

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Meeting of May 14 2002
Capitol Healthcare Services
1225 Walker Road
Dover, Delaware 19904

MINUTES

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

Commission Members Absent: Rep. Pamela S. Maier; and Dr. McKinley Wardlaw, Jr.

Others Present: Sandra Dole (President, Delaware Council of Activity Professionals); Tim Hoyle, Long Term Care Ombudsman (DHSS Division of Services for Aging and Adults with Physical Disabilities, DSAAPD); Brian Posey (AARP); Steve Tanzer (State Senate); Sarah E. Thankachan (Delaware Healthcare Association); Carol Ellis, Director, Catherine McMillan, Deputy Director, Judith E. Johnston, Ph.D., Quality Improvement Administrator, and Mitzi Murphy, Community Liaison (DHSS Division of Long Term Care Residents Protection, DLTCRP)

1. Call to order

Phyllis Peavy, Acting Chair, called the meeting to order at 9:40 a.m. Chairman McGonigle had notified the Commission that he was delayed but would arrive shortly.

2. Approval of the Minutes of the April 30, 2002 meeting

The Minutes of April 30, 2002 were approved as written.

3. Presentation about the Delaware Peer Review Organization for services for Medicare beneficiaries

Edward Sobel, DO, Clinical Director, Quality Insights of Delaware

This presentation was postponed until the June Commission meeting.

5. Other/old business

- Status of proposed amendments to Delaware Health & Social Services s minimum staffing and CNA laws

Commission Members were given a copy of Senate Bill 368 (replaced SB 326, SB 327) which is now in the Governor's Office having been passed by both the Senate and the House. Senator Marshall said that there was an opportunity to do an intense review evaluation of Eagle's Law to consider issues related to building design, and to providing some flexibility within the law to accommodate buildings that would have an appeal to process to the Commission for an exemption on certain staffing by shift ratios. He stated SB 368 accommodates requests by the new buildings signed by the Governor and it basically preserves and protects Eagle's Law and staffing by shift. It also preserves the integrity of NHRQA Commission by allowing final review and approval of any recommendations to be decided by the Commission.

- Proposed rule by Centers for Medicare & Medicaid Services (CMS) on paid feeding assistants

Ms. Peavy stated that comments on proposed paid feeding assistants regulations from the Commission to CMS are due by May 28, 2002. Discussion followed. Ms. Engelhardt reiterated her comments as stated in the minutes, i.e., a nurse is put in jeopardy, not the facility, when choosing appropriate feeding assistants for residents. Training requirements for paid feeding assistants are not specified in these rules. Trained volunteers and trained paid feeding assistants would benefit patients. Items handled at State level in regulations could include the use of trained volunteers, observation reporting, and costs. Concern over facilities giving additional responsibilities to and the staffing of paid feeding assistants was discussed. Ms. Waldron stated that the Professional Associations would commit to promoting and encouraging feeding assistants' programs as they best fit each facility's needs. Mr. Posey stated that AARP is opposing this proposal both at the national and local levels because it disrupts the continuity of care and could interfere with retention of CNA's. This proposed rule, not adopted yet, has to go through the Federal legislation approval process. As written, it is an option not a mandate.

A motion was made stating that the Commission's comment is to support the CMS proposed rule, Requirements for Paid Feeding Assistants in Long Term Care Facilities, in its current form because it allows the State to opt in, and allows the State to build its own regulations around the Proposed Rule. The motion passed unanimously.

Mr. Tanzer presented a report on the Federally funded Night Owl Service that provides low or no cost bus transportation to economically stressed areas. Information was sent to all assisted living and nursing home facilities. Eight facilities in New Castle and Kent Counties have expressed an interest. There appears to be a possibility for creating a bus loop to pick up and dispatch employees working 2nd and 3rd shifts. It is hoped other facilities in the same geographic area will be interested in this service. Program Director, Christine Kubik needs enough interested facilities to market this program and make it worthwhile. The Rhodes Report stated transportation is a significant issue.

4. Nurse supervision time project - discussion of report from Dr. Rhodes

Chairman McGonigle reviewed the Commission's responsibility for making a recommendation to the General Assembly and Governor whether or not we should continue with the 25% minimum that's currently the law with respect to supervisory functions for a Registered Nurse Supervisor or whether there should be some adjustment. Results of an analysis prepared by Dr. Rhodes were discussed at a one-day session attended by numerous people, including Ms. Peavy and Ms. Engelhardt. Ms. Peavy reported after focusing on what is involved in being a supervisor and how it is measured, that no one thought the 25% rule was excessive. Supervision and direct care are blended making it difficult to quantify each. The real measurement is in the effectiveness of the management. Discussion followed about training nurses, who are already proficient in clinical issues, in management issues and in a program of continuing education. Chairman McGonigle pointed out that both continuing education and issues brought up in Ms. Gallagher's letter to Dr. Sylvester go along with the qualitative management style needed in Nurse Supervisors as described on page 12 of the Briefing Paper.

Chairman McGonigle moved to recommend to the Governor and the General Assembly to continue the 25% minimum but to address quality issues such as continuing education programs on some of the management issues that are recorded in the Briefing Paper Report.

The motion passed with six members voting yes and one member, Ms. Engelhardt, opposing the motion.

6. Public comment

A resolution has been introduced by Rep. Maier and Sen. Marshall to honor CNA's during CNA Week in June. On Wednesday, June 5, 2002, the Senate in Dover will honor all CNA's. Notices will be sent to all honorees and administrators by DHCFA. The following day, June 6th is CNA Day.

Mr. Hoyle invited a Commission member to make a brief presentation of the Commission's role at the DSAAPD 15-hour training program held in June and July for volunteers. Commission members are also invited as attendants.

7. Next meeting

The next meeting is scheduled for June 11, 2002 at 10 a.m. Sen. Marshall asked that House and Senate members be invited to Commission meetings as a courtesy. The June meeting will be in New Castle and the July meeting will be in Sussex County.

8. Adjournment

Chairman McGonigle adjourned the meeting at 11:30 a.m.
FINAL MINUTES approved at July 9, 2002 Meeting