

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus – Room 198  
1901 N. DuPont Highway, New Castle, DE

Meeting of July 11, 2006

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

Commission Members Absent: Walter E. Ferris; Joseph M. Letnaunchyn;

Others Present: Michael Dura (Delaware Healthcare Association); Carol Lovett Psychiatric Social Worker III (DPC); Victor Orija, State LTC Ombudsman (Division of Services for Aging and Adults with Physical Disabilities); Dean Reid, Administrator, (Delaware Veterans Home, Milford, DE); Pamela Tyranski, Deputy Director and Lisa Zimmerman Social Services Chief Administrator (Division of Medicaid & Medical Assistance DHSS); Rene Walton, Aide to Ms. Gallagher; Tom Murray, Deputy Director; Mitzi Murphy and Joan Reynolds, Support Staff (Division of Long Term Care Residents Protection DHSS).

1. Call to Order

The meeting was called to order at 10:03 AM by Chairman McGonigle.

2. Approval of the Minutes of the meeting of June 13, 2006

The Minutes of June 13, 2006 were approved as written.

3. Discussion of

- Update – Administrative Staff hiring for DNHRQA Commission

Chairman McGonigle reviewed previous discussions about creating more flexibility for this position with the intention of making it more attractive to applicants. Following these discussions, the Chairman spoke with the Administrative Office of the Courts (AOC) concerning these personnel issues. The response was that there is not a lot of flexibility in the State system for the job description as requested by the Commission... After conferring with Sen. Marshall, Rep. Oberle, and Rep. Maier, additional funds were secured for this position. The Chairman, reading from the AOC chart said salary for the position will be \$43,000. Sen. Marshall said he believed there is latitude to hire a temp at a higher hourly rate, and reduced hours. The job description will be e-mailed to members with a request for comments to be made and promptly returned to the Chairman. A request will be made to repost the position. Chairman McGonigle requested that the subcommittee reconvene during August to interview applicants.

- Review Sunset Committee Recommendations

The Commission will review those recommendations that were adopted by the JSC that do not need any change in statute or regulations. Some recommendations adopted need emergency regulations to be promulgated. From the document entitled "Recommendations for the Division of Long Term Care Residents Protection" given to each member, Ms. Walton listed the first five recommendations as adopted on June 7, 2006. There are, however, several other adopted recommendations that are not included in this document given to members. As Chairman McGonigle read each recommendation, discussion followed:

(1.) Guidance from CMS regarding activities in facilities came out on June 1, 2006. Activity Directors will be attending in-service sessions.

(2. and 3). A new process involves the Quarterly Assurance Review Team (QAR) meeting for review, approval, and making any changes in G level deficiencies of surveys that have not been finalized. Dr. Fritz Lahvis, the Medical Director, has been under contract for hearings and as an expert witness. His role has been expanded and his contract adjusted accordingly. The QAR Team operates by consensus. A quarterly report of upgrades and downgrades will be provided to the Commission by the QAR Team. Mr. Murray explained the entire survey process including possible contesting of citations, Plans of Corrections submitted, and IDR hearings. He explained that appeals can be made to CMS in Philadelphia if facilities are not agreeable to the final decisions. A disputed IDR hearing decision is appealable to Superior Court. An IDR hearing is a formal process with existing guidelines however those guidelines are being redrafted to accommodate inclusion of the QAR Team. Sen. Marshall requested a copy of the draft guidelines to be made available to Commission members. Questions arose concerning the changing of deficiency grades due to new information gathered during an IDR hearing. Would the QAR Team become involved to again review the citations? Sen. Marshall suggested a flow-chart to identify the process from point one. Discussion followed about representation at IDR hearings. Draft guidelines for the new, proposed process state that an ombudsman can represent the family. The State acts on behalf of the alleged victim. The field surveyor who is an ear and eye witness is a key witness at IDR hearings. In reviewing "G" level deficiencies, Sen. Marshall said it appeared to him that at times when evidence or documentation of the field survey was reviewed by administration within the Division, the field surveyor's evidence was not upheld. This has been where some major questions have evolved. The important thing is how the process can be improved; to make it more open, more transparency at the State level. It is important that all the evidence is obtained and weighed with decisions based on the new QAR Team and its responsibility. It is important that the resident in the nursing home and the family get a proper hearing.

- Review of Quarterly Survey Report submitted by the DLTCRP.

(4.) Mr. Murray presented the Quarterly Survey Report for June 15, 2006. There were no upgrades or downgrades reported. The Commission will review what the QAR Team has done in reference to upgrades and downgrades. Facility identifiers will remain constant so that excessive upgrades or downgrades can be tracked and an explanation presented. At the next meeting Mr. Murray was requested to give a verbal presentation identifying how many facilities have a "G" level deficiency or above.

(5. and 6.) These are temporary recommendations made during the Sunset process to allow that committee to get medical records of some of the residents who were in question. Redactions were made on patients' records that were requested by the recent Joint Sunset Committee. This was necessary to meet the privacy law. Chairman McGonigle will e-mail to Commission members the Joint Sunset Committee's final report of the recommendations for DLTCRP.

- 2006 Legislative Session review relating to DLTCRP

(13. – 14.) Statutory changes - SB 318 passed which formalizes recommendations that needed statutory changes. This includes the hospital issue of a resident going to the hospital then having the nursing home refuse to accept the resident back. Ms. Waldron prepares a synopsis of the bills each year that impact the operations of DLTCRP. The Division will provide copies to the Commission. Rep. Maier reported there is a dental access committee that a group of legislators is supporting. One of the goals is to have more dental care in the nursing homes. Typically, in facilities, families are requested to make dental appointments for the patient and provide the transportation. Feeding Assistants are being trained and the regulations are in place.

(16.) DLTCRP has a new nurse supervisor position; DMMA restructured their evaluation process and made it more efficient in order to free up staff to accommodate three times a year reviews.

#### 4. Old Business/New Business

Ms. Givens, Administrator of Lifecare at Lofland Park described the recent pro-active evacuation of that facility during the recent siege of rain and flooding in Seaford, Sussex County. Within 15 minutes of giving the warning to evacuate, 108 residents were ready to leave the facility. Most residents were wheelchair bound, 23 were on stretchers and 16 were ambulatory. Help came from paramedics Sussex County, EMS, ambulances, emergency personnel from every town within the county. The patients were evacuated to Nanticoke Hospital in a very well coordinated operation. All families were notified. The patients and staff spent the night returning the next day after assurances of safety from damage or flooding. Ms. Givens said this experience of evacuation will be shared with others thru RNC, and there will be a follow-up critiques.

Ms. Waldron discussed a recent seminar that was a joint partnership with DEMA, Public Health, and representatives from the municipalities, EMS, New Castle Co., and the City of Lewes. The purpose was to share information and evaluate resources for regional disaster planning. Presently, disaster planning is facility specific and not regionalized. Facilities are completing surveys for DEMA to be entered into a computer program that will indicate disaster risks of specific facilities. This will help in determining how to handle an emergency. Transportation is one of the biggest issues in evacuations and can be traumatic. The decision to protect in place vs. evacuate will be made very judiciously. Ms. Waldron stressed the need for working in partnership with the State, Medicaid, Governor's office and the transportation office.

#### 5. Public Comment

In answer to the question, an assisted living facility does not need to obtain a special license to open a dementia unit.

Information was requested about two new nursing homes in NCC, Exceptional Care for Children and Broadmeadow, and two more homes to come, Cadbury and Delaware Veterans Home. Mr. Reid gave a brief update on the status of the Delaware Veterans Home which plans to open Spring 2007, in Milford. Services will be developed and placed around the needs of the residents.

6. Next meeting will be Tuesday, September 12, 2006, at 10 A.M. The location will be DHSS Campus, Main Building., Room 198.

#### 7. Adjournment

The meeting was adjourned at 11:30 AM.

Approved as corrected on Tuesday, September 12, 2006, these are the FINAL Minutes for July 11, 2006.