



State of Illinois  
Illinois Department on Aging

# Illinois Long-Term Care Council Meeting

**Date:** April 13, 2010

**Location:** Video Conference

**Members in attendance:** Eva Hall, Margaret Niederer, Pam Sall Edelman (by phone), Michael O'Donnell, and Robyn O'Neill

**State Agency members:** Sharon Woods (Healthcare and Family Services), Rick Dees (Public Health), Jillayne Kaiser Robinson (Public Health), Lee Beneze (Aging), Bill Bell (Public Health), Gwen Diehl (Veterans Affairs)

**Office of the State Long Term Care Ombudsman:** Sally Petrone and Neyna Johnson

**Guests:** Sgt. Todd Trautvetter (Illinois State Police Medicaid Fraud Unit), Trooper Kerrick Leatherwood (Illinois State Police Medicaid Fraud Unit), and Cinda Lubich (Illinois State Police)

**Members Absent:** Myrtle Klauer, John Hosteny, Deb Dell, Ann Ford, Phyllis Mitzen, Ben Brown, and David Sutor

## Call to Order and Introductory Matters

The ILTCC, Illinois Long Term Care Council was called to order at 10:15 a.m. by Co-Chair, Lee Beneze. The first order of business was self-introductions by members. It was noted that the Council did not have a quorum; therefore, the minutes will only reflect Council discussions and recommendations.

Several new members were introduced or their appointments noted: Robyn O'Neill, Esq., Regional Ombudsman at the Legal Assistance Foundation, in Evanston; Ben Brown, Esq., attorney at the Land of Lincoln Legal Assistance Foundation, in Springfield; Gwen Diehl, chief of long term care at the Department of Veterans Affairs, and Rebecca Harshberger, Department of Human Services (whose appointment is expected soon).

Ethics Training Agreement forms had been sent to all Council members. Another notice will be sent to remind the remaining members and new members to submit their forms.



## Past Meeting Minutes

The minutes of the January 26, 2010, meeting were reviewed. These minutes will be formally adopted at the next meeting. Necessary corrections are as follows:

Add Sharon Woods to State Agency attendance. Add to first paragraph of her summary, “ventilator dependent residents.”

Add that a motion had been made at that meeting by Niederer and Mitzen, and adopted, that the Council compose a letter, with strong emphasis on the need to increase the number of Public Health surveyors and increase Long Term Care Ombudsman Program funds; the letter would be sent to Gov. Quinn. This adoption was all part of **one** motion, not two separate ones. A letter had been drafted by Nancy Flowers, former Council Co-chair, (on behalf of the Council), and sent to Michael Gelder, in the Governor’s Office, **not** to Governor Quinn.

It was requested that since this was not what the motion had called for, another letter will be sent to the Governor, as stated in the previously adopted motion. Note: Later in the meeting, Margaret Niederer agreed to re-write the letter to the Governor, on behalf of the Council.

It was suggested that when the minutes are sent to the Council and placed on the Departmental website, they should have the “draft” watermark. It was emphasized that minutes are not approved until the **next** Council meeting. It would also be beneficial to have a definition list of all acronyms used in the meeting, or that the acronyms are spelled out.

## State Agency Reports

### Healthcare and Family Services

Sharon Woods reported. As of Feb 10, 2010, there are eighteen (18) new Supportive Living Facilities. Two (2) are for the physically disabled, under the age of 65. Macon County was a targeted area, but was not included in the Feb 10th announcement, due to competition. The Department received competitive RFPs for Macon County. The two facilities for the physically disabled are Silver Creek in Woodstock and the Eden South Shore in Chicago.

A new Dementia Pilot has been released for solicitation. Applications will be taken April 1 –July 31, 2010. Included in the solicitation is a request for more SLFs (supportive living facilities) for the 22- 64 year old, physically disabled population. A major goal for HFS is to get more facilities in central and southern Illinois.

### Public Health



Rick Dees reported. He discussed the activities of closing the Somerset facility (with a large mentally ill [MI] population) in Chicago and Fox River in Aurora. These facilities have been in and out of compliance on a number of occasions (called “yo-yo” facilities). Somerset had 320 residents, 72 identified offenders and a large number of mentally ill residents. A monitor was in place, this past year, and Somerset came into compliance. The monitor returned in Dec 2009. All residents were placed within 5 weeks.

Public Health wants to insure residents had options and choice of where they wanted to go when Somerset closed. All possible resources were used—state and local. The agencies involved all learned a lot from the closure. The shared agency experiences have created a cohesive, effective, safe plan for future closures. Agencies, such as HFS, DPH, DHS, DMH and the ombudsmen, had a daily, active voice in the process. It was a highly effective team process. Facility management was also instrumental in making the transition work.

Effective team work took place in the closing of Somerset and Fox River. This is an excellent opportunity for the Council to commend the successful job and teamwork in the closure of Somerset and Fox River.

Somerset closure was used as a ‘best practice’ model for the decertification of Fox River, in Aurora.

Because Fox River was the only facility, closure could have ended in an emergency situation, but because of the previous decertification, there was a quick and effective closure there, as well.

Fox River also had a monitor. There were over 100 residents that needed placement. Some residents were MI and offenders. Both facilities closed within a day of each other. Somerset made the “Special Focus” facility list but never made the poor performing list. Complaints on Somerset were also being received on the federal level. CMS conducted their own survey and identified many deficiencies. It was noted that two annuals are required for listing as a “Special Focus” facility.

Rick said that the State would do more surveys, if the Department had the staff to do them.

Healthcare and Family Services (HFS) will do on-going monitoring of the Medicaid residents that have been transitioned out of the Somerset and Fox River facilities. HFS will be looking particularly at the transfer of funds and follow-up to see if the residents are adapting to their new surroundings. Some residents were placed into community settings, while others were redirected to facilities that were better than the one they were leaving.

Public Health has also been monitoring the residents. There were two or three Chicago ombudsmen involved in Somerset procedure on a daily basis. These ombudsmen were involved in the interview process and ensured resident choice. The ombudsmen have also followed up with residents that have transitioned to new nursing homes.



It was reported that a huge emotional toll was taken on the ombudsmen who witnessed and participated in the resident relocation. Some residents have been living in the facility for 20+ years. HFS, Jean Summerfield and a State monitor were also involved in the process.

Identified offenders were also moved. One key issue which emerged was whether “immobile” needs to be redefined.

Rick stated that the pending omnibus bill on nursing home safety issues, which is expected to emerge as early as this week, will include a focus on improving the criminal background checks and pre-screening processes.

Public Health staff recently attended a Federal Centers for Medicaid and Medicare (CMS) conference for the six Region V states for a discussion on the “Special Facility” process. Michigan has already started notifying nursing homes they are on the list. CMS is the curator of this federal listing. Each State is limited to the top 15, and must replace each listed facility with another, if one should come off of the list.

States will be providing additional State oversight, every 5 – 7 months, in addition to the two annual surveys. The list can be accessed at “Nursing Home Compare” web site and is public information. It was recommended that this list be placed on Public Health’s website. Jon Siegel, from Public Health’s legal office, coordinates the list. Nursing homes must meet the established criteria for being placed on the list. More information on this will be forthcoming at later meetings.

Rick reported on the *Rosewood* Case: the case originated when Public Health fined Rosewood Nursing Home, and this was challenged in court. The issue became one of the proper interpretations of the statutory language. The level of the fine was found to exceed the statutory authority of the Department by the Circuit Judge, citing the Nursing Home Care Act.

Public Health lowered that and other fines, but both appealed the decision and sought a statutory correction in the General Assembly. The Illinois Appellate Court ruled that the Circuit Court decision was void, in that the Circuit Court did not have proper jurisdiction over the case. However, until the statutory wording is changed, another facility could mount an administrative appeal based on the same grounds in a later case, which might result in a similar finding at the Circuit Court level.

Rick pointed out, in response to a question, that in 2008, \$2.6 million in fines were collected, but in 2009, only \$1.9 million was collected. This was largely the result of the Department trying to avoid another *Rosewood*-like decision. A statutory fix is being sought.

The new Quality Indicator Process was described. This is an overhaul of the survey process, which is under way. It is a computer driven process, which will direct surveyors to look at specific areas,



more closely. It will cause a more lengthy survey process, for it will be more focused, and the resident sample will be increased.

There are six phases of the process, and Public Health is in the 5<sup>th</sup> stage of the process. It plans to be completely on board in 2011. This process does not change the rules; it is a more computerized process that provides triggers, direction and re-direction, for the surveyors. It had the capability to track what the surveyors have done or not done. There will be a significant amount of training provided, for the surveyors.

### **Illinois State Police**

The subject of this discussion was the description of “warrant checks” and “criminal background checks.” This description was given by Sgt. Trautvetter and Trooper Leatherwood of the Illinois State Police (ISP).

**Warrant checks** are run through the ISP data system. Any active warrant will pop up in an ISP database search. However, just because a warrant is found in the system does not mean that an offender would be extradited on that warrant. Parking tickets, batteries, petty offences, drugs, murder, can only be extradited in Cook County or surrounding counties, (if indicated on the database). If a person with a Cook County warrant is found outside of Cook County, nothing generally can be done by an arresting officer; however, ISP may contact Cook County to waive restriction if a violent crime is indicated.

Local warrants for such things as burglary, drugs and other minor crimes are common around counties with college campus towns. These are usually non-violent offenders, and it was explained that these are generally only enforced within those counties, so a warrant would not necessarily result in the offender being detained and returned to that county.

**Criminal History Checks** are carried out on a database which is generally accessed by the input of a name and date of birth. In Illinois, the same information goes to both database systems. ISP can check them simultaneously. An Illinois criminal background check will show if the person has been charged or convicted of a crime. The mere charging of a crime does not mean that the person was guilty of that crime absent a conviction. Some convictions, not without some cost and difficulty, can be expunged from the record, particularly if the record is in error or identifies the wrong person.

If a person has a common name, police will use date of birth and a fingerprint to identify the correct person in the database. Social Security numbers are used only as a secondary check, because the SS numbers system is so complex, special training is needed to fully understand it. All fingerprints taken within the criminal justice system since 1974 have been entered into this database.



There are other identifiers which officers can use to determine if the accessed record is in reference to the correct person, such as tattoos, height, weight, known associates, etc.

Sgt. Trautvetter reported that modern ISP patrol cars have amazing computer systems that can pull up lots of personal data, as well.

The ISP conducts sweeps on health care providers. The approach is to try to get as much information before hand. They will obtain the names of all the residents in a facility and manually input data, which is time consuming. ISP has the capacity to scan the back of driver's license that will also provide personal information. Human errors do occur, said Sgt. Trautvetter, so the ISP must double-check the validity of the information and always err on the side of caution.

Only law enforcement officers and agencies can do such background checks; private agencies would not be privy to warrant information, although they would have access to other public records, such as convictions.

There was some discussion of the national health employees' registry and background checks. The difficulty with such a national database is creating comparable data from over 50 jurisdictions in the United States. For example, a certain act may be a felony in one state and a misdemeanor in another.

It was suggested and agreed that the Council needed to revisit the issue of having a nation-wide registry. The problem is that felons, convicts and other offenders commonly cross the State borders. ISP is also working on this issue on a national level.

### **State Long Term Care Ombudsman Report**

Effective March 1<sup>st</sup>, the State Long Term Care Ombudsman Program (SLTCOP) started the Money Follows the Person (MFP) project. Neyna Johnson has been designated the team leader for the SLTCOP and the MFP project. Webinar training is being provided for all ombudsmen, paid and volunteer.

Level 1 & 2 training is being held throughout the State. Some Regional Ombudsman Programs have discontinued L1 & 2 training, due to limited staff and funding.

Council members are invited to attend either training. Further information can be gained by contacting Neyna Johnson at 217-785-3140.

Civil Monetary Penalty (CMP) funds – Public Health recently granted an additional \$200,000 to the Regional Ombudsman Programs and funds are being distributed to the programs.

### **By-laws Committee**



Because Pam Sall Edelman had to terminate her call-in and leave the meeting early, she was asked to make a report from the Ad Hoc Committee on By-laws.

She said that she and David Sutor had reviewed the draft changes to the By-laws, and had concerns about several points. The first was the use of the words “absolute majority” in Section 4.1...she asked “what does absolute majority mean?” She raised the concern that the Council might not ever have an absolute majority.

Secondly, she noted that Section 4.4 needed to address whether Council members could attend the meetings by phone, and whether a “proxy vote” would be allowed. It was suggested that the Council consult the Department on Aging’s General Counsel whether this would be allowed under the Open Meetings Act (which has had some recent changes).

Other By-law revision issues included whether the Council has the authority to write legislation rather than just reviewing and commenting on legislation. This was an authority that some members seemed to think was important. It was noted that the statutory language governing the Council needed to be consulted on that issue.

Finally, there should be procedures for the election of a Co-chair, as that position is vacant and a new Co-Chair needs to be elected at an upcoming meeting.

Lee Beneze said that he would write up some language for the By-laws revision and send it to the Ad Hoc Committee for review. The Committee could then refer it to the whole body for adoption or further revisions.

## **Legislation**

As Pam is also the Chair of the Legislation Committee, she was asked to open the discussion of legislation. She commented that she has reviewed SB 6440 (referred to as “6440”), as both a Jane Addams representative and as a family member. As a family member, she expressed her anger and concern over language in the bill. She queried, for example, how a 16 yr old can care for a loved one, if they haven’t been properly trained. She also stated the “advocates” bill (Senate Bill 0685) is too unrealistic and “pie in the sky.”

The Nursing Home Safety Task Force small committee work groups are trying to come to an agreement. It is their intent to have a revised 6440 bill by the end of this week. This does not mean that there will be mutual agreement between the advocates, industry and state agencies. Changes will be made, and presented to the full Task Force, and it will move forward from there.

The Senate (in particular) or the House may move other bills. The Legislature is trying to adjourn by early May. This puts a great deal of pressure on the House to act swiftly.



Many parties at the table are not in opposition to the requests for funding increases. The larger concern is **how** these are going to be paid for. Increase in licensing fees and bed taxes would generate more revenue, but that will trigger the strong resistance of the industry. Currently the proposed licensing fee is \$995 per facility.

There is a push to establish a "Certificate" for Sub Part S (skilled facilities for residents with a mentally ill diagnosis); I facilities must meet all the criteria/requirements to become certificated. The rule that designates how facilities will care for residents with behavior risks for potential harm to other residents may be expanded. Ways to accomplish this include, but are not limited to, increasing staff and security, and train staff on how to house residents with safety issues.

Another important proposed change will be the enhancement of the pre-screening process. This will cause residents with serious mental illnesses to be diverted from entering nursing homes; rather, these persons would be sent to appropriate community settings, if possible. Increased and improved staff training and the provision of adequate care to residents with mental illnesses might be added.

AARP has worked with many other groups to get pieces into this bill. There is hope that much of what has been worked by this grouping of organizations will be incorporated into the Omnibus bill.

The Personal Needs Allowance increase, Consumer Choice Information fees and bed fees to benefit the Ombudsman Program needs to be incorporated into the larger bill in order to go forward this year. Also most advocates would want the bill to include increased funding for Illinois State Police staffing and additional Public Health surveyors.

It was suggested that the Council should address the facility staffing issue, from an ombudsman perspective. From a mental health perspective, there was very little indicated in either bill.

The supportive housing industry needs to be explored, to address the lack of adequate community housing and resources for the mentally ill population. There are no plans to offer a Medicaid waiver for supportive housing. DHS is looking at enhanced services to keep mentally ill in their homes. They may look at a waiver in the future.

It was urged that the minutes of this meeting of the Council be posted in "draft" form, as soon as possible. This will assist the various coalitions and associations by keeping them "in the know" with regard to the importance of increased funding.

The Council should explore if a satellite teleconference can occur, to develop a new letter to Governor Quinn, emphasizing the importance to get adequate or increased funding. The Council needs to continue to take a strong position and no longer remain silent.

**Cinda Lubich (Illinois State Police)**





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Amber Alert is only used for abducted children. To date, 313 requests have been submitted. The Amber Alert has only been broadcasted 68 times. An Endangered Missing Person Advisory Group has recently been established to work on a Community Outreach Program to promote awareness among the State's healthcare facilities, nursing homes, assisted living facilities and senior centers.

In Illinois, there were 48,138 persons reported missing last year, of which 1,688 were over 55. The majority of reports are for runaways. In the Law Enforcement Agencies Database System (LEADS), a special key is designated for people w/cognitive disease. 131 have been entered using the special message key, which sends a notification to law enforcement agencies. Of the 951 entered in LEADS indicating a cognitive disease, all have been recovered.

There are several key factors when determining the recovery criteria. The law enforcement agency may use info, if it is deemed appropriate, based on the criteria. Sometimes missing persons are not being reported at the time of their disappearance; it is vital to report it ASAP to local law enforcement. The report can always be canceled if the person is found. Once the form is completed, the media will be alerted and the alert will be kept locally. A case is never closed if person not found and will go into FBI file. There are over 40,000 unidentified bodies.

More education is needed on 'when to take the keys away'; revoke driver's license, etc. Family can take a loved one to Secretary of State Office to be tested to determine if they should keep their license.

Several resources were provided to broaden the educational efforts for our senior community, i.e., through IDoA, AAAs, LTCOP, Senior Centers, Triad, AARP, EAP, Alzheimer's Association, etc.

Remember: An advisory must be activated by law enforcement.

A "Child Is Missing," is a nationwide agency that has a reverse 911 system. It can call a bank of phone numbers in any State.

Amberillinois.org is the Task Force website. Click on the law enforcement tag for further information.

## **Annual Report**

An ad hoc committee of Margaret Niederer and Phyliss Mitzen will work on a report to highlight the budgetary issues impacting the LTCOP and residents residing in LTC. It was recommended that the CCUs' budget woes be included in the report. As more CCUs lose funding, more clients will be forced into long term care. Margaret wanted assurances that the Department on Aging will be actively involved in the process/outcomes.

## **Vacancies**



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The Council has several vacancies, and the Co-chair position also needs to be filled. The Council is trying to re-invigorate itself, revitalize the committees, support the chairs, and specify “charges and tasks” for the various committees.

Margaret Niederer recommended that the Co-chair and Committee Chairs meet to make Council decisions such as composition of committees and adhoc committees. Beneze stated that as Co-chair, he has been trying to keep up the momentum of the Council, so he has been doing a lot of the work on the minutes, the agenda, the committee appointments and legislation, but agreed that as much as possible should be moved into the committee structure and the Executive Committee as soon as possible. As soon as there is a Co-chair elected and the final committee chair selected, the Executive Committee will be complete.

The Council will be put on the Governor’s Board and Commission website. It was questioned whether or not the Council should be on the website since it is intended for gubernatorial appointments, but Beneze thought that it was appropriate and might be helpful to be listed on the site.

It was recommended to add a presentation on and a discussion of the federal Health Care Reform Law and its impact on the Ombudsman Program to the July 20<sup>th</sup> Council meeting. This was agreed to. Mike O’Donnell offered his assistance on this matter.

### **Next Scheduled Meeting**

The next scheduled meeting is set for July 20 at 10:00 a.m.

### **Adjournment**

The meeting was then adjourned at 2:20 p.m.

Respectfully submitted:

Neyna Johnson, DSLTCO