



## LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

April 10, 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**

April 10, 2013

#### **1) Call to Order**

Kay Parsons, Chair, called the meeting to order at 1:33 pm.

#### **2) Roll Call**

Natalie Smith called roll with the following LTCFAB members present: Kay Parsons, Chair; Dewey Sherbon, Vice Chair; Jane Carlson; Esther Houser; Theo Crawley; Wendell Short; Renee Hoback and Willie Burkhart.

The following LTCFAB members were absent: Donna Bowers; Sharon Housh; Angela York; Cassell Lawson; Alan Mason; Dustin Cox; Linda Brannon; Margaret Wallace; Tammy Vaughn; JoAnne Sellars; Mitch Magness; and Diana Sturdevant.

The following guest were present: Oralene Sherbon; Mary Brinkley, Leading Age OK; Marilyn Kipps; Jim Kipps; Greg Frogge, McAfee Taft; Nico Gomez, OHCA; Patty Scott, OSDH; Lisa McAlister, OSDH; Sue Davis, OSDH; Karen Gray, OSDH; Henry Hartsell, OSDH, Vicki Kirtley, NAR OSDH and James Joslin, HRDS.

Currently, there are 7 vacancies on the LTCFAB which consist of 27 members.

A quorum was not met with 8 members present.

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

No Quorum

#### **4) Sooner Care:**

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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Dewey Sherbon introduced Nico Gomez, CEO Oklahoma Health Care Authority, and briefly reviewed his credentials. Nico Gomez has been the CEO of OHCA for a little over a month now and is looking forward to serving in this position. Mr. Gomez updated the board on SoonerCare stating 780,000 residents currently in the program, in which 15,667 are in Long Term Care Facilities, and 22,748 in home and community based waiver programs. He also noted internal changes at the OHCA; these changes will help better meet the needs of members and providers. Ivoria Holt will be taking care of the LTC waiver operations. OCHA is currently working on the quality of care fees and rates to be effective July 1, 2013. OHCA is working with CMS on the dual eligible demonstration waiver, developing an integrated care site model for ages 45 -64. If negotiations can be finished with their federal partner, they are planning on having an RFP, request for proposal, by the end of May. Mr. Gomez talked on legislative updates that he felt would be of interest to the LTCFAB, which included amended policy to allow 100% for Medicare crossover deductibles and co-insurance for skilled nursing facilities due to the changes in federal policy; the Miller Trust policy was also amended to increase the income cap to the average monthly cost of the nursing home, this particular rule has attracted a HJR 1052 that would take an action to disapprove that rule. Mr. Gomez's organization is currently working with Senator David on a bill that asks the agency to look at the Dual Eligible population about delivery care and manage care models as it relates to those who are eligible. Dewey Sherbon inquired as to what dual eligibility was. Mr. Gomez noted that dual eligible are those who meet the Medicare eligibility piece and also meet the Medicaid eligibility piece. Esther Houser asked if the House Joint Resolution is only to disapprove the change in the rule or is it to delete the Miller Trust from the Healthcare Authority rules. Mr. Gomez noted that they have attorneys looking at that and he believes the legislators intent is for the increase. Mr. Sherbon inquired to the financial challenges Mr. Gomez is facing. The financial challenges lie with running a 5 billion dollar insurance program with no reserve. Mr. Gomez stated that his agency would be moving to a building on N Lincoln to ensure they can stay together and have a more workable space.

##### **5) Nurse Aide Registry Update:**

Kay Parsons introduces Vicki Kirtley, Director for Nurse Aide Registry, to provide an update for the board. Nurse Aide Registry takes care of certifications of all certified nurse aides, which consist of Long Term Care, Home Health, Residential Care, Adult Day Care, and developmentally direct care aides. Currently we are seeing approximately 34 new certified nurse aides a week per quarter. The NAR is currently using okscreen and out of state agencies to determine if there are any red flags on individuals applying for certification in Oklahoma, this will allow the department to determine if they are eligible for certification.

Vicki talked on CNA training stating the total for the last 3 quarters is 509 and there have been 732 certified medication aides added in the last 3 quarters; and 121 feeding assistants added. The NAR is responsible for 71,101 nurse aides that are not expired in which 40,725 that fall in Long Term Care. There are currently 130,000 that are eligible to renew out of the 202,000 that are currently on the registry. There have been 26 aides that have been found to have substantiated abuse in the last 3 quarters; the majority of these were misappropriation of property and neglect. The NAR is also responsible for improving the curriculum of the Certified Nurse Aide programs throughout the state, currently there are 187 LTC Aide training programs; 95 are Advanced CMA training and 32 are certified medication aide training.

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Nurse Aide Registry is required to do bi-annual on-site reviews; in January all of the reviews for the 2013 fiscal year were complete and the 2014 fiscal year was started, picking up for the first time an onsite review for all programs to include certified medication aide programs, advanced programs, CNA/CU, residential care facilities and adult day care programs. This department is looking hard at the training programs, trying to see the correlation with what is being trained, what deficiencies are being found in LTC, and what's going on with abuse; and how all three things can come together.

Renee Hoback asked how the 26 abuse cases compare to past years. Vicki stated it has been about the same but there are some currently pending and usually the bulk of what is seen is misappropriation. Renee then asked what the average length of time it takes for the investigation to be complete. Vicki explained to the Board that it varies on each case and also depends if there are legal issues involved or if the county departments get involved. Esther questioned if the Health Department has started to accept the investigative findings of Adult Protective Services Long Term Care Investigations. James stated they are referring to the reports, but the extent is unknown. Esther asked if they might know if the legal division was still calling the facility when there was an investigation. James was unsure of their practices on that matter. Mr. Kipps, general public, asked if there were a conviction in the court what the procedure would be for the legal department to place them on the register. James explained that if it's a conviction pertaining to abuse and neglect directed to the resident a petition is filed for a hearing on the aide to determine the next step.

#### **6) Oklahoma Long Term Care Background Check Program:**

James Joslin informed the board that the background check program is continuing to make progress. Everyone who falls under the umbrella of the Long Term Care Security Care Act received a memo providing a status update on the background check program. He stated that September is the most optimistic timeline to begin the fingerprinting portion of the program. The RFP has been completed in hopes to get it out quickly. The grant originally received was a 2 year award that was received in April of 2011, since then an extension has been applied for, and they are working to get them more information to complete the paperwork for the extension. The pilot began this last quarter, there hasn't been much use but they have received positive feedback. The pilot program will be expanded with the next version to be a fully functional screening tool for providers. James also noted interviews for the administrative assistant will be complete soon but they are still waiting for the program manager position to post.

#### **7) Legislative Update:**

Esther Houser gave an update on current legislation. HB 1467 by Jason Murphy of the house and A.J. Griffin of the senate is a bill that would have abolished the LTCFAB board along with others. The LTCFAB will be repealed along with the Hospice advisory board and the Home Health Advisory Board in the first round of legislation. The latest version of HB 1467 LTCFAB has been left out and it has Hospice and Home Health advisory boards being consolidated if this bill moves forward.

HB 1745 is intended to refine last year's bill giving residents and family a choice in having 3<sup>rd</sup> party medical services and supplies without being charged a fee for exercising that free choice. This bill is supported by Oklahoma Age in Partnership, who has been working with Mary Brinkley of Leading Age Oklahoma to support the Assisted Living and the oversight of those services. There has been a

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request from OKALA for an amendment that the 3<sup>rd</sup> party providers will not only be disclosed to the Assisted Living management but they will also comply with the requirement that they follow physicians order for medical care and that the documentation will be provided if there is a third party involved.

HB 1290 or SB 592, by Senator Holt and Representative Schwartz, these bills will provide an informal dispute resolution (IDR) process for assisted living, using the IDR process. HB 629, by Senator Simpson and Representative Harden, this bill would place the state run veteran's centers under the Nursing Home Care Act. This will make them subject to inspections by the State Health Department; this bill has passed the house and the senate. This bill will have a physical impact to the state health department, the impact is possibly 900,000 dollars for start up, including the 8 FTE's, and it is a concern that the state will grant that money to the health department. There are 7 large facilities some with over 300 beds with a need for external oversight. Hank Hartsell states that the Health Department is an advocate for quality of care and safe services and the department is in the position of being respectful that the legislature is looking at the Health Department as a method to ensure quality of care. This will be approximately a 10% increase in our workload, but the Long Term Care department has been working very hard to bring themselves current to meet inspections and complaint investigations. With the Health Departments newly assigned inspections we do expect a flood of complaints. Enforcement might prove to be a challenge; it becomes difficult when one agency is attempting to enforce the law on another agency. We look forward to overcoming the challenges that are ahead. Wendell Short asked if this will bring in new inspection i.e. fire marshal inspections. Hank noted that they will be subject to the Nursing Home Care Act, so all that applies to the nursing homes will apply to the veteran's centers. Mr. Kipps, questioned what the legislatures purpose for once a month inspections, it seems that the Department of Health would be wasting resources if they were sending surveyors in once a month, if they are having a problem with a facility, then they will be there plenty of times that year. Esther stated that part of the Nursing Home Care Act directs the state Health Department to conduct periodic inspections, which plays off of federal guidelines that state one inspection every 12 months but not to exceed 15 months. Mr. Kipps stated he understood that the Health Department becomes involved, any time there is a complaint they are going to show up, then follow up.

#### **8) Neighborhood Covenants Discussion:**

Esther Houser discussed neighborhood covenants, stating there is an issue that has been raised with an assisted living being built in a neighborhood. The requirements for licensing of assisted living centers are minimal as compared to that of nursing homes. There was a concern raised by a neighborhood where a new assisted living facility was built, the concern was that the operator did not talk to the home owners association and there was a violation of neighborhood covenants. They took this issue to Senator Griffin, and it was discussed that the LTCFAB would be a good place to discuss this issue. Esther questioned the Board on, operators who want to build new assisted living facilities in a neighborhood area, should the Health Department require that they meet neighborhood covenants and not violate zoning requirements. Becky, guest, noted this was dealt with years ago with the DD clients and the Office of Civil Rights has a lot to say about it. Theo Crawley stated she wasn't sure if it would make much of a difference what type of group home you are talking about being placed in residential areas, Weleeka for example had 6 group homes spring up in the area before any of the people nearby knew it was going to happen. Wendell Short questioned if that would fall underneath the building

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permit for the community for multi-dwelling units. Becky stated the Office of Civil Rights is federal and that residents have the right to live anywhere and it doesn't matter if they need assisted living or if they are developmentally disabled, they have the right and a community cannot keep that out. James Joslin noted that we talked with the neighborhood association and there were covenants, and there are requirements with zoning but the research indicated that this is not a business and not deemed a business, it is deemed a home under the provisions of the Fair Housing Act. Kay Parsons questioned if it would fall under business/ commercial zoning. James stated that it does not. Dewey Sherbon noted zoning laws are pretty tough, and they generally prevail.

#### **9) Long Term Care Update:**

Sue Davis, LTC spoke on 9<sup>th</sup> Annual provider training, the theme of this year's training is "A Step Ahead" and it will be focusing on dementia and related behaviors. The Alzheimer's Association that will be presenting and a licensed social worker in mental health who will also be presenting. Sue recognized that Esther Houser is being honored as a longtime advocate for nursing home residents by OU's Social Work Hall of Fame.

Karen Gray talked on new dining practices, on March 1<sup>st</sup> CMS issues a survey and certification letter, 13-13-NH. This letter announces that the availability of resources and new dining practice standards. This began in 2010 by the Pioneer Network; it is about liberalizing diets of residents in Long Term Care Facilities, giving them more choices and not putting them on very restrictive therapeutic diets. They came up with 10 different practice standards which can be found on the handout titled "New dining standards of Practice for Nursing Home Residents". Research shows that therapeutic diets are not effective for the elderly and this leads to many residents not eating and losing weight, becoming malnourished. This is not regulatory but it is encouraged by CMS to get this information out to the facilities. Also, there is a 24 minute video provided by CMS on the website. Kay Parsons asked if this information was available for download. Karen noted it is on the website provided on the handout.

#### **10) New Business:**

Kay Parsons spoke on the death of H.F. Timmons and noted that he was a true loss and will be missed.

#### **11) Public Comment**

Public Comment was made throughout the meeting.

#### **12) Adjournment**

The meeting adjourned at 3:18 p.m.