

**Minutes of the Meeting of
The Illinois Long-Term Care Council
Tuesday, April 26th, 2016
10:00am – 3:00pm**

Voting Members Present: Bill Bell, Jamie Freschi, Lori Hendren, Stephen Iden, Marsha Johnson, Dr. Carolyn Peck, Wayne Smallwood, Greg Wilson

Voting Members Present via Teleconference: Ann Ford, Phyllis Mitzen, David Sutor

Voting Members Absent: John England, Matt Hartman, John Hosteny, Pam Neibuhr

State Agency Representatives Present:

Department on Aging - Jose Jimenez, Erin Davis, Brent Ellis, Lora McCurdy and Jessica Blood

Department of Healthcare and Family Services – Janene Brickey

Secretary of State - Mary Riseling

Illinois State Police Medicaid Fraud Unit – Phil Miller

State Agency Representatives Present via Teleconference:

Department on Aging – LaRhonda Williams, Gidget Freeberg, Alex Burke

Guests and Others on Phone: N/A

Recorder: Jessica Blood

Welcome & Introductions

The meeting was called to order by Chairman Stephen Iden at 10:00am. Introductions were made by attendees. Roll was taken by Jessica Blood.

Approval of Minutes

Members reviewed the minutes of the previous meeting of the Council held January 19th, 2016. Chairman Iden asked the members if there were any corrections that needed made; hearing none, he requested a motion for approval of the minutes.

Motion: Wayne Smallwood made the motion to approve the January 19th, 2016 minutes with no corrections. Marsha Johnson seconded the motion. All members voted aye and the motion carried.

Old Business

2016 Ethics Training

Chairman Iden brought the members' attention to the required 2016 Ethics training. Jessica Blood stated that an email had gone out to the members who have yet to complete the training, requesting that they do so as soon as possible. Chairman Iden requested that another email be sent out to those members to remind them of the requirement and Jessica agreed to send it out that afternoon.

Proposed Changed to Legislation

Chairman Iden brought the council members' attention to the proposed change in legislation that would amend the Illinois Act on Aging as follows:

Part of the current statute for the Illinois Long-term Care Council [4.04a(e)]:

(e) Composition and operation. The Illinois Long-term Care Council shall be composed of at least 18 but not more than 25 members concerned about the quality of life and long-term care facilities in protecting the rights of residents, including members for long-term care facilities. The State Long-term Care Ombudsman shall be a permanent member of the Long-term Care Council. Members shall be appointed to a 4-year term with initial appointments staggered with a 2-year, 3-year, and 4-year terms. A lottery will determine the terms of office for the members of the first term. Members may be reappointed to a term but no member shall be reappointed to more than 2 consecutive terms. The Illinois Long-term Care Council shall meet a minimum of 3 times per calendar year.

Proposed suggested change to the legislation:

(e) Composition and operation. The Illinois Long-term Care Council shall be composed of at least 18 but not more than ~~25~~ 30 members concerned about the quality of life and long-term care facilities in protecting the rights of residents, including members for long-term care facilities. The State Long-term Care Ombudsman shall be a permanent member of the Long-term Care Council. Members shall be appointed to a 4-year term ~~with initial appointments staggered with a 2-year, 3-year, and 4-year terms. A lottery will determine the terms of office for the members of the first term.~~ Such terms shall be staggered among members. Members may be reappointed to ~~a~~ another term of four years. Appointments for 3 consecutive terms are disfavored, but shall be allowed for special circumstances as determined by the Department. ~~but~~ ~~no~~ No member shall be reappointed to more than ~~2~~ 3 consecutive terms. The Illinois Long-term Care Council shall meet a minimum of 3 times per calendar year.

Reasons for the proposed changes - The majority of the stricken material is no longer relevant and is very confusing. The reason for the increase in members is that presently we are at 24 members with three required vacancies to fill. The reason for the proposed increase in consecutive terms is because some of the required member categories may be difficult to fill and if someone is found and is willing to serve in that capacity they can be retained for an additional term. However, that third term is listed as disfavored to try to maintain the original statute's goal of bringing in fresh blood to the Council.

Note that if we do change the number of members, §4.04a (b)(4) will also have to be altered to reflect the change in membership from 25 to 30.

Jamie Freschi suggested removing the non-voting Ombudsman staff to make more room for four additional Council members. Chairman Iden suggested the Ombudsman staff be listed as non-voting members. Greg Wilson suggested separating members into voting and non-voting categories, which was agreed upon by the Council. It was then decided that the number of members did not need to be adjusted due to the positions opened by correction of the membership list.

Chairman Iden then asked Jamie Freschi if she thought that the second part of the proposed change in legislation, regarding appointments to a third consecutive term, was necessary. Jamie stated that this change should be requested and left up to the discretion of the Department, especially in the case of a member who is an active asset to the Council.

Jamie Freschi then brought the Council members attention to the vacancies that need to be filled. Chairman Iden stated that filling these vacancies was the responsibility of the Department. Jessica Blood stated that Council members had been provided with nomination forms for new members, but if no one had suggestions then Director Bohnhoff would move forward with selecting individuals for the vacancies. Jamie Freschi stated that she had requested nominations from Regional Ombudsman staff by May 31st.

After further discussion on the language of the proposed change in legislation, Chairman Iden then entertained a motion to approve the proposed change as follows:

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Wayne Smallwood made the motion to approve the proposed change in legislation above. Carolyn Peck seconded the motion. All members voted aye; the motion carried.

Chairman Iden stated that the proposed change would be submitted to the Department's legislative staff.

New Business

Legislative Update

Brent Ellis gave the following legislative update:

SB2929

- Introduced by Senator Mulroe, proposed by HCCI as an initiative of the long term care industry
- Purpose of bill is to close the gap whereby the prescreen is not arriving at the nursing home along with the patient, therefore requiring nursing homes to accept individuals without payment
- Bill proposes that Care Coordination Units be required to assist individuals filling out their Medicaid application

Jose Jimenez stated that the Department is opposed to this bill because there hasn't been communication regarding the problem until the bill was introduced and that more data needed to be gathered. He said that the Department is willing to provide training to address the issue and doesn't believe that this piece of legislation is the answer to correct the problem.

Wayne Smallwood requested that Jose Jimenez remind the Council of the Department's policy regarding the completion timeline of the pre-screen process. Jose stated that the CCUs have up to twenty four hours from when they receive the discharge call to complete the screening process. He also mentioned the Nursing Home Deflection pilot program that works with the hospitals, CCUs and discharge planners to find better ways to communicate and ensure that the proper steps are taken before discharge. He stated that in the past there have been some cases where there is only a two hour period in between when the hospital discharges the patient and when they arrive at the nursing home, so better communication is essential to fixing the problem.

Jamie Freschi asked Janene Brickey about the language in the bill that states that CMP funds would be used to pay for the CCUs to complete the assessments. Janene stated that while they track the funds, they don't enforce or collect them. Alex Burke further clarified that the CMP funds are not the correct funds for this purpose as they were only intended to be used to prevent abuse and neglect.

Lora McCurdy informed the council members that the Department has run budget numbers and believes it will cost an extra \$16 million for the CCUs to perform this new function. She further stated that these funds were not included the Department's FY17 budget and therefore there was no funding to accomplish what the bill is asking. Lora also stated that the prescreen being done at the hospital and ensuring choice of care are such important pieces to the rebalancing effort and making sure that people aware of their choices for community based services and that the Department doesn't want to do anything that would make it easier for individuals to be institutionalized. She also stated that the Department has been learning from the Nursing Home Deflection pilot and that there would be a final report in the fall on the pilot that they would be happy to share.

Janene Brickey stated that the individuals do have to have a pre-admission screening prior to their admission to determine that it is an appropriate placement. Jamie Freschi stated that the Department has been sharing that information with legislators.

Jose Jimenez mentioned that there may be a conflict of interest with hospitals that are in partnerships with nursing homes and it is important for the Department to have an external body to ensure whether or not the individual is able to go to the community. He stated that if that control is not in place, individuals may end up under a consent decree such as Colbert and it would be much harder to transition them to the community rather than doing to prescreen prior to admission into a nursing home.

Wayne Smallwood stated that the Department needed to take into consideration the issue of transferring the responsibility for Medicaid eligibility and long term care from local offices to the hubs has been a nightmare for providers and people who are expected to provide care. He further stated that the hubs have not performed as expected.

Jose Jimenez replied that this issue was brought up by HCCI during their testimony and they mentioned that their performance has improved. He reiterated that the Department does realize that there is an issue with the prescreen process, but does not believe this legislation is the answer because it would

create a payment mechanism but not address the underlying issues. He further stated that hospitals, by law, in this process. He said that the Department is willing to do its part with the CCUs, but the hospitals need to be at the table for the discussions and training.

Janene Brickey stated that payment is still an issue because one of the required fields in order to authorize payment, so if this is not happening; the payment is still not made. Greg Wilson stated that training needed to be given to the hospitals to ensure they understand that they need to keep the patient until after a pre-screen is complete rather than assuming Medicaid eligibility and rushing admission into the nursing home.

Jose Jimenez stated that there has been a workgroup that has been meeting for months that is reviewing the policies of the Departments of Human Services, Health and Family Services and Aging to improve the process, with training being a large component. He further stated that this legislation would not allow this workgroup to continue to work to improve the process. Janene Brickey added that the expenditures would increase with this bill while decreasing the federal match received by the agencies, therefore making it a no win with regards to funding.

Wayne Smallwood inquired about the new screening process and whether it would offer any relief with regards to this problem. Janene Brickey stated that it would but that the process was still several months from starting. Jose Jimenez added that, if the paperwork still isn't received by the nursing homes, the problem is not being addressed. Marsha Johnson stated that hospitals needed to come to the table with regards to their part in the screening process and suggested that they start the process on day one of the patient's stay rather than after they had been discharged. Lora McCurdy stated that one of the goals of the Nursing Home Deflection pilot is to establish the relationship between the hospital discharge planner and the CCUs, so they contact the CCU sooner rather than right before the patient is discharged. She added that the Department would have more information on the program in the fall after the final report from Lewin is received.

Phyllis Mitzen stated that there was also an issue with patients' records not being transferred to nursing homes or home care agencies and therefore the proper medication and food information was not being received. She added that this should be looked into as well as the payment issue.

Chairman Stephen Iden asked the council members if they would like to take a position on the bill. Jose Jimenez stated that this bill could be called next week and would undermine what the Department had been trying to do with person-centered planning and encouraged the council members to oppose the bill along with the Department.

Motion: Marsha Johnson made a motion to oppose the bill, stating that this bill is not the answer to fixing the problem. Lori Hendren seconded the motion to oppose the bill. All members voted to oppose the bill with the exception of Bill Bell and Greg Wilson, who voted nay. Chairman Stephen Iden abstained from voting. By a majority vote, the members of the council voted to oppose SB 2929.

Alex Burke stated that when session wraps up, the legislative division would share a full list of passed and signed bills and then opened up the legislative update for specific status updates on bills.

Jamie Freschi stated that there was a bill that passed that was good for the Ombudsman program – SB 2504 sponsored by Senator Steans that would allow ombudsmen to have jurisdiction in Specialized

Mental Health Rehabilitation Facilities (SMHRF). She stated that no one seemed to be opposed to the bill and that it was moving along.

Brent Ellis then gave the status of four initiatives that the Department is working on:

- HB 4826 – this bill would reduce the minimum number of APS Fatality Review Team annual meetings from six to four. The Department’s stance is that having six annual meetings is cumbersome on the volunteer members and that there is not a sufficient case load to warrant the larger number of meetings.
- HB 5532 – this bill would remove a redundant CCP report that is currently required from the Department.

Jamie Freschi mentioned HB 5924 that would prohibit a guardian from limiting visitations, mail or phone calls without the court specifically stating that they had authority to do so. Alex Burke stated that this was the only bill regarding guardianship that is moving forward. He stated that HB 5924 specifically states that, unless there is a court order to the contrary, guardians shall attempt to notify the ward’s adult children if they are admitted to a hospital, hospice or if they pass away; and if they do pass away, what the funeral arrangements are. The court can also order guardians to permit visitation rights between a ward and their adult children if it is their best interest.

There was then discussion on HB 4249 that would have required individuals in a dementia care or Alzheimer’s care unit to wear an ID bracelet. Jamie Freschi stated that the Ombudsman’s position on this bill was neutral and Alex Burke stated that the bill had not passed but was still in committee at the deadline. Lori Hendren asked whether the deadline would be extended; Alex replied that he was not sure.

Chairman Stephen Iden then requested a status update on HB 5603 regarding electronic monitoring in long term care facilities. Alex stated that this was a cleanup bill that passed out of the House.

Brent Ellis stated that the Department was also watching HB 5601 that would change whether calls reporting problems at long term care facilities could remain anonymous.

Annual Report Committee

Chairman Iden then brought the council members’ attention to the subject of the Annual Report Committee. It was reiterated that the council would not be able to complete annual reports for FY2012-2014 and would start again with FY2015, including meetings within the state calendar year.

Jamie Freschi stated that there needed to be discussion on what the council’s goals were for FY2016. Chairman Iden stated that the council should discuss goals for the remainder of FY2016 and FY2017 at the next meeting of the council. He also stated that one of the goals for FY2016 could be getting the council back on track with regards to the by-laws and membership. Marsha Johnson stated that the goals listed for FY2016, such as member recruitment and a stronger role in the legislative process, would also be good goals for FY2017.

Chairman Iden requested that members of the council submit any suggestions for the FY2015 and FY2016 annual reports should email them to him or Jamie Freschi. Wayne Smallwood suggested looking at Article 5 of the council by-laws to refresh members on the duties of the council and how they might be more effective in achieving the original goals of the council. Phyllis Mitzen added that the council should go back to the original mandated purpose of the council, determine what the council has done so

far and discuss what needs to be done in the coming year to achieve those objectives. Phyllis inquired what the council members could do as prep work in order to make sure the next meeting was more productive. Chairman Iden stated that any suggestions could be emailed to him and Jamie Freschi before the next meeting of the council.

Phyllis Mitzen stated that the council had been asking for reports for the Ombudsman program to determine what has been done and how the council might be able to assist. Jamie Freschi stated that she could pull just about any report through OmbudsManager that the council might wish to have.

State Agency Reports

Department on Aging – Lora McCurdy and Jose Jimenez

- DoA has initiated a new program - Community Reinvestment Program
 - Director Bohnhoff sent out draft rules to stakeholders; rules will be sent out to council members later today; Department requested feedback from the members of the council.
 - May 13th – meeting at Department on Aging to go over rules and collect feedback regarding the draft rules
- Budget Impasse
 - Department continues to monitor the effects of the impasse on providers
 - Paying for Medicaid eligible individuals under court order; up to date with fiscal
 - Non-Medicaid not covered under any court order; will send funds as soon as there is appropriation to do so
 - Department has enough providers to cover transfers in the event of caps on service, reduction in coverage area or complete closure; individuals are still getting choice of service
- DoA is maximizing CCP participant enrollment in Medicaid
 - Looking at lowest income brackets; looking more closely to see those who would be potentially eligible for Medicaid
 - Working with Department of Healthcare and Family Services and Department of Human Services to collect data and do everything possible to get more individuals enrolled in Medicaid – training, webinars, etc.
- Training Webinar was made mandatory for all CCUs – will be recorded and made available for review
- Federal CMS issued new Medicaid waiver regulations in January 2014:
 - Person centered planning requirements
 - Integrated Setting requirement – DoA is visiting adult day service providers to ensure these locations are integrated into the community; have until September to visit certain percentage of these sites. If ADS providers are located on the grounds of an institutional setting, the State has to make the case to Federal CMS for them to be approved under heightened scrutiny
 - Critical incident reporting, risk mitigation, etc.
- Director and Deputy Director are in the field visiting AAAs and CCUs about the Community Reinvestment Program
- DoA is focusing more closely on quality assurance and data gathering

Department of Healthcare and Family Services – Janene Brickey

- Supportive Living waiver is going through transition plan for home and community based services under new CMS rule; on site visits are going well
- Provider enrollment through IMPACT system – new process that long term care providers re-enroll through the State to become a Medicaid provider; deadline is June 30th to reenroll and no extension is anticipated
- New process for monthly billing – providers now will be billing directly for each resident or submit billing as a group through X12 file
 - First webinar will be tomorrow
 - Will be offering in person training starting at the end of May
 - Support for the process will continue after implementation for several months
 - Information can be found on HFS website under Long Term Services and Supports

Illinois State Police – Phil Miller

- Medicaid Fraud Unit currently has 43 staff
 - 27 investigators – majority in Chicago region
 - 5 attorneys
 - 1 auditor
 - 10 administrative or command staff
- Five new investigators coming; one in Springfield, four in Chicago region
- Collinsville office will be losing one investigator
- Downstate cases seeing increase in drug diversion in long term care facilities; RN or LPNs diverting medications resulting in not only theft but abuse and neglect issues
- Maintaining mission as best as possible during budget impasse; competing with all other state entities for staff

Jamie Freschi asked if this unit also covered financial exploitation of individuals in long term care facilities. Phil responded that the unit is 75% federally funded and that their memorandum of understanding states that their priority is to investigate abuse and neglect. He added that with more manpower, they may be able to investigate other instances such as financial exploitation. He stated that the unit has also been working with the University of Illinois in Champaign to refer possible financial exploitation cases.

Greg Wilson inquired as to whether any local law enforcement agency could investigate financial exploitation. Phil Miller affirmed any local law enforcement agency would have the jurisdiction, but that the key would be training local municipalities.

Jamie Freschi stated that training of local law enforcement on elder law and elder rights should be a goal of the council for FY2017 because of the effect of financial exploitation cases on the residents of long term care facilities as well as tax dollars.

Phyllis Mitzen inquired as to whether the council should entertain a motion to add training of local law enforcement agencies in financial exploitation investigation to the goals for FY2017. Chairman Iden stated that this could be added to the list of suggestions to be voted on at the next meeting of the council. Phyllis then asked Jamie Freschi if there would be a report on financial exploitation that could be supplied to the council. Jamie stated that she would get that information for the council.

Department of Public Health

No representatives from the Department of Public Health were present. Chairman Iden stated that it is important to always have a representative from the department to supply the council with a report on the various states of nursing homes. Phyllis Mitzen stated that the council should request the report from the department if there were no representatives available to be present, though it would be ideal to have a representative present to answer any questions asked about the report. Chairman Iden stated that council members should send any requests for reports to him for forwarding to the appropriate agency.

UIS Gerontology – Dr. Carolyn Peck

- Governor Rauner approved summer funding for universities as a stop gap measure; this will help universities function better during the summer, though there is still concern about MAP grants for low income students
- Enrollment continues to be strong with many areas seeing increases
- Ground breaking for the new student union in May; majority of funding came from private donations

Family Members/Family Council Members

Dave Sutor stated that he hoped in the future that greater emphasis would be put on measures that will affect and improve the lives of the residents in long term care facilities, rather than the exchange of professional information between social service staff. Chairman Iden stated that suggestions on what should be addressed were welcome from an outside perspective at any time.

Ombudsman Program – Jamie Freschi

- Federal rule for Ombudsman will be in effect July 1st – big challenge
 - Illinois State Ombudsman program has to revise state rules, policies and procedures to ensure compliance
 - Illinois is ahead of the game with regards to other states and is already practicing much of what the new federal rule states

Chairman Iden asked if Jamie could state what the major differences were between the current and new federal rule. Jamie answered that the differences in the new federal rule are as follows:

- Gives the state unit on aging more specific guidelines as to how the Ombudsman program should look like and how it should be operated
- Strengthens the independence of the state ombudsmen
- Very clearly addresses the conflicts of interest, whether individual or programmatic within a provider agency and the Ombudsman program
- Clarifies the roles of each entity in terms of what the responsibilities of the State Ombudsman are
- Provides clarification and specification much more broadly on roles and implementation vs. the Older Americans Acts

Wayne Smallwood asked if the Ombudsman program was using the new federal rule to amend the state rule. Jamie stated that they were using a previous revision of the state rule that included the expansion, along with the new federal rule, to revise the new state rules. Phyllis Mitzen stated that her organization had contracted with Department on Aging staff to do a report on the expansion that may be helpful to revising the state rules.

Chairman Iden inquired as to whether the federal rule would have any effect on the expansion. Jamie stated that there was language in the federal rule that would allow for state ombudsman programs to advocate for individuals outside of long term care facilities, but leaves it open for states to further define.

Jose Jimenez stated that, while the Department on Aging is very supportive of the Ombudsman program and its independence, it is faced with the challenge of funding since the federal regulation provides no funding source.

- FY2017 RFPs will be going out next week to all AAAs
- Big challenge – Budget impasse; affecting regional ombudsman programs
 - Regional Ombudsman usually fill out annual services plan at the beginning of the fiscal year for review by DoA, AAA and so the provider agencies know what the plans are; they are now submitting quarterly plans because of the difficulty in planning with no budget
 - Regional Ombudsman are being instructed that they are to perform their tasks under the Older Americans Act as a minimum
- 2 day Regional Ombudsman meeting being held next week
 - Training, technical assistance and support will be provided
- Lyle VanDeventer resigned; LaRhonda Williams is taking over Home Care and Managed Care pieces of the Ombudsman program
- Program reviews are on hold due to budget impasse, but are still a requirement and will be an ongoing focus
- Reports – inquired whether the members of the council would like to receive the benchmark reports for the regional ombudsman program as well as the financial exploitation report; Chairman Iden affirmed that they would like quarterly reports

Adjournment

Chairman Iden then entertained a motion to adjourn the meeting.

Motion: Marsha Johnson made the motion to adjourn, Greg Wilson seconded the motion. All members voted aye and the motion carried. Meeting adjourned at 12:15pm.