



## LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

January 09, 2013 at 1:30 in Room 1102

Oklahoma State Department of Health, 1000 NE 10<sup>th</sup> Street, Oklahoma City, OK 73117-1299

### MINUTES

January 9, 2013

#### 1) Call to Order

Kay Parsons, Chair, called the meeting to order at 1:36 pm.

#### 2) Roll Call

Natalie Smith called roll with the following LTCFAB members present: Kay Parsons, Chair; Dewey Sherbon, Jane Carlson, Esther Houser, Theo Crawley, Mich Magness, Dustin Cox, Linda Brannon; Wendell Short, Renee Hoback, Cassell Lawson, Alan Mason, Diana Sturdevant, and Willie Burkhart.

The following LTCFAB members were absent: Vice Chair; Donna Bowers; H.F. Timmons, Sharon Housh, Angela York, Margaret Wallace, Tammy Vaughn, and JoAnne Sellars.

The following guest were present: Oralene Sherbon, Becky Moore, OAHSP; Mary Brinkley, Leading Age OK Nancy Poteete, ORALA; Mary Womack, OSDH; Greg Frogge McAfee Taft; Sue Davis, LTC; Marilyn Kipps, General Public; Jim Kipps, General Public; Mike Cook, LTC; James Joslin, HRDS.

Currently, there are 6 vacancies on the LTCFAB which consist of 27 members.

A quorum was met with 14 members present.

#### 3) Review and Action to Approve/Amend October 10, 2012 Regular Meeting Minutes:

**Agenda Item #3**

**Vote 1**

**Motion:** Approval of the October 10, 2012 Regular Meeting Minutes

Motion Made by: Mich Magness    Seconded: Cassell Lawson    Motion Carried: Yes

Meetings are posted at:

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

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

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Aye: 14 Abstain: 0 Nay: 0 Absent: 7

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Donna Bowers	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Kay Parsons	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jane Carlson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	JoAnne Sellars	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Theo Crawley	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Sharon Housh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Wendell Short	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Esther Houser	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	H.F. Timmons	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Angela York	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Margaret Wallace	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Cassell Lawson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Renee Hoback	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Mich Magness	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant- Nursing Home	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Alan Mason	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant- General Public	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Diana Sturdevant	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant – General Public	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant – RC Operator	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tammy Vaughn	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Vacant – Osteopathic/GP	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Linda Brannon	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		
Willie Burkhart	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		Shading = Absent

#### 4) Oklahoma Long Term Care Background Check Program:

James Joslin discussed the handouts provided to the board members and guest. He noted the handouts are located on the <http://onbc.health.ok.gov> website. The packet he handed out included a summary document that is being provided to the industry that outlines the new provisions for nurse aides, Mr. Joslin did not go into details on the documents seeing as he has covered these with the LTCFAB previously. The other document he briefly discussed was the Uniform Employment Application for Nurse Aide Staff, ODH Form 805, stating that all nurse aides will use one uniform document that will be used by all of the LTC industries. The ODH Form 805 has been updated on the Nurse Aide Registry web site and the Background Check website. He then talked about the report issued by the Office of the Inspector General for The Department of Health and Human Services on October 5, 2012. As a part of the grant program the Office of the Inspector General was charged with monitoring this program and doing studies on what kind of impact this program may have. They have conducted studies pertaining to what kind of impact a more in depth background check would have, they also looked at the staff in our facilities to see how many of these aides had criminal convictions in the past. The more recent study looked at for aides who have an abuse finding, was there a criminal conviction in their past.

Alan Mason questioned if the collation was statistically significant. James stated that he believed it was and Renee Hoback noted that it could be found on page 8 of the handout and gave a brief reading of the passage. Esther Houser asked, since individuals that are already working in facilities are going to be grandfathered in, unless they change jobs are they safe? James then stated that they are but to keep in mind that they have been employed with a good history, so they will essentially get the benefit of the doubt. He also noted that with this process just beginning we will miss some. James then took the board thru the background check web site. He noted that each provider will have an account. Dewey Sherbon asked James if this was in fact a live database. James stated that it is a live system. James also noted that facilities will only be able to see results for their facility.

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He then guided the board thru the remainder of the site showing them how each of the processes and pages worked. This allows you to see if someone is already in the system and their application process. Dewey Sherbon asked if this system was for anyone licensed with the state, James responded letting the board know that it was for anyone who held a license with the state. James shows how they can check other states; Dewey asked what would cause us to check other states. James noted that if there was an address that showed them in another state you would want to check. This system also shows a list of registries the law requires us to check under the new law. CMS is looking at a National Nurse Aide Registry where the states work together on this.

Linda Brannon asked if they don't put it on their application that they were in another state that the system would not trigger it. James said that was correct, but if they had a finding in another state then they were supposed to be on the list of excluded individuals. Renee asked what if they lived in another state and didn't put it down. James noted that there would be nothing to check and that has always been the case, sometimes people don't disclose other states. Mich Magness asked James what his level of confidence was to having up to date records. James stated that Nancy Atkinson is and has been working on updating Oklahoma's records. Kay Parsons asked how far back these submissions will go. James stated that if they are on our abuse registry we submitted them, but the problem they had was that they didn't have complete historical records on some. Jim Kipps asked who is required to turn this information in. James responded by saying that Nurse Aide, the Board of Nursing, Board of Medical Licensure, and the DA. James also noted that we will never have a perfect system due to delays in reporting systems, but we will have a much more comprehensive system than we have ever had. Dustin Cox stated he believes this is a real win-win situation based on what we have had in the past with all the loopholes. He also noted that this will also be better after a year or two of being up and running.

James then touched on the court updates, stating that 59 courts were up to date and 17 were still behind schedule. Esther Houser asked if this information from this system is something the employer gets prior to the nineteen dollar charge. James stated that the information from on demand court records and the sex offender registry was something they receive prior to payment. James then touched on the access forms, noting that the system will auto generate the forms (i.e. authorization to fingerprint). Esther then asked if an individual applies at three different nursing homes who will conduct the checks. James noted that all three nursing homes will do the checks, but there is only one finger print done. The system will show that there is already a finger print pending. Mich Magness asked James which facility will pay the nineteen dollar fee, James then explained that all three facilities will pay the fee. This process is how this program will finance itself. Esther noted that with the past system they would all pay the fee and then decide to not go further in this new system, with the information they receive prior to paying the fee they have an option to not move forward prior to paying the fee. Dewey Sherbon then asked James who has ownership of the system. James stated that the Department of Health has ownership. The federal government funds the grant to build this system and after two to three years it will roll over to a self sustaining program.

James explained that this software is designed by a company and is public domain software and that the Centers for Medicaid and Medicare are paying to have this software developed. Renee Hoback asked if this would require training and if it was included in the grant. James stated it was and that the program is close to being ready to pilot the screening portion of this program. Renee asked to clarify if this was for convictions and not allegations. James noted that it was for

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convictions. Kay Parsons then asked for clarification. If three employers have gone thru the preliminary and you get to the part where payment is requested, do all three pay. James then explained yes, and stated that the system will show if there is a determination in process and if the potential employer wants to continue with the check and possibly hire the individual then they will pay the fee associated with the check.

Linda Brannon asked how the employers will pay. James expressed that they are looking at different options i.e. credit card, PayPal, or having a balance by paying in advance. Wendell Short inquired as to who can actually request this information. James noted they will be contacting the providers to complete the application form for their account and once their account is processed the provider will receive an email with their provider id number and they will receive a separate email with the password for their account. Linda asked if you will be able to link accounts if you have more than one facility that you oversee. James stated some facilities, like Grace, will have a master account and will be able to create and assign staff to each facility to do employee screening. Esther Houser asked James if he had any more legislation to pass? James noted that he did not but he does need to work thru the personnel issues, he needs to get staff hired and also to get thru the contract process for the request for proposals. Jim Kipps asked James if they ever settled out the Medicaid contract to get help on this. James noted they had not settled, but they have had discussions but there is still more work that needs to be done.

Kay Parsons noted that Oklahoma was one of the first states to do background checks and there are many states that are still behind in this process. Dorya Huser stated that this project is a pilot and Oklahoma is one of the earlier states to enter this program. She also noted that there is a lot of concern with sustainability with funding, but we are on the front edge of this. There are approximately 17 states that have entered in to these projects. This is a huge project and very resource intensive and requires a large staff. The funding that is collected will help sustain this project after the grants are complete.

##### **5) 2012 Accomplishments:**

Kay Parsons talked on the board accomplishments in 2012; she reviewed the 2012 Annual Board Report and read a portion of the cover letter that was sent in to Governor Mary Fallan. She noted that we were able to conduct business in 2012 and reviewed the purpose and services of the board, she also noted that in 2012 there were 688 long term care facilities, 318 nursing facilities, 42 adult day care, 141 assisted living centers, 17 continuum of care, 88 intermediate care for individuals with intellectual disabilities, and 82 residential care homes. Kay also read the activities portion of the annual report. Kay also stated that in 2012 the Life Safety Code team went to Georgia for training and at that point in time we had the only group in the nation that passed with one hundred percent, this was a huge accomplishment on a difficult task. She also noted the change in the Assistant Chief role for Long Term Care, stating that Jim Buck had left and Mike Cook was afforded the opportunity to become the Assistant Chief. For the year 2012 the main focus had been the Quality Indicator Survey (QIS) and the background check program. Kay also noted most of the meetings this year were informational and there was only one meeting this year that the board was not able to conduct business due to not meeting quorum.

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**6) Update from Long Term Care:**

Dorya Huser reported to the board that the rules process has changed considerably and the process has become much harder. You can still make recommendations to the commissioner of health who has interaction with the governor of the state of Oklahoma. Dorya told the board that we are here to facilitate anything the board would like, if there are topics or areas the board would like to discuss or get more information on, LTC will help facilitate in any way possible. Willie Burkhart commented on the advisory board's recommendation to reconsider rules pertaining to assisted living facilities and how it drew much interest and the number of people who appeared at the meeting was higher. Willie stated she would like to think that the board could go further with assisted living rules and make a recommendation to LTC. Dorya noted that they could submit a request for rule development but she also stated the rules were pulled back because the board was not reaching. This process became a very controversial issue and made people uncomfortable which were not the intended goal. Dorya explained to the board that they can submit any rule request to the Health Department and it will be explored, it's not a guarantee that it will go forward but it will be looked at.

Kay noted that since the process has changes it could take two years to ever get the recommendations forward because of the legislative process. Dorya also noted this use to be a fairly stream line process and now there are more steps that have to take place. The legislature did pass a law that makes them required to read them and voted on all rules. Jane Carlson asked Dorya to explain how we got from there to here. Dorya passed this question along to James Joslin for a brief explanation. James Joslin talked on how if there are rules that you would like to see move forward they would need to be sent to senior leadership as soon as possible to let them know that we are looking at doing some changes. One major thing has changed is that there is so much scrutiny at legislature on rules. With this there is a heightened sense of wanting to make sure that there is someone over at the legislature who supports the rules or the changes. Esther Houser noted that there has been a dramatic change at the legislature and a decision that not only do they want control over the legislation they pass also a line by line over the rules the agencies have. Cassell Lawson stated it's not just with this agency it's with all state agencies. Dewey Sherbon stated he felt there were some very talented people on this board that have a lot of expertise and professionalism about them, they are extremely valuable in the thinking process that make themselves available to support the Health Department. Dorya stated that LTC takes great comfort in having this board and the feedback this board provides. Esther asked when the rules were pulled back, were the rule changes related to culture change in nursing homes pulled back also. Dorya answered that all of the rules were pulled back.

Dorya then spoke on QIS, noting that we had to take a pause on it due to several issues, but we are ramping back up with a class beginning the training in February. LTC is looking for mock facilities, if you know of anyone who would like to participate. This class is taking seven surveyors thru this time. We now have Karen Gray going thru to become a master trainer, we still have a lot of surveyors who have not been thru the training yet, but we now have more trainers who are certified to teach the class. Dorya then touched on the dementia project; this is the reduction of antipsychotic meds in dementia patients. LTC still does not know where they are on this but we fell like Oklahoma made great progress on this and the numbers should come out soon.

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7) **New Business:**

No new business at this time.

8) **Public Comment**

Public comment was made throughout the meeting.

9) **Adjournment**

The meeting adjourned at 3:21 p.m.

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