

LONG TERM CARE FACILITY ADVISORY BOARD
AD HOC RULE REVIEW COMMITTEE
THURSDAY, MARCH 5, 2009 ROOM 1102 - 9:15 A.M.

MINUTES

Dewey Sherbon, Committee Chair

Mr. Sherbon called the meeting to order at 9:16 a.m. The Committee was formed at the January 7, 2009, LTCFAB (Long Term Care Facility Advisory Board) meeting in response to James Joslin's request for help to revise rules to eliminate redundancies and increase efficiency for providers and the Department.

Attendees

Committee Members: Joyce Clark, Achievis Sr. Living; Dewey Sherbon, LTCFAB; Judy Unruh, BVRC (Baptist Village Retirement Center); Diane Hambric, LTCFAB; Donna Bowers, LTCFAB; Rebecca Moore, OAHCP (Oklahoma Association of Health Care Providers); Marietta Lynch, OAHCP; Janine Handler, ORALA (Oklahoma Residential and Assisted Living Association); Mary Brinkley, OKAHS (Oklahoma Association for Homes & Services for the Aging); Wendell Short, LTCFAB Chair; Bill Weaver, Adult Day Health Care.

Committee Members Absent: Kay Parsons, LTCFAB; Penny Ridenour, OKALA (Oklahoma Assisted Living Association); Andrea Pogue, Pontotoc Technology Center; Wes Bledsoe, A Perfect Cause.

OSDH Staff: James Joslin, Chief, HRDS (Health Resources Development Service); Leslie Roberts, HRDS; Walter Jacques, Director of Quality Assurance/QIES (Quality Improvement and Evaluation Service); Sean Tomlinson, Administrator, PHS (Protective Health Services); Dr. Henry Hartsell, PHS Deputy Commissioner; Jim Buck, LTC (Long Term Care) Assistant Chief; Patty Scott, Coordinator, LTC; Dorya Huser, LTC Chief; Eleanor Kurtz, Director of LTC Complaints and Enforcement; Lisa McAlister, Director of NAR (Nurse Aide Registry).

Guests: Brett Cole; Lyndie McKinney, ORALA; Karen Elliott, LTC Ombudsman.

1. Objectives - Review Of Rules, Statutes And Regulations

After introductions, Mr. Joslin discussed the tight finances we all are facing and that the Department has mandates as well as the providers. We (Department and providers) need to look for ways to save money. Mr. Joslin suggested looking at items such as removing redundant regulations and decreasing submission of documents from providers. He referenced the handout that Dr. Hartsell presented to the BOH (Board of Health) recently outlining Department mandates.

2. Compliance With Inspection Standards

Dr. Henry Hartsell, Dorya Huser, James Joslin and Jim Buck

Dr. Hartsell informed the Committee that PHS (Protective Health Services) has had a 10% reduction in workforce or a loss of 20-25 staff out of ~220, resulting in longer processing times and staff stretched to the maximum. Dr. Hartsell also mentioned that technology support is also an issue. He expressed the need to look at mandates the Department must meet, in addition to survey requirements and office staff time. There are hundreds of mandates on the state for health and safety requirements. The Department will develop a plan to accomplish the mandates, noting there is more than just cost involved. Dr. Hartsell pointed out item #6 on page 9 of the 'Memorandum' that the Department will "*Collaborate with advisory boards to develop*

effective alternative methods for inspections, reviews and evaluations, to be completed by December 31, 2009;". There were no questions regarding the memorandum.

It was noted the Federal government originally came up with a Budget Analysis Tool and the Department has modified it to serve state purpose. Sean Tomlinson explained the functionality of the BAT (Budget Analysis Tool) handout. Page 1 of the BAT provided example of the number of state surveys and survey hours equates to the number of FTEs. Page 2 of the BAT showed the fiscal year totals of page 1. Page 3 provided example of budget list of positions. Mr. Tomlinson added the staff salaries reflected does not include benefits. Mr. Tomlinson noted that on the last page there were no indirect costs figured. Indirect costs include items such as lighting, building, legal, accounting, etc. Dr. Hartsell added uncontrollable costs of retirements, mileage reimbursement costs, and unfilled FTEs also have an effect.

The Committee, Department, and guests provided many great ideas and responses.

- Grant money for computers
- Automated licensure renewal online
- Get all facilities to submit via computer
- Comparison of survey hours for licensure only facilities
- Review computer processes
- Education/hands-on training
- Applications online-time efficient vs. mailing back and forth regarding missing information/documents
- Licensure fee increases
- Change fee structures
- Surveyor vacancies not included in state budget - not enough revenue
- Cut unnecessary steps
- Base assisted living center reviews on survey history (e.g., survey every 2-3 years for 0-2 deficiencies, survey annually for 6+ deficiencies)
- Cutting dual inspections - need to work together (like one fire marshal inspection instead of one from each: city, county, and state)

Mr. Joslin explained the licensure fee report that he compiled from other state input comparing states' licensure fees by facility type. Questions were asked and suggestions made.

- Flat fee for applications, then a per bed fee
- Check other states' experience for assisted living and other state licensed facilities' survey hours and costs (comparison data are already available for Medicare inspections)
- What degree of state appropriated dollars are provided to support programs
- Create projections or scenarios showing expenditures/fees
- Need to think outside of the box - self survey - self assessments
- QA (Quality Assurance) activity - self evaluation - QI (Quality Improvement)
- Facilities should be doing self assessments between Department on-site visits; enable some audit and enforcement for falsified reports
- Look for examples of self assessments
- How can the Department cut costs
- Increase providers' desire/ability to comply by making information available, for example via Internet
- What can providers do to expedite surveys
- A lot of time wasted chasing paperwork on surveys

- Facilities can have staffing, QA, infection control books ready for surveyor(s) to review
- Post a checklist for facilities to reference on Department website
- The Department could share inspection forms with facilities - reduce misunderstandings because the Department and facilities use same forms for quality assurance and inspection activities
- Nursing facilities are willing to 'dicker' on fees
- Conduct or contract for "process analysis" on the Department licensure and inspection functions
- Separating Federal and licensure surveys could possibly increase Federal funding
- Develop crosswalk between state licensure and federal certification requirements for nursing facilities
- State appropriations and fee totals in other states
- How many anonymous complaints are validated (%) - how much money spent
- No change in residential care home fees 'in forever' - seem incredibly low
- Adjust requirements and protocols so that investigating complaints has the highest priority
- Count complaint investigations as surveys
- Survey process needs to be a pro-active process
- Consider accreditation as an alternative

3. Suggested Rule Revisions

Marietta Lynch, Oklahoma Association Of Health Care Providers

Ms. Lynch suggested crossover review of Federal and licensure requirements and remove the licensure rules that are required by Federal. Ms. Lynch briefed attendees on suggested rule revisions and rationale for changes handout.

- 675-9-9.1(a)(10)(A)
 - Paper compliance issue for both [Department and providers]
 - Develop policy and implement rather than submit for approval - can be checked on survey like other policies
- 675-13-5(c)(2) and (3)
 - DON (Director of Nursing) hours are too restrictive - need flexibility to work any shift
 - Make parallel to the federal regulations
- 675-13-5(f)(5) - change of this rule would require change in other areas of rule
 - Allow CMAs 2 years to acquire 16 hours of CEUs
 - Renew CNA and CMA at the same time and possibly combine certification cards
- 675-13-5(i)(6), (7), and (8)
 - Pain management is costly - change to one time per year versus every six months
 - Other topics are just as important that need to be covered
 - Annual in-service requirements should meeting the intent of the regulation
 - CEUs - training needs
 - Computerized training versus standard in-service - flexibility
 - ◇ Mr. Sherbon requested Ms. Lynch to pull together a motion for the next meeting

Penny Ridenour, OKALA Executive Director

Ms. Ridenour presented suggestions OKALA would like considered.

- Lengthening assisted living survey intervals and/or with deficiencies of a low number or importance.
- Change assisted living incident reporting requirements
- Construct a third party survey system as in Texas - include monetary penalty
 - Concern expressed regarding provider accreditation, criticism-facility pays consultant, not able to enforce
 - National Accreditation not utilized in ADC (Adult Day Care) - current state surveys are better

4. General Discussion

The attendees discussed topics throughout the meeting.

Mr. Sherbon requested proposed rule changes be presented at the next meeting. The next meeting was announced for Thursday, April 16, 2009, from 12:30 pm - 3:30 pm.