

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus – Room 198

1901 N. DuPont Highway, New Castle, DE

FINAL

Meeting of June 12, 2007

MINUTES

Commission Members Present: Karen E. Gallagher; Representative Pamela S. Maier; Brian L. Posey; Yrene E. Waldron; Dr. McKinley Wardlaw, Jr.; Patricia C. Engelhardt; Thomas P. McGonigle, Esq. (Chairman); Vicki L. Givens.

Commission Members Absent: Wayne A. Smith; Senator Robert I. Marshall; Walter E. Ferris.

Others Present: Margaret E. Bailey, Tom Murray, Deputy Director; Mitzi Murphy, Support Staff (Division of Long Term Care Residents Protection - DHSS); Barbara, Aid to Ms. Gallagher; Sara Armstrong, Consumer; Heather Lynch-James, Owner of Serenity Gardens; Victor Orija, State LTC Ombudsman; Laura Waterman, Community Legal Aid; Mary Rodger, Quality Insights; Michael Duva, Delaware Healthcare Association.

1. Call to Order:

The meeting was called to order at 10:06 AM by Chairman McGonigle.

2. Approval of the April 10, 2007 meeting minutes was voted upon and seconded without changes.

3. Old Business/New Business: Website Information useful for consumers. Mr. Lynch attended the commission meeting to discuss nursing home information that might be user friendly on a website. The order of business for this meeting was changed to discuss the website opportunities first. The change was motioned and seconded by commission members.

Mr. Lynch stressed that the Commission should determine what value there would be to a Consumer when visiting a website. The Commission needs to determine what information it would like to provide to the public.

Other states websites were reviewed; some were very interactive and others were quite simple, but could be confusing. Mr. Lynch suggested the Commission determine where the data was being generated from and how reliable the source. In addition, he cautioned the Commission about how the data would appear on the website.

Mr. Lynch visited Nursing Home Compare from CMS which lists the last 3 surveys per facility. Nursing Home Compare is a searchable database that is not able to be linked to another website. CMS provides information under the data details drop down menu using an Access Database that could be used to obtain information. Representative Maier asked who would be responsible for creating the reports and whether it would be the Commission's Executive Director or someone in another State agency. Mr. Lynch reiterated he works for the Secretary's office in the Division of Health and Human Services. Mr. McGonigle mentioned that the Commission could present recommendations to the Secretary and others to see who would be best suited for maintaining a website with this information.

Ms. Waldron mentioned that colleagues she works with in other states have added a link on their home page to Nursing Home Compare with a very brief simple tutorial on how to locate a nursing home they want to explore. The reason for this is because her colleagues felt they did not want to duplicate any efforts.

Mr. Lynch went on to state that Nursing Home Compare has a huge database that includes information on every nursing facility in the country. The database can extract other states information and simply concentrate on Delaware nursing homes information. The way to get a report up would be to download the information from

CMS on to a desktop computer and filter all Delaware data. There will not be any typing, so there is not a chance of error this way because the information is being copy and pasted. This idea was modeled after the Food Inspection Reports Mr. Lynch worked on earlier this year for the State of Delaware's Public Health Department. All of the information that was extracted from CMS would then be placed into an Excel spreadsheet with searchable tabs (dates, zip codes, scope, severity, etc).

To keep the information simple, Mr. Lynch mentioned that the Commission may want to gather the name of the facility, the date of the survey, and date of correction. He suggests that scope and severity be combined in one column. He also felt that the category codes are irrelevant to the public and not able to be understood or helpful.

Ms. Bailey asked if a facility changes name, would the information still link to the same facility during that period. Yrene Waldron stated that the CMS identifier provider number does not change. Mr. Murray concurred.

Mr. Lynch further mentioned that category number, description, level of harm and beyond on the report could be misleading. Mr. Murray stated that scope and severity information is already being captured, so listing the level of harm would be a duplication of efforts.

Mr. McGonigle asked the delay time from when a survey has been completed versus when the information would appear on CMS. Ms. Waldron said that it varies. Mr. Murray stated that after the exit date of a survey there is a cycle that runs for 90 days. The report is generated. If a "G" deficiency appears on the report, there is a QART meeting and then the facility can decide whether they want to appeal, have an IDR, etc. Ultimately the facility will have a plan of correction that is enforced within 90 days. Appeals can delay the timeline. Mr. Lynch mentioned that a survey is not complete and will not appear anywhere until it is approved within the State of Delaware and provided to CMS and they, too, approve it. According to CMS, it takes a month from when CMS says a survey has been completed before the information appears on the CMS website.

Mr. McGonigle asked if it's possible that there are any 2006 surveys not considered complete and therefore do not appear on the CMS website. He wanted to know if there is any type of time frame where we can be sure all 2006 surveys have been posted. Mr. Murray mentioned there is one facility that was surveyed in December 2006 that met with LTCRP 2 weeks ago disputing citations. Yrene Waldron suggested that a note could be placed on a website stating that survey data is posted after CMS finalizes the survey.

Mr. Lynch offered his opinion about including deficiencies on any reports since he feels it might mislead the Consumer. Mr. McGonigle offered that the deficiency isn't the actual deficiency, but rather the "F Tag" description. Mr. Lynch further states that CMS does not provide the "F Tag" in the data. Mr. Murray cautioned that the description of the "F Tags" can be quite misleading and referenced the description of one of the "F Tags" for criminal background checks or not reporting acts or abuse or neglect. It is a big disparity and Mr. Lynch states that due to the disparity, it is unfair to the establishment. It leads people to believe that it's something bad.

Mr. McGonigle wanted to know if there was a way to determine the actual reason for the citing. The survey report is the only place that lists the actual reason for the citing and is not contained on CMS's website replied Mr. Murray. Mr. McGonigle asked why the information does not appear on CMS's website yet can be obtained by requesting the information from DLTCRP through the Freedom of Information Request.

Ms. Givens informed everyone that annual reports are posted in every facility. If the actual deficiency was listed on a website it would require reviewing annual reports and inputting data entry which would be labor intensive.

Mr. Lynch mentioned that the survey reports are not available on line through CMS. Representative Maier asked if LTCRP offers the reports on line. Mr. Murray stated the Division of LTCRP does not have permission. He further stated that a template provided by CMS does list the specific reason for a citation; however it is not posted on CMS's website.

Mr. Posey offered his view that cutting and pasting information available from CMS's website is just repackaging what is already available. Mr. Posey suggests the Commission go for the homerun. Ms. Waldron suggests that the homerun would be to provide the Division of LTCRP with the funds, time and personnel to convert the 2567's to computerized reports and make a lot of people's lives easier.

Ms. Givens mentioned at Loftland, the only time a typewriter is used in the facility is during the annual survey and that all other facility reports are computerized.

Mr. Posey feels that the initial start up in capturing information to create an automated system will be labor intensive, yet there will be minimal labor needed to maintain it. Ms. Waldron suggested that if CMS and the State of Delaware both have surveys that perhaps we concentrate on putting the State of Delaware's survey results on a website, since CMS already posts their results. Representative Maier asked why the State of Delaware surveys are not computerized since Division of LTCRP is relatively new.

Ms. Roger, Quality Insights, advised that everyone should be careful of modifying any information that comes off of the National CMS website including changing any of the wordings under the category of deficiency. She further adds that they are national standards. CMS supersedes the State regarding forms, regulations, bureaucracy and requirements.

Mr. McGonigle reiterated that this discussion was being focused on using the exact, verbatim description of the "F Tag" on reports. Ms. Waldron isn't so sure that posting information on a website would be useful, since it can be obtained in its original form through the Freedom of Information Act and not altered.

Ms. Engelhardt asked what information is being posted on other states websites. Mr. Lynch mentioned that other states are posting information on website and some include a rating score for facilities. The other states, however, are not including specific citation descriptions, only listing the "F Tag" description. All of the states are taking information and trying to minimize the work load. He recommends that the Commission review other states websites which is time consuming and hard to locate. Representative Maier suggests a smaller portion of Commission members gather before the next commission meeting to get closer to the issue before making a decision.

Mr. McGonigle reiterated that the effected State agencies would need to make a decision about website information after the Commission presents its recommendation(s). He reminded everyone that the Commission's role is to recommend and advise agencies in terms of improvements.

Representative Maier has offered to chair a DNHRQAC Committee regarding website information. She suggested that the July 10th commission meeting contain a smaller working group discussion for this issue.

Ms. Givens stated that in fifteen years, a family has never asked for a copy of an annual survey report or to see the survey reports. She has not had potential residents families ask either. Ms. Mitzi Murphy feels that getting the information out to the Consumer regarding how they may obtain survey information would be most beneficial.

Ms. Sara Armstrong, a Consumer, mentioned that she tried utilizing the Guide to Older Services when trying to locate a facility for her husband with Parkinson's disease 2 years ago and found it not useful. She recommends that the State of Delaware emphasis more on providing guidance/assistance for families trying to find the best possible care for a family member. Her non-verbal husband stayed for less than a week in a facility before she had him discharged and sent home. The facility she chose was at the recommendation of Hospice and she found her husband's condition worse after less than one week in a facility. She said that his teeth had not been brush; her husband had not been shaved. Ms. Armstrong wrote a letter to the facility that never received a response back. Ms. Armstrong was not aware that a copy of the annual survey could be requested. Mr. McGonigle asked Ms. Armstrong if she had access to survey information at this facility to have made her decision, would it have been helpful for her. She felt it would have been important, but she wouldn't have known about staffing and individual incidents or deficiency codes. Ms. Armstrong did call and report the incident to Division of LTCRP several times and was told a report would be mailed to her. She did not receive the report so she called back again and spoke with Maureen who then sent the report about a month ago.

Ms. Waldron suggested the Division of LTCRP may want to add agency information for families to contact and get more information in choosing a facility best suited to their family member. If a family has a concern, the site should list what steps a family should take and who should be contacted. She further mentioned that Mr. Orija and she should take a look at the process of information that could be available to families that are trying to place a family into a facility. Ms. Armstrong feels that repetition of information is important. Ms. Waldron asked that Ms. Armstrong contact her to discuss her situation more to help identify on potential improvements.

Ms. Laura Waterman believes that the links to agencies would be misleading because there aren't social workers sitting around in State agencies to help families find Nursing Homes. She also said that we should respect how people access the internet with some age groups who currently rely only on the internet to obtain information. Asking a family to wait for a copy of a report to be mailed to them or to make a phone call is not the way most people operate. Mr. Orija agrees that simplicity is a key to locating information on the internet to aid a family.

Ms. Engelhardt spoke about the Commission's website specifically stating it would be helpful if the State's website references the Commission so contact could be made. Mr. McGonigle mentioned that that is a separate subject other than what was being discussed today. It was his understanding that the information specific to nursing homes would appear on the Division's website, not the Commission's website.

Ms. Rodger asked Mr. Lynch to bring up Nursing Home Compare information on the screen. She emphasizes that at a National level, the real time on reports and other challenges have been addresses here since 2003. Ms. Rodger cautions the Commission not to act in a vacuum that perhaps it is unaware of the many of the national initiatives and State-wide initiatives concerning IT's, ENT's , and on-line information that CMS is changing for physician's effective 2010 , therefore nursing homes will not be far behind. By the time a recommendation is put together and software would be approved in legislation for the Division to use for this potential initiative so by creating templates for all 2567's, there would be a high likelihood it would be obsolete and not interface with what more superseding agencies would require in the near future. The DHIN is up and moving right now and will be coming to long term care. Mr. McGonigle informed that the DHIN system is

being used for physicians regarding patient care and that consumers would not be able to access the system. Ms. Rodger said that CMS is committed to transparency and the overall goal for the movement at CMS presently to make results world-wide known.

The Commission will have a working session to discuss website opportunities at the July 10, 2007 meeting and make recommendations.

Ms. Engelhardt asked Mr. Murray to check into Capitol's visiting policy stating she heard visits were not permitted before 3 PM daily. Follow up will be provided.

4. Discussion of:

- DNHRQAC 2006 Annual Report- A draft of the 2006 Annual Report was distributed to commission members prior to this meeting to get feedback. Senator Marshall previously recommended that we have the 2006 Annual Report completed by July 1st. Ms. Bailey will re-send the rough draft to commission members for their input.
- DNHRQAC Bi-Laws- Commission members were going to review the current by-laws and provide feedback. There are obvious changes to be made such as changing the staff information that was previously fulfilled by the Division of LTCRP. Mr. McGonigle asked that the by-law changes be made and distributed to commission members. Ms. Givens referenced article 4, page 3 about video conferencing stating it was not permitted in the past. Mr. McGonigle mentioned that a quorum would need to be present at commission meetings before commission members could participate by teleconference. Commission members are encouraged to make suggestions and a few minor changes will be made.
- Facility Visits- Ms. Bailey presented the Commission with a schedule of upcoming NCC nursing home and assisted living facility visits. She encouraged the commission members to join her at the facility visits. Ms. Givens suggests Ms. Bailey inform facility administrators new to Delaware to contact Ms. Waldron for assistance. Ms. Waldron is working on creating a manual for new NHA's.

Ms. Engelhardt spoke about her observations regarding facility visits she attended recently.

A. Medicaid reimbursement issues appeared to be a concern at some of the facilities. Ms. Waldron mentioned in the State, there is a Medicaid reimbursement process. Facilities then are able to provide additional services such as reality orientation, which is an add-on type of program. They would not be paid for an add-on until after the Medicaid Team comes and reviews all the documentation/outcomes and determines indeed what the facility is requesting payment for work that has been done appropriately for a facility resident. Some of the claims are being reviewed as possible fraudulent claims and Ms. Waldron will be working with the Attorney General's Office on that issue.

B. Mr. Murray mentioned that when a revisit happens after a citation, a sampling is being done with the residents. He says that residents move, are transferred, or conditions may change so a sample is being done to see if any residents may be effected by that previously cited tag. The reason for the re-sampling is to ensure the citation has been corrected.

D. Complaints are not addressed timely. Mr. Murray spoke and stated that there was a personnel issue in the Division of LTCRP which has been rectified. There was part-time staff hired to work on complaints only.

E. Assisted Living Facilities are stating the annual surveys are late. Ms. Waldron addressed this question stating the AL facilities are not under the same regulation guidelines and that it is her understanding that all of the AL surveys are up to date.

F. LPN's are being used as a charge nurse at a smaller facility due to facility funding issues. Ms. Waldron mentioned that the staffing ratios as a result of Eagle's Law perhaps should be revisited.

G. Surveyor cited a resident's room due to bed rail up and patient in a chair on the other side of the room. It was said that the rail would be left up when the patient went to bed. Mr. Murray declined comment since it is in the review process.

- DNHRQAC Appointments/Reappointments- Mr. McGonigle spoke with the Governor's Office about the re-appointments.

5. Public Comment: Ms. Lynch-James is the owner of Serenity Gardens, a small assisted living facility in Middletown, DE. The building was placed up for sale in January 2007. Ms. Lynch-James mentioned that the facility, attached to her home, there has been a challenge in getting patients. She would like some suggestions from the Commission. The facility has prepared newspaper advertisements and been to other facilities. Ms. Waldron asked if the facility has contacted the Medicaid nursing team. Ms. Waldron will provide Ms. Lynch-James with contact information and suggests to be contacted to review Medicaid reimbursement and Social Security benefits.

Mr. Orija spoke about Advancing Excellence in nursing homes. There are presently 45-47 Delaware nursing homes that participate in the program. June 28th there is a meeting scheduled in Dover to encourage participation. He will email interested parties with the meeting information. A copy of the Guide to Older Delawarean's was provided to commission members.

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

Adjournment

The meeting was adjourned at 11: 58 AM.

FINAL MINUTES - The April 10, 2007, Minutes were approved without any changes to the written draft.