

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus, Main Bldg., Room 301

1901 N. duPont Highway, New Castle, DE

Meeting of July 15, 2003

MINUTES

Commission Members Present:; Karen E. Gallagher; Vicki L. Givens; Rep. Pamela S. Maier; Thelma G. Mayer; Thomas P. McGonigle, Esq. (Chairman); Brian L. Posey

Commission Members Absent: Patricia C. Engelhardt; Sen. Robert I. Marshall; Dr. McKinley Wardlaw, Jr.

Others Present: Sandra Dole, President (Delaware Council of Activity Professionals); Lisa Gaylord, (Delaware Healthcare Association); Steve Tanzer, Administrative Assistant to Sen. Marshall (State Senate); June Valentine, State Executive Director, (Delaware Association of Homes and Services for Aging, DAHSA); Yrene E. Waldron , Executive Director (Delaware Health Care Facilities Association, DHCFA); Robert I. Welch, Director, (Bureau of Health Planning & Resources Management); Carol Ellis, Director, Catherine McMillan, Deputy Director, Mitzi Murphy and Joan Reynolds, Staff Support (DHSS Division of Long Term Care Residents Protection, DLTCRP).

1. Call to Order.

Chairman McGonigle called the meeting to order at 10:09 a.m. He introduced Brian Posey as a newly appointed Commission Member.

2. Approval of the Minutes of June 10, 2003.

The Minutes were approved as written.

Referring to the minutes, Rep. Maier requested that Cindy Mannis return and speak to the Commission regarding guidelines for agency nurses and data for medical accountability by providers.

3. Presentation of "Delaware Nursing Home Utilization Statistics and the Certificate of Need (CON) Program", by Robert I. Welch, Director, Bureau of Health Planning and Resources Management, Division of Public Health, Delaware Health and Social Services.

Chairman McGonigle introduced Robert I. Welch.

Mr. Welch provided a report entitled "Delaware Nursing Home Utilization Statistics January-December 2001".

Mr. Welch pointed out in the summary of the report that the number of beds and nursing home facilities in Delaware during the past ten years has been extremely stable. There were 47 nursing home facilities in 1991 and 46 in 2001. The number of patient days from 1991-2001 is also relatively stable with a total of patient days going up 3.4%. Looking at the change in population, covering the years 1990-2000, the 65 yrs. and over population actually increased by 26.5%, and the 75 yrs. and over actually increased by 50%. Thinking in terms of a use rate, while it's not calculated, it can be seen that while the census is going up very slowly the population is increasing rapidly which basically says there's a lower use rate of nursing home beds.

The information collected is from skilled and intermediate level nursing homes. In the most recent legislative session a bill passed mandating the Bureau of Health Planning and Resources Management, Division of Public Health to collect information from assisted living facilities. While there is no data presently, Mr. Welch, in answer to Chairman McGonigle's question, said there is an assumption that the gap between the rise in population of 75 and over and the lack of increased population in nursing homes is due to the presence of alternatives such as assisted living and home health care. Ms. Waldron said that in order to make good

informed public policy in the future there is a need to know what the data is on assisted living. It was asked if data could also be collected on home healthcare. Ms. Waldron said that there needs to be a bill to this effect. While complicated to compile, the burden should be on the home health agencies to provide the reporting. Providing data on home healthcare would illustrate the entire healthcare continuum, and it would give a better grasp on how the whole continuum is progressing and what future directions might be developing. Mr. Welch said there is a certain amount of data available on Medicare patients who utilize home health agencies. They are a large component of their clientele. It might be more efficient to tap into knowledge that is already there from Medicare before trying to develop a new reporting system. In terms of understanding what's happened to nursing home utilization it's important to be aware that alternatives are the key factor affecting it.

Mr. Welch said the occupancy in nursing homes has been around or below 90% which allows for more patient choice. Beds are available but staffing is not always readily available. Ms. Waldron concurred that static or lower occupancy rates are not because those beds are not needed, it's due to the nursing home not having the appropriate staff to patient ratio to meet the minimum standards. Aside from staffing and acuity issues, facilities may lack skills and resources to care for patients discharged from the hospital. Financial issues occur if a patient doesn't qualify for Medicaid and will not be covered by Medicare. A facility needs to be paid for care. The closing of public government-run facility wings has also decreased the percentage of licensed beds.

Mr. Welch said admissions have increased over 102.3% reflecting a greater turnover of beds and shorter length of stay. He then discussed Admissions by Race and Age noting the race disparity for entering nursing homes was greater for the under 65 black minority than for the whites. Mr. Welch suggested this possibly represents a lower level health status. The Minority Health Office is aware of this issue. It is a national issue not limited to Delaware. The disparity is similar to other states. A study by Healthy Delaware 2000 shows preventative medicine is not being practiced as much in black communities. Discussion followed of various preventative measures now being practiced in an effort to impact those disparities. Healthy Delaware 2000 is targeting the effects of diabetes, stroke, heart disease, and cancer among minorities.

In explaining the disparity of percentages of admissions to nursing homes not based on race or economics, Mr. Welch said some nursing homes that have a larger percentage of admissions of under 65 is due to the facilities being rehabs having sub-acute populations that roll over within weeks. The patients are primarily Medicare patients making a transition from hospitals to a less restrictive setting. Admission data by county and state of residence shows the small market area of nursing homes. Families and residents tend to choose facilities within areas where they live. In discussing percentage of discharges by disposition, Mr. Welch said discharges to home and hospital have been rising since 1991 while death discharges have decreased. This trend seems to show that the industry is serving a sicker population going in and coming back out. Reasons for discharges from one private facility to another include the need for a patient to be transferred to a Medicaid bed in another facility; a facility may lose its license temporarily; a patient develops a condition for which there is no safe environment in the current facility; to be closer to family members; and by choice. While the reasons for discharge are captured by the nursing home management and are presented in the report issued by the Bureau of Health Planning and Resources Management, there is no formal action at discharge.

Mr. Welch said that the Certificate of Need is now called Certificate of Public Review particularly as it relates to nursing homes. To establish a new skilled/intermediate nursing home would require a Certificate of Public Review. Because of newly developed alternatives and recent reimbursement issues there is not a lot of interest in developing new nursing homes. This report is used as the primary basis for bed projections for 3 years using

Deleted: There is no exit interview at discharge to collect reasons for a resident's leaving.¶

a 90% occupancy rate, the projection used when reviewing facilities. Chairman McGonigle asked that if people need nursing homes with licensed beds but are not admitted to a nursing facility that has 90% occupancy staffing issues, wouldn't this create a demand that would sustain a new nursing home if in fact people want those beds? Mr. Welch said 10-15 years ago, this would have been considered basically excess beds but in the current environment the Delaware Health Resources Board (the Board) gives much more weight to market-driven forces. It hasn't been tested with nursing homes because it is perceived that no one is investing in additional beds because the demand is not there.

Ms. Ellis asked about the relationship between the Certificate of Public Review process and the plans to build the Veterans Nursing Home since money has been appropriated to proceed. Mr. Welch stated that as a State licensed facility it would require a Certificate of Public Review. The fact that because there is no projected need for those beds it's going to get a full review on the merits of the proposal. Rep. Maier said the Federal government is financially involved (30% of the initial structural cost) and is requiring a new facility instead of renovating a present facility. How creating a new nursing facility would impact the current staffing shortage and other long term care facilities could be a giant problem. Mr. Welch suggested the possibility of using a voucher approach for veterans to receive care in existing facilities. Presently, the VA pays for residents in private nursing homes to some degree.

Chairman McGonigle said assisted living facilities do not require Certificates of Public Review, and there is less regulation. For example, they are not subject to staffing requirements. We may be unwittingly squeezing folks into assisted living when that's not the best place for them. Ms. Waldron recommended inviting Linda Brittingham, Discharge Planner at Christiana Care, to meet with the Commission to discuss discharge issues. The demand for beds is being met for Delawareans by being sent to surrounding states. Chairman McGonigle asked why there is a Certificate of Public Review process that would probably generate the result of no need for new beds? He stated that there is a disconnect here. Ms. Waldron said the Delaware Health Resources Board looks at numbers and statistics and concludes that there's no need for more beds but all the issues affecting why beds are unoccupied are not examined, such as shortage of staff.. Mr. Welch said it is not accurate to characterize Certificate of Public Review as being an impediment to market forces in nursing homes. Market forces are taken into account. If a situation occurs where a nursing home is planned and the numbers show no need, that application is going to be reviewed on its merits. Chairman McGonigle stated his point was not that attention to market forces was neglected, but that there ought to be more attention paid to the health care policy issues because there is often a disconnect between market forces and health care policy. His concern was that while market forces may push assisted living, in the absence of any Certificate of Public Review Process, there remains the Certificate of Public Review process for nursing homes. Which may result, from a healthcare policy perspective, in a failure to capture the true need for nursing home beds.

Mr. Welch took note of the Commission's concern for tracking Delaware's Hispanic population and their inclusion in utilization statistics. Mr. Welch requested to be notified of future DNHRQA Commission meetings.

4. Old Business/New Business:

HB 113 was passed and signed by Governor Minner. S.B. 63 was passed in the Senate and tabled in the House. S.B. 63, S.B. 64, S.B. 132, S.B. 142 have passed the Senate but they haven't passed the House. Ms. Ellis said S.B. 119 was amended in the Senate and passed; however, it is amended in a way to possibly ruin the whole purpose of the bill. Chairman McGonigle said the FBI has certain requirements and we should closely follow

their guidance if we want their approval. Amendment to SB 119 clearly specifies that Special Investigators should have the same general powers as police officers, but those powers are limited to investigations of abuse, neglect, mistreatment and/or financial exploitation of residents of long term care facilities and other infirm adults. Rep. Maier said she could speak with former State troopers in the Chamber, asking if they are satisfied with the current version of SB 119 as it is amended.

Discussion followed with concerns about proposed regulations by Delaware Health and Social Services to reduce Medicaid patients' nursing facility bed hold days from 14 to 7 days when they are hospitalized. Due to budgetary constraints the State is proposing to reduce the bed hold days to 7 days. A recent survey by Delaware Health Care Facilities Association (DHCFA) gathered data showing almost half of nursing home residents staying in the hospital beyond 7 days needing extra care. Under the proposed change these residents would lose their beds in facilities after they had been hospitalized for 7 days. This would cause financial hardship, personal trauma, and the possible premature return to the facility of acutely ill patients to prevent their bed loss. DHCFA is recommending that if there are extenuating circumstances or a medical necessity for a long term care resident to remain hospitalized, that a preauthorization be secured from Medicaid. Secretary Meconi and Commission members will receive a copy of DHCFA's rebuttal to the Division of Social Services with backup data, spread sheets and survey. It will request alternatives to the proposed plan to reduce bed hold days from 14 to 7 days.

5. Public comment.

Ms. Dole announced Residents Rights Rally will be October 5-11. A handout with full information was provided. Participation is invited.

6. Next meeting will be Tuesday, August 5, 2003, at 10:00 a.m. at DHSS Campus, Main Building, Room 198.

7. Adjournment

The meeting was adjourned at 11:50 AM.

FINAL MINUTES AS AMENDED SEPTEMBER 9, 2003