

Ad Hoc Assisted Living Regulation Review Committee

Appointed by the Long Term Care Facility Advisory Board August 11, 2004

April 27, 2006 Special Meeting

1:30 p.m.

Shepherd Mall

2401 NW 23rd Street – Suite 40

Oklahoma City, OK

Consensus July 17, 2006

AMENDED

Minutes

1) Call to Order

Esther Houser called the special meeting to order at 1:37 p.m. Thursday, April 27, 2006. The meeting notice was filed and posted with the Secretary of State's office April 6, 2006. The agenda was posted at Shepherd Mall on April 21, 2006 and on the OSDH website April 24, 2006.

Introductions proceeded. Identified attendees were: Esther Houser, Committee Chair, State Long-Term Care (LTC) Ombudsman and LTC Facility Advisory Board (LTCFAB) member; Leslie Roberts, LTC, OSDH; James Joslin, Assistant Chief, LTC, OSDH; Karen Gray, LTC Training Programs Manager, OSDH; Tressa Madden, Director, Consumer Protection, OSDH; Wendell Short, RC Administrator and LTCFAB member; Diane Hambric, Residential Care (RC) and LTCFAB Chair; Ginny Rahme, Assisted Living (AL) and LTCFAB member; Kay Parsons, LPN and LTCFAB member; Theo Crawley, LTCFAB member; Penny Ridenour, Executive Director, Oklahoma Assisted Living Association (OKALA); Belinda Arguello, Silver Oak; Bill Whited, Ombudsman; Chad Higbu, Preferred Hospice; Shonda Shannon, Preferred Hospice; Latonya, Alleve Hospice; Stacy Scott, Alleve Hospice; Tom Park, Trinity Hospice; Betty Brinley, Arbors AL; Melissa Mahaffey, Rambling Oaks Courtyard AL; Holly Mattingly, Norman Senior Care; Scott Brasier, Norman Senior Care; Dirk O'Hara, Norman Senior Care; Janine McCullough, APS/DHS/LTCI; Grant Gilchrist, Arbor House; Greg Guymon, OKALA/Gold Medallion; Danny Eischen, Fountains at Canterbury; Mary Brinkley, Oklahoma Association for Homes and Services for the Aging (OKAHSa); Jeanene Bales, TSG Incorporated; Karen Nelson, Jefferson Garden; Norma Noles, Silver Oak Senior Living; Bryan Moore, Legend Senior Living; Patricia Shidler, LTC Ombudsman Program; Sarah Strecker, LTC Ombudsman Program; Lesley Smiley, LTC Ombudsman Program; and Greg Frogge, McAfee Taft.

2) Review of the March 30, 2006 Special Meeting Minutes

Brief review of the March 30, 2006 special meeting minutes.

There was consensus on the meeting minutes.

Meetings are posted at:

<http://www.health.state.ok.us/calendar/mtngs/index.html>

<http://www.sos.state.ok.us/meetings/agencymeets.asp?intAgency=316>

3) Discussion of the Food Code, Chapter 257

Provide information to the Committee regarding the requirements of Chapter 257.

Mr. Joslin stated he received guidance regarding eggs. He provided a handout from the FDA, which was included in the meeting packet. Tressa Madden, Director of Consumer Protection spoke to the group regarding the Food Code. An approved source is anything from a 'licensed kitchen'. 'Approved source' is defined in Chapter 257. This does not prevent serving garden vegetables, etc.; however, the produce must be intact. No home canning may be served from a licensed kitchen. Ms. Madden strongly discouraged cream pies and the like from 'pie bake-offs' and 'pot luck dinners'. Most illnesses come from home-cooked items. Ms. Hambric stated for clarification that the facility can still do chili cook-offs and pie bake-offs as long as there is no charge and food is not prepared in the licensed kitchen of the facility. Karen Gray stated the intent of requiring assistive devices is to maintain and/or promote independence. Mary Brinkley asked to keep in mind that assisted living facilities are private pay. Ms. Gray added that the facility is responsible for assessing the resident's need for assistive devices. Discussion continued on the responsibility of the cost for assistive devices and to ensure the resident/family are aware of them. The Committee thanked Ms. Madden and Ms. Gray for attending and the information they provided.

Discussion included an amendment of Food storage, preparation and service, 310:663-3-8(a)(3) to insert a period after 'foods' and create a second sentence 'Assistive devices to promote resident independence may be provided at the resident's expense.' and adding a reference to the PMO (Pasteurized Milk Ordinance) to the rule language at 310:663-3-8(d)(2).

The Committee reached consensus on section 310:663-3-8, Food storage, preparation and service.

4) Review, Discussion, and Consensus to Add the Provider's Bill of Rights to the Proposed Amendments of OAC 310:663, Continuum of Care and Assisted Living Rules

This item was originally on the March 30th meeting agenda. Consensus of the Committee was to postpone discussion of this agenda item until the next meeting held.

Penny Ridenour read the handout she provided entitled *Provider's Bill of Rights*. The OKALA representatives expressed they want to have provider rights included in the rule. AARP's handout of Providers' Responsibilities was also discussed. AARP's approach is based on 'providers have a responsibility to' balancing the context of 'resident rights'. A scenario was given of a resident who was having a hard time adjusting and resulted in suicide. The facility stated they were not informed prior to admittance that the resident's spouse had recently committed suicide in which [facility] would have arranged appropriate supervision. Ms. Houser stated that would be addressed in 310:663-5-3, Description of resident assessment form. Mary Brinkley questioned if the 'provider rights' are put into the rules – what is the ability to enforce them. Ms. Ridenour stated these were helping other states. Ms. Rahme added facilities have a need for these rights.

A suggestion regarding item #6 on the Provider's Bill of Rights was to add the word illegal as follows: 'maintain an environment free of *illegal* weapons and *illegal* drugs'. Further discussion included other items that are presently in rule. Item # 7 regarding the right to refuse a person to the facility and item

#9 regarding the right to terminate a resident's contract after a written 30-day notice are currently in rule. Item #4 would set a protocol for an appeal process including informal dispute resolutions.

There was discussion of the appeal rights of Assisted Living Centers. There was confusion as to what rights existed. Material will be provided on those rights at the next meeting. The desire to have an informal dispute resolution process to dispute survey findings was raised. The informal dispute resolution process is mandated and funded by Federal regulation and also mandated by the State in nursing homes. Neither provide for an informal dispute resolution process for licensure only facilities. However, a facility may contact the Department to discuss an issue with a cited deficiency. The Department has conducted Administrative Reviews for licensure only facilities. The question was raised if any changes ever resulted from one of these reviews. Mr. Joslin replied administrative reviews have resulted in changes to the statement of deficiencies.

There were also suggestions to add the Provider's Bill of Rights to the resident contract instead of into rule; combine the Provider's Bill of Rights and Providers' Responsibilities into one document; and possibly add these in an addendum instead.

Mr. Joslin said he would like to take the Provider's Bill of Rights and Providers' Responsibilities to our legal staff and surveyors for feedback. He is interested if this would benefit poorly performing facilities. Ms. Houser recommended to the group to review these and bring back evaluations from ombudsmen, legal staff, surveyors, and providers to the next meeting.

Ms. Houser announced that some hospice representatives were in attendance and asked if there was anything they wished to address. Latonya from Alleve Hospice stated they were most concerned that hospice would not be allowed in assisted living facilities. Some of the concern related to making stipulations regarding appropriateness of placement that would allow hospice/home health services.

5) Review, Continued Discussion, and Consensus of Proposed Amendments to OAC 310:663, Continuum of Care and Assisted Living Rules

These proposed amendments were presented at the February 8, 2006 LTC Facility Advisory Board Regular Meeting. Consensus was reached on some of the proposed amendments at the special meetings held on March 2nd and March 30th of 2006. This special meeting is to continue review and discussion of the proposed amendments. The goal of the Committee is to reach consensus on the proposed amendments and present to the LTC Facility Advisory Board.

Mr. Joslin provided an overview of the footnotes added to the proposed rules and a summary of the Committee's discussions. In 310:663-19-3, Maintenance of records the Committee agreed that the word 'electronic' needed to be added in section (a) and that 'readily available' in section (c) should be defined.

6) Adjournment

The special meeting was adjourned at 4:20 pm.