

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION
Herman M. Holloway, Sr. Campus, Springer Building, Class Room #3
1901 N. duPont Highway, New Castle, DE
Meeting of May 28, 2004

MINUTES

Commission Members Present: Patricia C. Engelhardt; Walter E. Ferris, Jr.; Karen E. Gallagher; Vicki L. Givens; Joseph M. Letnaunchyn; Rep. Pamela S. Maier; Sen. Robert I. Marshall; Thomas P. McGonigle, Esq. (Chairman); Brian L. Posey; Yrene E. Waldron.

Commission Member Absent: Thelma G. Mayer; Dr. McKinley Wardlaw, Jr.

Others Present: Sandra Dole, President (Delaware Council of Activity Professionals); Tim Hoyle (Ombudsman LTC DSAAPD); Mary Rodger (Quality Insights of Delaware); Laura Waterland, Esq., Sr. Staff Attorney (Disabilities Law Program); Katie McMillan, Deputy Director; Mitzi Murphy and Joan Reynolds, Staff Support (Division of Long Term Care Residents Protection)

1. Call to Order

Chairman McGonigle called the meeting to order at 10:14 a.m.
New Commission member, Walter E. Ferris, Jr., was introduced to members.

2. Discussion of Senate Bill 225 – Elder Advocate Bill

Chairman McGonigle stated that S.B. 225 would have a major impact on the DLTCRQA Commission in that the Elder Advocate would be carrying out the Commission's charge and would ultimately answer to this Commission. Therefore, the Commission should take a position on the bill before the Legislature acts on the bill. Senator Marshall moved to support S.B. 225. The Elder Advocate, as an independent authority, would provide administrative support for the Commission. Questions followed concerning the redundancy of agencies' overlapping and their ability to coordinate services. The model for this plan is an independent outside the State system such as the already established Child Advocate. Further discussion included the opinion that S.B. 225 is problematic in that it adds another costly layer of bureaucracy and enforcement. Issues discussed included the feeling among commission members that they are not equipped to accomplish their charge and are asking how to accomplish this goal. Mr. Letnaunchyn, in reading from his letter of March 29, 2004, said that as stated in the bill there is duplicity between the Elder Advocate and the functions of the Division of Long Term Care Residents Protection, Office of the Attorney General and the Long Term Care Ombudsman. It was recommended that position of Elder Advocate be an Executive Director with authority to increase the effectiveness and efficiency of the Commission and assist members in carrying out goals that are established each year. It is understood that the bill was released from committee with the understanding that amendments would be developed and shared before the bill is discussed.

Input from the Commission and interested persons included: Chairman McGonigle said the current structure of the Commission does not lend itself to achieving set goals aggressively. The Elder Advocate is seen as effectuating the purposes of the Commission by fulfilling requests between meetings and speaking for the Commission with other agencies. The bill should clarify how the Commission is charged with making any necessary recommendations upon studying case outcomes from the Office of Attorney General or the Division. The Elder Advocate, appointed by the Governor, autonomous and independent, would be with the Office of the Court for budgetary processing. That office has prepared a budget fiscal note of \$181,000. Questioning

centered on would the Elder Advocate have a right to access records unavailable to the Commission. It was stressed that the Elder Advocate should be sensitized to the needs of disabled persons living out in the community as well as facility residents and their families. Before creating more bureaucracy the current laws and regulations should be evaluated for their effectiveness. This is an area which an Advocate could fulfill for the Commission. It was suggested that the focus of S.B. 225 should be on promoting prevention of abuse and reduce focus on enforcement and investigation.

The Commission voted to support S.B. 225 with consideration for some of the recommendations.

A motion was made to change the name of the Commission to Long Term Care Commission and propose the name for the advocate to be Long Term Care Advocate.

Members voted to call the advocate Long Term Care Advocate. The following motion was proposed: The Commission supports a new bill with change of title; it will be the Long Term Care Advocate bill. It will address some of the concerns raised at this meeting i.e. the advocate's charge will be consistent with the Commission's charge and there will be no interference with criminal investigations and access to records will be subject to federal laws. The motion was passed.

Chairman McGonigle will draft the new bill to be e-mailed Tuesday to members and interested persons for individual review and input. Members will meet to discuss this draft at a 6:30 p.m. meeting called by the Sen. Marshall and Rep. Maier on Tuesday, June 1, 2004, to be held at Thomas England Restaurant in Smyrna.

3. Public Comment - none

The next meeting will be held on Tuesday, June 8, 2004, at 10:00 A.M., at Holloway Campus, Main Building, Room 301.

4. Adjournment

The meeting was adjourned at 12 P.M.

Final Minutes approved August 10, 2004