

**Minutes of the Meeting of
the Illinois Long-Term Care Council
August 13, 2013
via Conference Call**

Voting Members Present: John England, Ann Ford, Director John Holton, Myrtle Klauer, Phyllis Mitzen, Margaret Niederer, Sally Petrone, Dave Vinkler, and Tami Wacker

Voting Members Absent: Pat Comstock, Tony DelGiorno, Eva Hall, John Hosteny, Stephen Iden, Pam Edelman-Sall, Dave Sutor and Wayne Smallwood

State Agency Representatives Present: Doree Vetter, and Kitty Watson

Guests and Others Present: Erin Davis, Neyna Johnson, Becky Kurtz, and Sharon Wood

Recorder: Kathy Seketa

WELCOME & INTRODUCTIONS

Call to order: Director Holton called the meeting to order at 10:08 am. Everyone introduced themselves.

Discussion item - go over the request for Comments to AoA regarding State Long Term Care Ombudsman Proposed Rule Changes (there were two handouts). The Director stated that the comments don't have to be in agreement or the same, but hopefully this group would come to an agreement by the end of the meeting.

The Director shared contents of an e-mail from Tami Wacker which underscored why ombudsmen are needed in Illinois. It entailed a recent event where a nursing home facility refusal of ombudsmen to go into a facility to assist a resident.

It was explained that this conference call was scheduled since the prior Board meeting was cancelled due to lack of quorum. This group is required to meet four times a year; it is critical to meet to stay on track of issues. Tami stated that letters will be going out to members that have been missing meetings as lack of attendance only hinders the Council's progress. If a current Council member cannot devote the time, the seat should be filled by someone who can.

Tami talked about the HomeCare Ombudsman/Managed Care Ombudsman program. She said there are a lot of ideas that the regional programs can learn; and she is looking into having another public forum at the 2013 Governor's Conference.

A suggestion was made to have Phyllis Mitzen be a primary speaker, at the forum, to report on her study in Illinois.

Tami said that the HomeCare Ombudsman ruling is not official yet; the Governor has until Friday to sign it. She said it will go into law even if he does not sign as long as there are no edits or changes.

Sally Petrone stated that that the HomeCare Ombudsman ruling would expand the Ombudsmen's scope; it would be eligible under the Medicaid waiver; and it is subject to appropriation. She said IDoA will be busy pushing for funding for this in FY14.

Sally said a grant was submitted to Federal CMS for those who are dual eligible, and includes Community Care, and a response should be received by September 13. She said the abstract was sent to everyone.

Margaret Niederer stated that she would like to see the issue of facility care as Illinois got a "D" ranking.

Tami said the ruling addresses Long Term Care, HomeCare, and Managed Care.

Director Holton suggested that a sub-committee be formed to develop the program for the public forum. A draft should be sent the Council members to approve. Tami, Director Holton, Sally, Phyllis, and Ann agreed to serve on the committee.

Sally directed everyone to the memo from Sally to Director Holton regarding the proposed ACL rule.

Section 1327.1 – the Community Care program should be asked for household clarification

Section 1327.13(i) – the question was asked of who should be responsible for monitoring local funds. Sally stated that right now the program side is monitored, but not the fiscal side. Director Holton stated that IDoA, as the subrecipient receiver of the funds, typically gets dinged on lack of fiscal monitoring. IDoA monitors only that the funds are spent as they should be. Tami stated that IALCO would rather have IDoA have a more of a fiscal handle on it. Sally stated that the funds flow through the AAAs, and IDoA monitors the AAA funds already; there could be a duplication of actions.

Section 1327.15 – Margaret thought the law says what the state is going to do, and asked if the Ombudsmen have had any input on this.

Section 1327.17 – Need to make sure that the Ombudsmen are not listed as mandated reporters.

Director Holton stated that Becky Kurtz should be asked about Section 1327.15 and Section 1327.17. It was also suggested to ask her about the Conflict provisions.

Tami directed everyone to an IALCO letter she drafted to Becky Kurtz regarding the ACL rule, stating that IALCO supports a majority of the same issues. Comments are as follows:

Section 1327.1 - asking for clarification

Section 1327.11 (c)(4) – nothing negative, but need to work closer with residents' side

Section 1327.13 (d) - astounding how AAAs don't get involved in the Ombudsman program

Section 1327.13 (i) - astounding how AAAs don't get involved in the Ombudsman program

Section 1327.17(b) – there is concern on when there is a resident deemed incompetent by those not appropriate to diagnose i.e. facility staff that have not been trained, and the wrong diagnose is handed out. There are also situations where a physician diagnoses without seeing the patient.

Section 1327.15(a)(8) – conflict of interest is a big concern

Tami said IALCO has reviewed and approved all other sections.

Erin Davis suggested beefing up and clarifying specific issues and putting Ombudsmen in a defined position of deciding if a resident is competent.

Tami said she would be happy to accept any comments the Council has, but she cannot take any over the phone – they have to be written down and submitted.

David Vinkler asked if there were any other organizations that should be approached to offer a Council position. Tami stated that invites can be sent to see if there is a response.

Margaret stated that she wanted a better definition of legal representative. She stated that the Ombudsmen have 100 duties which are later separated out into Ombudsmen and Ombudsmen designees.

Tami expressed concern of lack of response between the State office and the regional offices.

Director Holton stated that the Final Report (which was distributed to the Council) from NORC is quite instructive on the Council moving forward. He suggested that the Council read it and address the recommendations.

Becky Kurtz was introduced as Guest Speaker on the proposed AoA rule changes. She had a PowerPoint presentation (copies were distributed). Topics included definitions, the establishment of the office, state agency responsibilities, state duties, and conflict of interests.

She explained the purpose of AoA is to maintain records of the Office; the identity of the resident listed in the records is to not be given to anyone outside the office. If someone brings a complaint, the information is kept confidential. The state needs to be able to oversee operations and contracts.

Among other items, Becky discussed:

- the establishment of the office;
- responsibility to make determination of the Older American Act that pertains to the safety and welfare of residents;
- role and responsibilities of State Ombudsmen in the office;
- compliance processing;
- direction on when a resident cannot communicate;
- when can information be shared outside the program;
- conflict of interests - individual and organizational; and
- taking recommendations through regulation

Sally asked for clarification of the following:

Section 1327.1 regarding who is immediate family. The response was – members of the household or member with a close financial relationship. Not looking so much as to biological or legal relationship.

Section 1327.13(i) & (j) regarding requirement to monitor local funds. Becky stated that the State Ombudsman can make the determination. The Ombudsmen will monitor the performances of the program.

Section 1327.17 Ombudsmen as mandated reporters. Becky stated this section was not intended to make Ombudsmen mandated reporters. The Ombudsmen should look to see if the resident or a representative of the resident gives consent to report. If the resident is not able to give consent, then the Ombudsman should look at the best interest of the resident.

Erin expressed concern that the facilities are going to look at this and see it as mandated reporting. Becky stated that she would welcome Erin's written comments.

Conflict of Interest Provision – Sally asked if Erin was in a position of conflict of interest serving on the Council. Becky stated that it needed to be considered. It was suggested to send Becky the possible conflict of interest and proposed remedy.

Becky mentioned that anything passed regarding the ruling will be one year before coming effective.

The question was asked about there being no provision on Home Care Ombudsman, so will there be a second rule? Becky said "no." That a regulation cannot be written on something not in Federal law.

Tami stated that she will provide some comments.

Margaret asked what the AoA responsibilities area and is there any other way the AoA can act? Becky stated that the AoA is a granting agency, not a monitoring one. The AoA helps states to carry out programs per conditions of the grant. AoA provides support, fiscal assistance, and compliance of the grants.

Director Holton thanked Becky for her time.

ADJOURNMENT

Conference call was ended at 11:30 am.