

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 September 9, 2003

**MINUTES**

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

Others Present: Carol Barnett, Planner II (DSAAPD); Linda Brittingham, Director of Social Work, Christiana Care Health System; Beth A. Carlino, (Nanticoke Health Services); Sandra Dole, President (Delaware Council of Activity Professionals); Lisa Gaylord, (Delaware Healthcare Association); Tim Hoyle, Ombudsman LTC; Joseph Letnaunchyn, President (Delaware Health Care Association); Cindy Mannis and Mary Roger, (Quality Insights of Delaware); June Valentine, State Executive Director (Delaware Association of Homes and Services for Aging, DAHSA); Laura Waterland, (Disabilities Law Program); Carol Ellis, Director, Catherine McMillan, Deputy Director, Mitzi Murphy, and Gina Loughery, Staff Support, (DHSS Division of Long Term Care Residents Protection, DLTCRP).

1. Call to Order.

Chairman McGonigle called the meeting to order at 10:05 a.m.

He then introduced the new Commission Member, Yrene E. Waldron, Executive Director, Delaware Health Care Facilities Association.

2. Approval of the Minutes of July 15, 2003.

The Minutes were approved with the addition of two amendments that include:

a. Page 2, paragraph 4, the last line to read, "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, there is no formal action at discharge."

b. Page 3, paragraph 3, line 5 to read, "The demand for beds is being met for Delawareans by being sent to surrounding states"

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

3. Presentation of "Overview of Hospital Discharge Planning to Long Term Care Facilities" by Linda Brittingham, Director of Social Work, Christiana Care Health System and Beth Carlino, Director of Resource Management, Nanticoke Health Services, Seaford, Delaware.

Ms. Brittingham provided a handout listing issues that impact nursing bed availability and a brochure entitled "Guide to Nursing Home Care" prepared by Christiana Care Health System for individuals considering a nursing home. She spoke of issues that impact bed availability noting that the number of beds listed for a facility is not the same as the number of beds available for patient admission. There are many limiting factors among which are isolation issues; lack of resources; private rooms listed with two beds that actually have a single bed; and nursing staff shortages. The type of care needed by a prospective resident determines if a facility can accept the individual. How the bed is licensed is an issue i.e., is it a Medicare or Medicaid bed? Short-term rehabilitation beds are easier to obtain. Difficult to place are those patients with cognitive disabilities and dialysis care. The most difficult patients to place are those needing geriatric psychiatric care. These patients are sent to facilities in other states. Delaware has one facility for this kind of care which is Delaware Psychiatric Center (DPC). Currently, with the resources available it is possible to get into state homes one of two ways; if the patient is an Adult

Protective Services placement or if DPC determines that the patient does not need their services and requires an intermediate or skilled level of care.

Ms. Waldron said that regardless of how long a patient has been in a private nursing home, if the patient develops aggressive behavior that cannot be controlled with legally administered medications then for the safety of residents and staff the facility will look to transfer that patient to a more appropriate setting. Many of these patients are sent out of state because of the unavailability of placement in state. Out of state facilities will accept only short-term patients with a discharge plan; they cannot be placed there indefinitely. Yearly, about 15% to 20% of patients are sent out of state to facilities within a 50-mile radius.

Chairman McGonigle asked if out of state patients in Christiana get discharged to Delaware facilities. Ms. Brittingham said yes, if they are short-term rehab, a renewable resource. Long term beds do not have the turnover, therefore there is not as much capacity. The Chairman referred to the July meeting with Robert I. Welch who spoke on Delaware Nursing Home Utilization Statistics and the Certificate of Need Program. Basically, the conclusions from the reports and analysis from his presentation was that the state is operating at about 90-some percent capacity, that additional nursing homes were not needed. However, it was pointed out that the issue is the ability of facilities to provide the levels of care needed in an environment that is non-punitive. New beds do not solve the problem if they are located in a facility that cannot provide the care for reasons previously given.

Ms. Brittingham said a chain of events form the core of the problem: Medicare went to the prospective payment system which stated the facility will not get paid or reimbursed for what is needed for staffing for these higher level care patients. So care units such as tracheotomy care were dropped because there was no respiratory care support. Delawareans are being sent to Pennsylvania and Maryland where reimbursements under Medicare are set differently. If a facility has been running a lot of vents pre PPF, their cost basis was already built in. Only two nursing homes in Delaware take trach and vent patients.

Chairman McGonigle asked why the process discussed by Mr. Welch doesn't identify the specific need of these types of beds in Delaware. Ms. Waldron added that the formula used to develop CON (Certificate of Need Program) is antiquated and has not been updated in 25 years. It does not take into account the changes of the health care continuum. Chairman McGonigle said the fact that these patients are being sent out of state, shows that 1) there is a need which should be acknowledged and 2) there is a need to figure out how to deal with the reimbursement issues. Ms. Waldron said we are not meeting those needs. In order to make public policy data needs to be gathered on home care and assisted living. A new move has been made by CMS, the Freedom Initiative, to move residents from facilities to home settings where they can be more independent. Getting aides to provide service to them at home safely is a problem. The real issue is that the shortage of nurses has created much higher salaries with which the agencies and nursing homes cannot compete.

Ms. Carlino discussed the repeal of the Medicaid 14-day bed-hold from the viewpoint of the hospital. The 14-day bed-hold was put into place when a hospital stay was usually longer. Now there is concern about taking away the 14-day bed-hold. If a Medicaid patient is taken from a facility's Medicaid bed and has a hospital stay longer than 14 days, the facility may fill the empty bed. However, regulations say that the patient from the hospital must be transferred to the first appropriate, available bed. The hospital may find other patients have been admitted to the facility. If the 14-day bed-hold is taken away, there is concern that more people will fall into this category. If a patient has been in a facility for 10 years, is then hospitalized and is not transferred back to the facility in a timely manner, the discharge agent will eventually try to place this person in another facility. The facility that has not accepted the Medicaid patient back finds more incentive in accepting private pay or managed care patients.

Within a 6-month period, the Nanticoke Hospital gathered data on 30 patients who accessed their bed-hold benefits which totaled 230 patient days. The average hospital stay was 7.7 days of which 37% were longer than 7 days. Four patients were over a 14-day stay but 11 were over the 7-day stay. Instead of the elementary approach of setting a certain number of bed-hold days for all patients Ms. Carlino recommended 1) Tie the length of bed-hold days to the DRG admission and/or discharge. 2) Don't make the bed-hold cumulative. 3) Look for a way to change the system to clarify the responsibilities of facilities. The regulation needs to be absolutely clear so it cannot be interpreted any other way.

According to Ms. Waldron who has spoken with Mr. Philip Soulé, Deputy Director, DSS, there have been many letters received and concerns are being evaluated. Some suggestions included having the 7 bed-hold days and have a waiver type of program for patients who need longer hospitalization. No decision has been made. Ms. Waldron asked that Mr. Soulé be invited to a Commission meeting to give an update. Chairman McGonigle agreed and noted that the Commission has not heard the opposite view of this issue.

4. Discussion of change of New Castle County background checks/fingerprinting location and hardship to consumers of service, by Yrene Waldron.

Because of logistics the State Police changed the locale for fingerprinting from Newport to a larger space in Newark making it more difficult for consumers to access this location. Chairman McGonigle said the Commission will write a letter to DART requesting a bus stop on Rt. 40, closer to the Newark location and he asked Rep. Maier to also write a letter including a request for Sunday bus service.

5. Old Business/New Business

Ms. Engelhardt asked why on the Internet Nursing Home Compare a specific date will have a specific number of deficiencies but at another time will have a different number of deficiencies. Ms. Ellis explained that possibly by the time the appeal process is finished it has changed or initial information entered could be incorrect.

6. Public Comment

Rep. Maier will speak on behalf of the Commission at the Residents' Rights Rally.

7. Next meeting will be Tuesday, October 14, 2003, at 10:00 a.m. at DHSS Campus, Main Building, Room 301.

8. Adjournment

The meeting was adjourned at 11:55 A.M.

Final Minutes approved on October 14, 2003, with inclusion of Linda Brittingham, Director of Social Work, Christiana Care Health System in "Others Present".