

**Minutes of the Meeting of
the Long-Term Care Council
October 4, 2011**

Attending: Lee Beneze (Co-Chair); Tami Wacker (Co-Chair) John Hosteny; Pam Edelman-Sall; Ann Ford; Phyllis Mitzen; Dave Sutor; Robyn O'Neill; Margaret Neiderer; Neyna Johnson; Sharon Wood; Eva Hall; Kevin Taylor; Doree Vetter; Tony DelGiorno; MSGT Todd Trautvetter; David Vinkler; John England; Bill Bell; and Brad Evetts (law student intern and guest).

Absent: Pat Comstock; Ben Brown; Myrtle Klauer; Sally Petrone; Gwen Diehl; Rebecca Harshberger.

Proxies: Doree Vetter for Gwen Diehl, Illinois Dept. of Veterans Affairs

Recorder: Grace Sweatt

Agenda Item 1

Welcome, Introductions and Initial Items

Call to order: The meeting was called to order at 10:00 a.m. A quorum was present.

New member recruitment. Tami Wacker reports that James Brosnahan, a resident at Lewis Memorial Christian Village in Springfield; Pat Van Behren, a resident at Castle Manor in Lincoln; Alice Johnson, the parent of a nursing home resident (now deceased); John England, a volunteer ombudsman and former nursing home employee; and Krista Sherock of the Illinois Department of Human Rights have all expressed an interest in serving on the council.

Lee reminded the Council that potential members must review, sign and return a copy of the state's required ethics materials. These will be mailed out October 3rd or 4th.

Changes to meeting agenda: The following topics were added to the meeting agenda:

- Submission of the Open Meetings Act checklist
- Discussion of the *Colbert v Quinn* proposed consent decree

A question was raised regarding the Council's official position on the proposed staffing rules. At this point in time, the Council does not have a formal position on this proposed rulemaking and has not drafted a letter in either support or opposition.

Approval of Prior Minutes

Suggested corrections: on page 2, paragraph 3, line 2 – which currently reads “hundreds of pages of public comments...” the phrase “of pages” should be struck out, to read “hundreds of public comments....”.

-on page 2, last paragraph, line 1 – which currently reads “Lee stated his preference that the new co-chair, because she is not a state employee...” the word “she” should be struck out and replaced with “Tami Wacker”.

-on page 2, last paragraph, the entire final sentence from that paragraph should be struck.

A discussion of the format of meeting minutes ensued, with the consensus that, as to “action items,” the member or members responsible for taking action, and timelines for accomplishment, be more clearly identified.

The June meeting minutes were then adopted with the above corrections and revisions.

Agenda Item 2 State Agency Reports

Illinois Department of Public Health: The report was made by Bill Bell of the Department of Public Health. Comments on the “informed consent” and “staffing” rulemakings are currently under review. Changes to the “informed consent” rulemaking may require a rewriting. The state is currently awaiting guidance from Governor Quinn regarding the staffing issue.

Bill reported that revisions to the rulemaking implementing SB326, regarding “psychiatric rehabilitation certification (Sub-Part S)” have been drafted and will be submitted within a month.

The Department of Public health and the Department of Human Services are moving forward with a pilot program that tracks medications prescribed to residents of state operated facilities. The goal of the program is to help reduce psychotropic and poly-medication use, thus reducing falls, erratic behaviors, and even deaths among residents. The purpose of the program is combat unintentional medication interactions, inappropriate use of psychotropic medications, and failure to identify the need for lower doses of medications among geriatric clients. The program relies on a combination of federal and state funding.

Action Item: Council members suggest that Randy Malan, the DHS pharmacist who has been instrumental in developing this program, speak at the Governor's Conference. Brad will assure that Lee is given Randy's contact information.

David Vinkler suggested that the Illinois Long Term Care Council support an RN staffing level of .75 hours per day per client with the addition of 1.2 hours of RN/LPN staffing per patient per day.

David suggested that the Council should send a letter to Governor Quinn supporting staffing at this level. A motion was made to have Tami Wacker write and sign a letter to the Governor to reflect this position. The motion passed with only one opposed.

Action Item: Co-chair Tami Wacker, will draft and send a letter to Governor Quinn supporting the staffing levels suggested above.

Illinois Department of Healthcare and Family Services: This report was made by Sharon Woods. Sharon indicated that there are currently 130 supportive living facilities (SLFs), with a total of 10,000 units. These facilities are serving 9,200 residents, of which 5,600 are Medicaid eligible.

Additionally, there are currently 28 SLFs, with a total of 3,000 apartments, under development. Two specialized dementia SLFs (those being Lavender Ridge and Asbury Gardens) are operational and a third specialized dementia SLF will open by June, 2012.

Sharon confirmed that non-expedited payments for services provided in July will reach facilities in December, 2011 or January, 2012. Facilities qualifying for expedited payments will receive payment for July services in November.

Sharon indicated that the Department of Healthcare and Family Services would submit their proposed rulemaking on nursing home reimbursement rates in October, but that it was possible that JCAR (the legislative joint committee which must approve rulemakings) might seek to block the rulemaking. She noted that if the proposed rulemaking is not adopted within one year, then the process must start all over again.

Action Item: Brad will get the agenda and location for the October 11th JCAR meeting and find out whether or not this is a "drop dead" date for reimbursement rulemaking suggestions.

Illinois Department of Veteran's Affairs: The report on the Department of Veterans Affairs was made by Doree Vetter. Doree reported that Veteran's Affairs is hoping to get a new building at the Forest Park Preserve near Hines Hospital in Chicago.

She reported that there is currently no waiting list at the Quincy veterans' facility.

Doree indicated that shelters that are currently being developed for homeless veterans are not affiliated with the VA.

Illinois State Police: The report on the Illinois State Police was made by Master Sergeant Todd Trautvetter. Todd reported that an observant officer recently discovered that the sealed criminal records of juvenile sex offenders can lead to situations that allow sex offenders to work in nursing homes. This concern was taken to the Attorney General's office and is currently under investigation.

Agenda Item 3

State Long-Term Care Ombudsman Program Report

The State Long Term Care Ombudsman's written report was submitted for review (and is attached). Neyna Johnson indicates that ombudsman programs will receive funding for the new Money Follows the Person (MFP) initiative through their Area Agencies on Aging in the near future.

Agenda Item 4

Discussion: Preparing the Next Annual Report

The discussion on this agenda item focused on the difficulties associated with assuring that Council minutes, reports, etc. are available to the public as required by the Open Meetings Act, due to a history of substantial delays in posting updates to the Department on Aging website. Alternatives were discussed with the realization that alternatives are only temporary measures. At this point in time, Tami has scanned and categorized all the Council's existing documents and can easily forward any requested document via e-mail.

Action Item: Tami will develop an index of Council documents. Members will review the index and provide comments by December 1, 2011.

Action Item: Lee will attempt to determine who can help assure that Council minutes and other documents are posted to an official website in a manner consistent with the Open Meetings Act.

Action Item: A motion was made to write a letter to the Director of the Department on Aging (currently Michael Gelder), informing him that the Council is currently unable to meet the requirements of the Open Meetings Act due to delays beyond its control. Co-Chair Tami Wacker will sign the letter. The motion passed with no objections.

Action Item: A motion was made to name three individuals to review the activities of the Council to write a draft Annual Report in a format similar to last year's report. Tami Wacker, Robyn O'Neill, and Tony DelGiorno were selected for this task.

State agency representatives are encouraged to submit summarize of their reports for the prior year.

A section concerning the Public Forum at the July 2011 Elder Rights Conference will be included in this year's report.

Margaret Niederer raised a concern about getting hard copies of the report to legislators. Lee indicated that this could only be accomplished if another organization could pay printing costs. David indicated that he would be willing to cover printing costs if the Office of the State Long-Term Care Ombudsman would arrange an event that would bring Regional Ombudsmen to Springfield to distribute the documents to legislators. Neyna was in agreement with this idea.

Agenda Item 5

Briefing: The Public Form at the Elder Rights Conference in July

Tami received Pam Edelman-Sall's testimony and will send that out by e-mail today.

Agenda Item 6

Reviewing the Draft Report on Location of the Ombudsman Program

Official discussion of the draft report to move the Ombudsman Program out of the Department on Aging was postponed until the next meeting. Margaret feels this move is necessary to strengthen the Program and to assure the office of the State Ombudsman is able to advocate without conflict of interest. Margaret has contacted Department on Aging Acting Director Michael Gelder with her concerns and will share the results of that contact at the Council's next meeting. Margaret indicates that she is also considering sharing her concerns with the Administration on Aging.

Agenda Item 7

Identifying and Recruiting New Members

This agenda item was addressed during the earlier discussion on Agenda Item 1.

Agenda Item 8

Other Old Business

There were no other items for discussion under this agenda item.

Agenda Item 9

Legislation

Implementation and Financing of Last Sessions Nursing home Safety Legislation, including the status of Rulemakings. See IDPH & DHS agency reports under State Agency Reports (Agenda Item 2).

Summary Report on the 2011 Legislative Session: Lee encouraged Council members to be aware of the passage of HB 2020. This bill allows elder abuse caseworkers to continue to follow cases that are opened in the community into nursing homes.

In a review of legislative positions taken by the Council, the bills supported by the Council this session included: HB2020, SB145, HB1689, HB3134, SB144, SB103, and HB1096. Bills opposed by the Council included: HB1712 and HB1877. Members who are interested in learning more about these bills can access the text and status of the bills on the General Assembly website.

A discussion was held about ways that the Council can become more active in making legislators aware of their position on certain bills. David suggested that written testimony to committees or faxes to legislative offices are helpful. Lee was in support of writing short statements to clarify the Council's position on legislative matters if it would help increase the influence of the Council. Sally Petrone has also asked a representative of the Jane Addams Caucus in Chicago to make a presentation on their methods of advocacy.

Issues Upcoming in the October Veto Session: The Council discussed HB1712. This bill would roll back some of the revisions to the Power of Attorney Act (passed in 2010, which took effect in 2011) by allowing the creation of "excluded powers of attorney."

The Council opposed HB1712 because the language of the bill created a set of "excluded powers of attorney" that would not be subject to some of the safeguards built in the Power of Attorney Act. Governor Quinn issued an amendatory veto to correct this problem. However, the legislature must still vote to adopt the amendatory veto (or treat it as a veto and vote to override it).

A Motion was made to support the Governor's amendatory veto. David Vinkler and Kevin Taylor abstained. The Motion passed.

HB1877 was also discussed. HB1877, which was passed and signed by the Governor, struck out a part newly added to the Power of Attorney Act that allowed a health care agent to access patient information from the attending physician prior to the principal becoming incapacitated.

2012 Legislative Issues: David indicates that AARP's legislative agenda is not yet complete but that they are working on a new financial exploitation bill. In addition, they are still working on language that would echo this year's SB144 and SB103.

David stated that he would like to see Ombudsmen step up support on SB103. Tami agreed to raise this concern when IALTCO meets to discuss its legislative agenda in November. The Council will further discuss and affirm its legislative agenda at the January meeting.

Colbert v. Quinn: A proposed class action settlement in this federal court case is pending in the federal court in Chicago. The proposed settlement would only apply to residents in Cook County. The class action case goes to the right of non-IMD nursing home residents to receive appropriate services in all settings, including community-based programs.

There will be a hearing before the federal judge on the proposed consent decree on December 20, 2011.

Action Item: Members of the Council are asked to submit comments to Margaret Niederer on this proposed settlement; Margaret will then draft a letter that will be submitted to the Council that could be sent out as the Council's position.

Action Item: Lee's intern, Brad, will send out links to the Preliminary Approval and Consent Decree in this case.

Action Item: A follow up on the results of the December hearing will be available at the next meeting of the Council.

Agenda Items 10 & 11 New Business and Announcements

It was noted that Brad Evetts, the law student intern, had created a check list of the primary points of the Open Meetings Act. The Council is committed to following the Open Meetings Act. Council members should review the checklist, paying particular attention to the training requirements for Council members.

It would be helpful for new members of the council to receive a list of acronyms to help them understand the "shorthand" frequently used by more seasoned council members.

The next meeting of the Council will be held on January 17, 2012 at 10:00 a.m. in the Savanna Room located in the Department of Natural Resources Building at One Natural Resources Way (located on the north end of the State Fairgrounds), in Springfield, Illinois.