

MEETING
of the
ILLINOIS LONG TERM CARE COUNCIL
July 20, 2010

Illinois Department on Aging, Chicago
(160 North LaSalle, Suite N-700, Chicago)
Department of Natural Resources, Springfield
(Teleconference Room, State Fairgrounds, Springfield)

Members Present

Council voting members in attendance: Margaret Niederer, Ben Brown, Ryan Gruenfelder (sitting in for Dave Vinkler as a non-voting attendee), Tami Wacker (as a non-voting attendee for Michael O'Donnell) Myrtle Klauer, Pam Edelmann-Sall, Phyllis Mitzen, David Sutor, John Hosteny, and Sally Petrone.

State Agency members in attendance: Lee Beneze (Department on Aging) (Co-chair), Sharon Woods (Department of Healthcare and Family Services), Bill Bell and Rick Dees (Department of Public Health)

Guest: Neyna Johnson (Office of the State Long Term Care Ombudsman)

Members Absent: Robyn O'Neill, Deb Dell, Ann Ford

Initial Matters and Minutes

Due to problems with the video hookup, the Council meeting was called to order at 10:23 a.m. by Co-chair, Lee Beneze. The first order of business was a round of self-introductions by members. It was noted that the Council had a quorum present.

Margaret Nieder recommended that future minutes should reflect the name and address of where the meetings are held, if there a quorum, include full name of person making recommendations or motions be specific on all recommendations and motions, and reflect Old and New Business. Recommended corrections to the April 13, 2010 minutes were made, and the minutes of the prior meeting were approved.

It was noted that the Council has several membership vacancies; and that additional work to bring on new members is vital.

State Agency Reports

Illinois Department of HealthCare and Family Services

Sharon Woods reported there are currently 121 supportive living facilities in operation. To date, no applications have been received for the dementia units. The deadline is July 31, 2010. She anticipates there may a few submissions before the deadline date.

There is a question as to whether or not SB 326 (the Nursing Home Safety bill) will impact on supportive living facilities. They may be indirectly impacted by the new screening practices or by the nursing homes ratio methodology. Mentally ill residents who transition into community will need to be monitored more closely.

Operation Guardian

Bill Bell, assisted by Sally Petrone, made a report on recent "sweeps" in nursing homes.

Fourteen "Operation Guardian" sweeps have been conducted across the State by the Attorney General's office. The multidisciplinary teams are comprised of representatives from the Illinois Department of Public Health, Illinois State Police, the Attorney General, local law enforcement, Long Term Care Ombudsman Program, and the Department of Professional Regulations. Attorney General Lisa Madigan has herself attended three sweeps. She also held a press conference at an East St. Louis Senior Center.

During these sweeps, the Illinois State Police have made several arrests. Sometimes police dogs are brought into the facilities for drug sniffing. Care plans, licensing, and resident records are all reviewed during the sweeps. Residents with outstanding warrants have been discovered; at least one resident (sometimes more) has been removed by law enforcement at each facility.

The involved nursing home administrators have been cooperative. There has been local media coverage in some areas.

The following nursing homes have had an Operation Guardian sweep: Virgil Calvert in East St. Louis, Golden Moments in Jacksonville, Bourbonnais in Boubannois, Sharon Health Care in Peoria, Balmoral, Columbus, All Faith Pavilion, and Presidential Pavilion- Chicago,

During the sweeps, the ombudsmen act to reassure, calm and inform the residents of what is happening. This is also an opportunity for residents to be educated on "Money Follows the Person." "Money Follows the Person" is a pilot program geared to moving residents into the community, if they meet the eligibility requirements.

The State Police have also found missing persons in the nursing homes during these sweeps. Names and dates of birth are being cross checked by the Department of Healthcare and Family Services.

State Long Term Care Ombudsman Program

Sally Petrone stated that the number of statewide training sessions has decreased due to lack of requests and limited ombudsmen staffing. Volunteers need on-going supervision, training, and support. Most programs do not have the staff to provide the necessary nurturing and support they need.

The Office attempts to hold at least four trainings a year; this is dependent on whether there are four or more people to be trained. All Level 1 and Level 2 training is on the Monday Memo calendar. Both Level 1 and Level 2 trainers must be certified to provide training.

Contracted certified Level 2 trainers are: Muriel Shackelford, Robyn O'Neill, Jessica Belsly and Cathy Weightman-Moore. The State Office staff co-trains with contracted trainers as required. Two certified trainers are required for Level 2 training.

Tami Wacker stated that due to her programs staff reduction and lack of demand for training, her area has not held Level 1 or Level 2 training in a long time. Volunteers need strong support, training, and supervision, and most programs do not have adequate staff to provide strong volunteer components.

Tami noted that as a result of her reduction in volunteers and greater focus on a stronger regular presence with paid staff as opposed to volunteers, she feels her program is much stronger.

Margaret Niederer stated that federal regulations treated ombudsman volunteers the same as paid ombudsman. She also recommended that a smaller group discussion around volunteering and funding for the program is needed.

The Nursing Home Safety bill, SB 326, must be signed by the first week of August. The Governor is expected to sign it within the next few days.

Margaret Niederer made several suggestions: All Long Term Care Council members should receive the Long Term Care Ombudsman Program "Monday Memo." The Long Term Care Council meeting dates should coincide with the legislative sessions. She also inquired about the status of the Long Term Care Ombudsman Program's Level 1 and Level 2 training, and whether they are they still being held. It was pointed out that any Council member who wished to attend could do so.

Margaret also suggested that the Long Term Care Ombudsman Program advise members of all upcoming training dates. Finally, she urged that all Council members need to be better informed on legislative action, and the programmatic activities of the Long Term Care Ombudsman Program.

Illinois Department of Public Health

Bill Bell made the report on behalf of the Illinois Department of Public Health. He started by saying that the Department was waiting to learn the implementation date for SB 326. A meeting is being held on July 22, 2010, to address the implementation aspects of the bill.

He noted that the greatest challenge of implementation is how to carry out the mandates without sufficient funding attached. Workgroups are discussing ways to capture funds from other places like bed fees, federal grants, and increased licensure fees, just to name a few examples.

Summary of Bill Bell's Report on Public Health's Major Implementation Issues of the Nursing Home Safety Legislation

Expand the Consumer Choice Report

This activity will involve both the Department of Public Health and the State Long Term Care Ombudsman Program. Extra links and an improved data base are needed. Much of the data comes from the Feds and they are very strict about who receives the data and who the information is being shared with. Surveyors conduct inspections to determine compliance with federal certification requirements for nursing homes participating in the Medicare/Medicaid programs. However, the Department of Public Health does not have an informational technology, computer staff, or dollars to improve the current database functions.

SB 326 would ideally gradually increase the number of surveyors by the following numbers: 1 surveyor to 500 residents, then to 1 to 400, then to 1 to 300. Currently there is 1 surveyor for every 750 beds. Bill Bell reported that in the Bellwood region, however, the ratio is 1 surveyor for every 1000 residents.

Bill Bell said that surveyors are not getting out on timely basis for follow up visits. Sometimes the federal government fines the Department for the delays.

Bill Bell said that the Department needs to hire 91 surveyors to get to the 1 to 500 ratio, hire 55 more to reach the 1 to 400 ratio and 90 more to reach the 1 to 300 ratios. More surveyors are needed in the Chicago area, where the most nursing homes are. Some areas have adequate surveyors, other areas need significantly more. He reported that the Department of Public Health has been told to hire the new surveyors and that the Governor's office will later worry about the funding for the positions.

Ryan Gruenfelder of AARP noted that, in lieu of a detailed budget, the legislators gave the Governor broad authority to allocate funding for programs next year from the amounts available in the State Treasury. Therefore, hiring surveyors without tangible funds at the present may be "doable."

The special funding accounts with "civil monetary penalty" funds" (CMP funds) for the Innovations Grants have been swept. The funding is being diverted into an Equity Program.

Solicited nursing homes are to come up w/innovative programs to provide quality of care. Money from the grant is to be used for temporary managers, and for nursing homes in danger of "going under."

Myrtle Klauer stated that in her opinion it was extremely unfortunate that that the Innovations Grants funds were cut. It was noted that the Department of Public Health had provided CMP funding, available upon application for nursing homes to implement Culture Change. At least 40-50 applicants had submitted grants for FY 2011. Many Illinois facilities implement culture change, which has made a significant difference in the quality of life and care for residents.

High Risk Violations

Nursing homes will be subject to higher fines or penalties, as part of a major push to protect the health, welfare and safety of residents.

Psychotropic Nurse Aides

A new curriculum is being developed for this new position. Myrtle Klauer stated that Activity Directors should also be incorporated into all of the new training aspects. Bill Bell appealed to the Council to please send in comments and recommendations on proposed language or language changes, and submit them to Illinois Department of Public Health.

Bill Bell felt that Subpart S of the regulations would be a good place to include the Activity Directors into the training. Margaret Neiderer made a recommendation that all social workers and facility consultants be included, as well.

Experimental Research

An Institutional Review Board will be appointed by Department of Public Health Director to develop rules and criteria on psychotropic drugs being used on residents by Chicago physicians.

High Risk

A new definition is needed for identified offenders, it is being developed.

Re-Screening the Mentally Ill

The Department of Human Services requires that screening must be done within 90 days of admission if there are indications that the incoming resident is mentally ill. The Department of Human Services has the authority to re-screen to determine if placement is appropriate.

Staffing

The Department of Public Health is a regulatory agency; it can only make a finding of noncompliance with the rules where there is sufficient evidence. Bill Bell also noted that there is

jurisdictional overlapping. For example, there is some shared jurisdiction with the federal Occupational Safety and Health Administration (OSHA), because many facilities do not have updated electronic lifts; this becomes a staff issue because two people are needed to lift.

Care Plans

Bill Bell said that he expected that these would be right out of the federal regulations.

Informed Consent

New regulatory language on this issue is being proposed, which will deal with competency and consent issues.

Resident Injury Data Base

The Department of Public Health does not know what this database would be used for; Bill Bell speculated that it would be for research purposes. He said that the Department does not have IT staff to collect the required data.

License Fee

Bill Bell said that the annual license fee would increase from \$995 to \$1990.

Behavioral Management Units

Bill Bell said that these new types of behavioral management units will be certified. The cost, security and safety issues must be considered.

Psychotropic Rx's

Bill Bell said that new criteria and forms will be developed regarding psychotropic Rx's. Bill Bell has been in discussion with a Department of Human Services pharmacist (for State operated facilities) on this issue.

Psychiatric Rehab Programs

To have this program, facilities must be certified and meet the requirements of Subparts S and P. There will be a fee for nursing homes certification, a discharge process, and specialized training will occur. Bill Bell said that no "grandfathering in" would be allowed.

The workgroups for this program will need to solicit the expertise of the Department of Public Health and the Division of Mental Health.

If a person has indications of a serious mental illness, the nursing home will need to be certified to accept that person as a resident. Program implementation will not occur until the rules are adopted, probably next year.

Health Care Worker Background

Bill Bell said that a background check will be required. He mentioned the establishment of a national data base.

Distressed Facilities

The term "distressed facilities" must be defined. These will go on a quarterly published list. It is expected that these facilities will be more closely monitored. The Government Accounting Office report to Congress identified 47 poor performing facilities in Illinois. Illinois will have to come up with its own list of "distressed facilities" based on the GAO process.

The report referenced was GAO Report 09-869, which is available on-line.

Rick Dees stated that it was interesting that the Midwest region has the largest number of these facilities.

The State may place a monitor in these facilities to determine if the facility is working to fix the problems; there may also be increased sanctions and requirements that the administrators take additional training,

Fines

Fines will be increased for Type AA, A, B, and C violations. There will be a \$25,000 fine for Type AA violations resulting in resident death. When the rules are adopted, the increased fines will be implemented.

Resident Checks

It was noted that nursing homes admitting residents must do a background check. If a nursing home determines that a resident is an offender, they can immediately do an emergency discharge. However, the resident is entitled to an appeal hearing after the discharge.

Resident Sexual Assault, Whistle Blower Protection

The Department of Public Health is working on a draft from Polly Poskin on how to best address this issue and the issue of whistle blower protection.

Warrants

The new rules will require that warrants will be automatically checked on each individual resident. This is an Attorney General and Illinois State Police issue. There will be a created an identifier database at Department of Public Health. Residents will be tracked, since many of them move to different facilities. The intent is to tighten the process, increase surveillance and have more follow-up by the Illinois Department of Public Health.

Pre-Screening

Changes to the pre-screening process will be developed by the Department of Human Services and the Department on Aging.

Sharing Information with the Department of Financial and Professional Regulations

The Department of Public Health will share information on the MDS (minimum data set) with the Department of Financial and Professional Regulation; sharing the information will allow better coordination efforts between State agencies.

Workgroup on Funding SB 326 Implementation

The Long Term Care Advisory Board has now set up a two month schedule and is likely to start the rulemaking process as quickly as possible. When the rule(s) are proposed, there will be an opportunity for public comments. The "Illinois Register" lists proposed and pending rules.

All proposed rules from the Department of Public Health must go thru the Advisory Board, before they can be submitted for public comment. September 22nd is the date of the next Long Term Care Advisory Board meeting. The Nursing Home Safety Task Force also has a draft implementation plan and timetable.

The expectation is that the Governor will sign SB 326 as is, and there will be additional work later on fixing problems with it.

Margaret Niederer recommends the Long Term Care Council might want to write a letter to the Governor to encourage funding to fully implement SB 326.

Sally Petrone was asked to provide a status report on the impact of SB 326 on the Long Term Care Ombudsman Program. Lee Beneze stated that, in addition to Sally Petrone, it would be helpful to have Council representation at the various meetings of the group working on the proposed rules. The representatives would report back to the Council, and be positioned to make comments and suggestions on the proposed rules as representatives of the Council.

Phyllis Mitzen noted that the July 7th Implementation Workgroup meeting would be a good setting to have a representative(s) designated (from the Council), to attend all future meetings and report to information back to the Council.

Dave Vinkler has been attending all the meetings, Sally Petrone goes to some, and other Council members should make it a point to have representatives at the meetings.

It was explained that there are multiple smaller workgroups. It was highly recommended that the Council members get involved with the smaller workgroups.

Motions Offered

At this point, Bill Bell concluded his summary and several motions were offered.

Margaret Niederer moved, seconded by Myrtle Klauer, that Council members Phyllis Mitzen, Sally Petrone and Dave Vinkler be designated as the Council's representatives to keep the Council informed of all implementation issues of SB 326 and the issues and timelines of the Nursing Home Safety Task Force. The motion was adopted.

Margaret Niederer moved, seconded by Ben Brown, that this Council write a letter to the Governor, President of the Senate, and the Speaker of the House, and copy all of the legislators who were major sponsors of SB326. The letter should indicate our appreciation for the passage of SB326 and stress the urgency to provide necessary funding to hire 91 qualified staff to be in compliance w/the new Act. The motion was adopted.

Phyllis Mitzen questioned how to utilize the expertise of this Council most effectively, especially at such a critical juncture in the implementation of SB326.

John Hosteny stated that there should be involvement of all Council members. Dave Sutor stated that he thought there was no reason to create another committee, but we should utilize what we have.

Margaret Niederer moved, seconded by Myrtle Klauer, that the Council Executive Committee develop a strategy for the participation of this Council in the implementation of SB 326. The motion was adopted.

By-Laws

The Ad Hoc Committee on By-laws Revisions submitted proposed revisions of the Council By-laws. Lee Beneze stepped out of the role as chair of the meeting, as he had drafted and was a proponent of the By-laws revisions. Sally Petrone acted as chair for the discussion on this agenda item.

Ben Brown moved, then rescinded, his motion to adopt the by-laws revisions as submitted. An extended discussion followed. Various suggestions were made to add parts to the by-laws involving use of advanced technology for membership participation via email and other electronic means, reasonable causes for absences of members before penalties are imposed, and the allowance of proxies for absent members.

Following the extended discussion, the consensus was to return the draft revisions to the Ad Hoc Committee. The Committee will then receive and review additional recommendations made in the discussion and re-submit the revisions for approval.

New Members

The Council continues to seek new members. Suggestions as to possible new voting members should be directed to the Co-chair, as those nominations must be approved by the Director of the Department on Aging.

Lee Beneze reported that he had looked into placing the Council on the on-line website of the Governor's Office of Boards and Commissions, but learned that, to do so, the committee or board must have one member appointed by the Governor. The Council does not have any gubernatorial appointments.

Election of New Co-chair

Lee Beneze asked any member seeking to be elected as the Co-chair to place their name before the Nominating Committee. Ben Brown and John Hosteny were appointed as the Nominating Committee for the election to the Council Co-chair position.

Legislation

The new Power of Attorney bill, which includes a number of revisions to the current law, is expected to be signed into law by next Tuesday. It is HB 6477.

Dave Vinkler and Ryan Grunenfeld, of AARP, stated that they would be willing to do training for the Council on the new bill.

Ben Brown informed the group about the probable new Medicaid rules on (among other things) transfers of assets. These have not yet been proposed by the Department of Healthcare and Family Services. These rules are mandated by changes to the Medicaid program passed by Congress in March, 2006. Illinois is one of last two States to implement the federal mandates. Ben Brown volunteered to provide a briefing at the next meeting

New Business

Public Hearings by the Council

Sally Petrone suggested that it would be an excellent time to hold a public hearing on nursing home issues during the Governor's Conference. The consensus of the group was that this would be an idea worth pursuing.

Announcements

The next meeting was rescheduled from September 21 to September 28, 2010 [later it was rescheduled for October 26th].

It was noted that August 14 is the 75th anniversary of Social Security; a celebratory event will be held at the Senior Building, details to be announced.

It was also noted that the Walgreens Wellness Bus would be for parked and available to the public for three days outside of State Fairgrounds during the State Fair.

Adjournment

The meeting was adjourned at 2:35 p.m.
