



State of Illinois
Pat Quinn, Governor

Illinois Department on Aging
Charles D. Johnson, Director

Illinois Long-Term Care Council Meeting

Date: March 10, 2009

Location: Video Conference

Members in attendance: Nancy Flowers, Eva Hall, Phyllis Mitzen, Myrtle Klauer, Wendy Meltzer, Margaret Niederer, Michael O'Donnell, Pam Edelmann-Sall, Brigit Dyer-Reynolds, David Sutor. **Not Present:** Ann Ford, Pat Comstock, Barbara Craig, Sue Kerrigan, Ben Perkins, Dave Vinkler. **Guests:** Eva Hall's husband, Matt Hartman for Pat Comstock, Scott Musser for Dave Vinkler. **Staff:** Bill Bell, Sally Petrone, Lee Beneze, Rick Dees, Sgt. Debra Dell, Marie Havens, Neyna Johnson, Sharon Woods, Connie Hill.

Welcome/Introduction: The meeting was officially opened by Co-Chairs Nancy Flowers and Lee Beneze. They introduced themselves and asked Council members to do the same. It was announced that Lee Beneze would be the new co-chair for this Council.

Approval of Last Meeting Minutes: The minutes from the August 2008 meeting were approved, with a revision regarding the Council's request for Margaret Niederer to draft a letter to the *Illinois Issues*, which she did not send it out. The revised meeting minutes were put to the motion of approval made by Mr. Sutor and seconded by Eva Hall. The minutes were approved.

Ms. Flowers announced that several people attending today's meeting would be leaving early to attend the legislative hearings and related meetings occurring today.

Legislative Updates: The Council then reviewed a list of current legislation, using a memo detailing 2009 legislation, with the idea of stating a position on each bill.

SB 1838 amends the Department of Veterans Affairs (IDVA) Act and the Nursing Home Care Act (NHCA) and provides that if there is a conflict between the provisions of the IDVA Act and the provisions of the NHCA concerning an Illinois Veterans Home operated by the IDVA, then the provision of the IDVA Act shall apply. Provides that an Illinois Veterans Home licensed under NHCA and operated by the IDVA is exempt from certain provisions of the NHCA, including provisions concerning license fees, licensing by municipalities, facility plan review, annual financial statements, violations and penalties, and actions by residents for injunctive and declaratory relief. Provides that such a veterans home is also exempt from provisions of the NHCA concerning standards for facilities, so long as the home meets the standards for similar provisions required or regulated by the U.S. DVA. If enacted, it would be effective immediately.

An extended discussion occurred with regard to the possible consequences of this bill. In the past, there have been serious fines levied on these facilities, which included fines for deaths in the facilities up to \$100,000-\$200,000. The Health Facilities Planning Board was also given fines in the millions for being out of compliance. There are amounts of unpaid fines currently

in litigation. There are four IDVA facilities under contract with IDPH. There is a need to focus on fines as a significant issue if NHCA does not apply. There is also the issue of Ombudsman access to these facilities. The IDVA facility survey is very weak compared to the Illinois Department of Public Health (IDPH) survey. It was noted that several members of this Council will meet with Senator Demuzio to oppose this bill.

HB 957 amends the Illinois Act on Aging, and requires Illinois Department on Aging (IDoA), in cooperation with certain agencies, to determine whether any persons (now, only Alzheimer's Disease and related disorders victims, and persons who are deemed as blind and disabled under the Social Security Act) who are in need of long term care may be satisfactorily cared for in their homes. Vests the responsibility for pre-screening in case coordination units or any agency designated by the Illinois Department of Human Services (IDHS) (now, only in case coordination units). Requires all persons who are admitted and remain in a nursing facility for 90 or more days to be re-screened at the end of the 90 day period to access their continuing need for nursing facility care. If passed, this bill would be effective immediately.

Members discussed the amendment and the requirement of 90 day rescreening for nursing home residents. Currently there are 90,000 new admittees to nursing home facilities annually and 40% stay less than 90 days. Currently the price is \$89.53 per each screening. The Council recommends supporting this legislation.

HB 416 amends the Illinois Public Aid Code and provides that on or after July 1, 2009, the Illinois Department of Healthcare and Family Services (IDHFS) shall ensure that each facility licensed by the Department of Public Health under the NHCA as a skilled nursing facility or intermediate care facility, except those licensed for the express purpose of serving residents under 22 years of age, receives the next regular payment due for services provided by the facility to medical assistance recipients no later than 35 days after the effective date of the amendatory Act. Provides that every subsequent payment to such a facility must be made no later than 35 days after the date of the last preceding payment. If passed, it would be effective immediately.

The Council discussion noted this would replace the penalty assessment when providers have not been paid longer than 90 days. IDHFS noted the original 35 days cycle for billing and the current backlog at the Comptroller's office goes back to August 2008. A suggestion for this Council to write a letter to the IDoA, the Governor's office and other entities requesting that timely payments to providers should be the number one priority in the State of Illinois. Margaret Niederer moved to support this bill and Myrtle Klauer seconded the motion. Motion carried.

HB 752 amends the Older Adult Services Act (OASA), with provisions concerning the development of a plan to restructure the State's service delivery system for older adults, provides that the IDoA and DPH and DHFS shall develop the plan no later than September 30, 2009. Provides that the plan shall protect the rights of all older Illinoisans to services based on their health circumstances and functioning level, regardless of whether they receive their care in their homes, in a community setting, or in a residential facility. Provides that financing for older adult services shall take into account personal preferences, but shall not jeopardize the health, safety, or level of care of nursing home residents. If passed, it would take effect immediately.

The members of the Council noted that this bill only included a date change for the due date of the report. Margaret Niederer moved to support this bill and Myrtle Klauer seconded the motion. Motion carried

HB 1188 amends the Illinois Health Facilities Planning Act and provides that a nursing home that receives a nursing home conversion grant under the OASA shall retain the Certificate of Need for its nursing and sheltered care beds that were converted for 15 years, as provided in the Act. If enacted, it would be effective immediately.

Council members discussed this bill; Pam Edelman-Sall made a motion to support; David Sutor seconded. Motion adopted.

SB 321 amends the NHCA and provides that if the IDPH determines that it would be in the best interests of the residents of a nursing home to do so, the Director may require that the nursing home use the amount of any penalty assessed under the Act for the purpose of implementing a directed plan of correction rather than pay the amount of the penalty to the DPH for deposit into the Long Term Care Monitor/Receiver Fund. Provides that if the Director of DPH requires a facility to use the amount of a penalty for the purpose of implementing a directed plan of correction, it is the IDPH's responsibility to ensure that the facility in fact uses the amount of the penalty for that purpose. Effective immediately.

Council members discussed this bill and noted that this would allow the IDPH penalty assessed on a nursing home to be rebated to the facility and used to correct the problem at the facility. The IDPH would have the authority to grant such a waiver of the fine, or some portion of it, based on a facility's ability to address the correction. This codifies the current practice of IDPH allowing a reduction in penalties and no monitoring on directed plan of correction.

Margaret Niederer opposes this legislation as written and David Sutor stated that he agreed with Margaret's analysis and also opposed this bill.

Brigit Dyer-Reynolds added that reading this legislation is misleading. This could put more pressure on IDPH to negotiate the fines down. There needs to be more transparency on the setting of fines and communication with IDPH.

It was noted that several people within this Council were involved with this legislation. The position of the Council was that the current language of the bill was unsatisfactory and the Council urged those parties involved in the negotiations to seek a revision to the proposed language.

HB 2285 amends the Mental Health and Developmental Disabilities Administrative Act, the University of Illinois (U of I) Hospital Act, the NHCA, and the Hospital Licensing Act. Provides that a hospital or nursing home shall adopt a policy to identify, assess, and develop strategies to control risk of injury to residents or patients and nurses and other health care workers associated with the lifting, transferring, repositioning, or movement of a resident or patient. Sets forth matters that must be included in the policy, including: 1) analysis of the risk of injury to residents or patients and nurses and other health care workers posed by the resident or patient handling needs of the resident

or patient populations served by the facility and the physical environment in which the resident or patient handling and movement occurs; 2) education of nurses in the identification, assessment, and control of risks of injury to residents or patients and nurses and other health care workers during resident or patient handling; and 3) evaluation of equipment of alternative ways to reduce risks associated with resident or patient handling, including evaluation of equipment and the environment. Requires the DHS operated state mental health and developmental disabilities centers, and the U of I Hospital, to comply with these provisions. If enacted, it would become effective on 1/1/10.

It was noted that Illinois Citizens for Better Care (ICBC) supports this bill. Each facility would develop its own policies. Members of the Council agreed to support this bill.

Lunch: A break for lunch was taken. Following the resumption of the meeting, Margaret Niederer asked that the minutes reflect that there was no quorum.

Listing of Legislation: Margaret Niederer asked who within the IDoA maintains a current listing of all pending legislation regarding long term care. Nancy Flowers shared her concerns on how can we track legislation. Lee Beneze noted that the Department had only two persons whose primary responsibility to track legislation, a Department legislative liaison and an assistant; together they track several hundred pieces of legislation each year.

It was noted that any member of the public, and all members of this Council are encouraged to use this resource, may obtain information on legislation on the Illinois General Assembly's Web site: www.ilga.gov/default.asp.

Ohio's Bed Fee Law: Sally Petrone discussed with the Council information she has received from Bev Laubert (Ohio State Ombudsman) on the "bed tax" in Ohio.

In that state, each of the various types of facilities in Ohio annually pay to the Ohio Department on Aging an annual fee, which amounts to \$6 for each bed maintained by the facility for use by a resident during any part of the previous year.

The types of facilities that must pay the bed fee are: nursing homes, residential care facilities, homes for the aging, facilities authorized to provide extended care services under Title XVIII of the Social Security Act, county homes and district homes, adult care facilities; and facilities approved by the Veterans Administration and used exclusively for the placement and care of veterans.

Fees collected under this Ohio law are deposited in the state treasury to the credit of the Ohio LTCOP fund in Ohio. These funds are used exclusively to pay the costs of operating the Ohio LTCOP.

There were a number of questions on this information. It was noted that Ohio is receiving a 50% Medicaid match, and there was a question whether this was part of that calculation. During the discussion, it was noted that currently Illinois has 1,100 facilities with 130,000 beds; thus a similar tax in Illinois would generate \$780,000 annually.

This discussion touched on associated concerns that the Civil Monetary Penalty (CMP) is unlikely to continue at the same level for FY 10; this might lead to the loss of 12 LTCOP positions. It was

suggested that there was a need to develop a crisis plan, for example, a plan in the event that there were no further CMP dollars. This might involve further rollback of Ombudsman standards, and in a decrease in both facility visits and complaint resolution.

The “granny tax” was discussed and it was noted that \$1.50 per bed goes to the General Revenue Fund. It was agreed that there is a need to develop a strategy for next year and build support first. It was suggested that a conference call for interested parties be held, with the Ohio State Ombudsman participating to better understand the Ohio Bed tax system.

Old Business

Web Site: Nancy Flowers reported the Department’s web site has posted the Council’s information for meeting dates, meeting minutes and agendas, member listing and the by-laws. It was suggested that pending legislation be prominent on the website.

Report on Consumer Choice Reports: Sally Petrone presented the final draft of the Consumer Choice Information Report (CCIR) for Shared and Assisted Living facilities.

The statutory mandate for the Consumer Choice Information Reports (CCIR), Public Act 95-0823, signed by the Governor on August 14, 2008, requires the State Ombudsman Office and the Office of the Attorney General to create an on-line database. The CCIRs of long term care facilities would be posted on the IDoA web page.

CCIRs will be completed by licensed facilities using the on-line “Survey Monkey” and the information put into the searchable database. Public access to the CCIRs will begin on July 1, 2009. Pilot testing the CCIR began in late fall of 2008, by facilities, family members and faculty residents.

The Long Term Care Council Report for 2004-2008: Achievements and Challenges: The draft of this report was presented by Sally Petrone. There was an animated discussion within the Council as to how the report should be written and what it should contain. Sally requested members to review the draft and to send her suggested revisions or addendums.

Margaret Niederer urged that a new format be used for this report, to include a table of contents. The report should include information on what the Council has achieved as a group. This would include the setting of priorities, action on motions, efforts to have broad representation on the Council, identification of barriers to action, addressing problems with the LTCOP, and other accomplishments.

It was suggested that this report be created annually, with list of the activities of each prior year. It was recognized that the annual report was significantly overdue, but it was agreed that once a format was established, the report could be done every year, as required.

David Sutor asked: what constitutes an achievement of this Council? One example that was cited was the legislative effort on “personal needs allowance.” Nancy Flowers noted this was a collective effort for a group. She pointed out that the Council has served as an endorsing body (on legislation), which reflects the consensus of the members of the Council.

To formalize the apparent consensus on the group, Phyllis Mitzen moved that this report be completed on a yearly basis. The motion was seconded and adopted.

Future Approach: Lee Beneze specifically urged that the Council develop legislation and build a supporting coalition for “bed tax” legislation for 2010. Generally, he suggested that the Council focus on changing programs, preparing and supporting good legislation, trying to stop bad legislation, and always seeking additional funding.

Mr. Beneze suggested that the meeting calendar needs to “front loaded” toward the beginning of the calendar year, when the legislative session is going on. That would increase the Council’s ability to influence legislation.

In addition, he suggested that some kind of requirement for attendance at these Council meetings be imposed, and a way to replace non-participating and retiring members in a timely way be developed so as to keep the Council at full strength be adopted.

FY10 Budget: Sally announced the Department has scheduled an Aging Network briefing to present the Governor Quinn’s FY 2010 introduced budget for IDoA. The briefing will follow the Governors Budget Message on Wednesday, March 18, 2009. It will be held at 2:00 p.m. at:

State of Illinois Visitor Center
425 S. College
Springfield, Illinois 62701

At that presentation, the Department’s budget in relationship to the whole state budget will be explained, followed by a brief budget overview of the programs and the proposed level of appropriation for FY10.

Future Meetings: The 2009 Council meeting dates and locations are as follows (all meetings are from 10:00 am till 3:00 pm):

Wednesday, July 29, 2009 (Video Conferencing) will be held at two locations: 1.) IDOA, State of Illinois (Michael Bilandic Building), 160 N. LaSalle St, Suite N-700 in Chicago and 2.) Illinois Department of Healthcare and Family Services, 2200 Churchill Rd, Bldg 2, 2nd floor in Springfield.

September 15, 2009 – Springfield at the Northfield Inn and Suites Conference Center, 3280 Northfield Drive.

Final Announcements and Wrap-up: Bill Bell, IDPH announced his staff continues to do facility surveys, but noted that he has 40 vacancies within his staff. He noted that it takes 6 months to a year to be trained in order to conduct surveys.

Margaret Niederer recommended that the following topics would be beneficial to this Council: surveyors, home health monitors, a description of DPH functional areas, needs within that agency, and posting new registrations on their web site.

Bill Bell will present at the next meeting an update on their web site, the health care worker background check rules. He said that CNAs and home health workers with convictions of abuse (child) should not be doing home health work.

He offered his opinion that there is currently a need to have a national health care worker background fingerprint check. The federal government is aware of this and it might be done in the next several years. He briefly discussed the CNA career ladder and its extra training requirements.

Michael O'Donnell discussed the Deficit Reduction meeting and the recent topics included the state provision of health and human services, reductions to the state budget, the use of the new stimulus money for prompt payments for providers, possible increase in sin taxes and/or income tax by 5%, maximizing federal dollars, income bonding security for State of Illinois and the consequences of no expansions of state human services programs. Currently in Illinois there are 17 services taxed out of list of 170 potentially taxable services. In other states, an average of 55 services are taxed.

Sally Petrone welcomed Phyllis Mitzen as a new member to the Council, and noted that she replaced Martha Holstein.

Marie Havens announced her retirement from state government in June, 2009. The Council thanked her for her contributions and support as a Council member and as a public servant seeking ways to better serve the DD population.

Save the Date: An announcement was made to "save the date" of April 23, 2009, from 8:30 a.m. – 4:00 p.m., for the Illinois Respite Coalition, a Lifespan of Respite Care Summit, at the Crowne Plaza Hotel, in Springfield. The theme this year is "One Voice for Respite Care," which will include learning how you can help bring Federal Lifespan Respite funding to Illinois. This program would support ALL families in need of respite care across their lifespan.

Notice of Request: A Notice of Request for Proposals for the Neighborhood Stabilization Program (NSP) was handed out. The Illinois Department of Human Services will host statewide workshops in March to provide technical assistance to potential applicants and organizations seeking to learn more about the NSP.

At these workshops, representative from HUD, the Illinois Housing Development Authority, the Corporation for Supportive Housing, the Supportive Housing Providers Association, and the Illinois Assistive Technology Program will be on hand to answer questions. They might even arrange additional informational sessions for organizations interested in learning more.

For further information on how to register, please refer to the NSP website at: www.dhs.state.il.us/NSP.

The meeting adjourned at 3:15 p.m.

The meeting minutes were prepared by Connie Hill.