thru survey agencies and Quality Insights.

Chairman McGonigle stated that Eagles Law specifically requires that beyond the base level of staffing and care, the Division is to regulate care for higher acuity levels that is beyond the minimum. He asked how this gets monitored? He suggested one of the ways to get at it is to look at the acuity base reimbursement system that the State has and then have the Division compare that with the staffing numbers to see if there is a disconnect. Use this as another guide in addition to what is being done to get to the issue of whether staffing is being provided at the right levels based on acuity. Discussion followed about Medicaid's reimbursing levels and matching them with the staffing levels. Medicaid staffing does not necessarily equal the hours of staffing. Mr. Smith said the Division looks at the quality of care, and notes if deficiencies were caused by lack of staffing even if it was above 3.28. Chairman McGonigle would like the Division to have an overview of each facility and to have some redundancies built into the system.

Mr. Smith explained how all interviews and survey notes written by surveyors on Federal Government forms become legal documents. Privacy is exercised and individuals are not identified, neither staff nor residents in the survey report. However, residents' names are shared during the exit interview. Mr. Smith will remove the "S" designation (Surprise) on future Quarterly Reports since ALL annual, complaint and follow-up surveys are "surprise" no notice is given ahead of time. It was suggested that a speaker from the Division bring in the force that is brought to a facility, the nursing team, the environmental team and explain what is done in both an annual and complaint survey for the benefit of those who are unfamiliar with the process.

- NHRQA Commission Sub-Committees Reports: -
 - Agency Review Subcommittee Chair, Tom McGonigle -no report
 - Legislative/Regulatory Subcommittee Chair, Sen. Marshall- no report
 - Quality Initiatives Subcommittee Chairs, Pat Engelhardt, Brian Posey

Ms. Engelhardt gave to members a draft Position Statement for DNHRQA Commission on Culture Change with conclusions to be determined by the Commission members. The next meeting will be held at Quality Insights of Delaware on May 3, 2005 at 10 A.M.

4. Old Business/New Business

Ms. Waldron invited Commission members to a Symposium on Quality First and Culture Change in Long Term Care on April 20, 2005, 9A.M. to 4 P.M., at Cokesbury Village. The northeast office handling culture change for CMS in Boston is not communicating adequately with other regional offices. There is concern that some of the regulations CMS asks agencies to regulate and impose are in conflict with culture change. The meeting on April 20 is to help clarify these issues.

Copies of an article on Federal budget cuts in funding to health care appearing in DELAWARE STATE NEWS, written by Ms. Waldron and Ms. Valentine were given to members. It was suggested that the Delaware Senators, and Representative be contacted regarding the detrimental effect of budget cuts to health care to all providers and to voice support for the Senate version. May 8-14, 2005 is National Nursing Home Week.

5. Public Comment

Addresses for all contacts regarding the Federal cuts in funding to health care are available on websites and phone numbers of contacts are available from Ms. Waldron.

6. Next meeting

The next meeting will be held on Tuesday, May 10, 2005 at 10:00 A.M.

The location will be **Smyrna Rest Area, Visitor Center Conference Room**

7. Adjournment

The meeting was adjourned at 11:29A.M.

FINAL MINUTES - The April 12, 2005 Minutes were approved as written.