



LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

October 9, 2019 at 1:30 in Room 1102

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

MINUTES

October 9, 2019

1) Call to Order

Allen Mason called the meeting to order at 1:37 p.m.

2) Roll Call

LaShawn Lewis called roll with the following Long Term Care Facility Advisory Board (LTCFAB) members present: Jim McWhirter, Kay Parsons, Joanne Alderman; Lori Morton, Dustin Cox; Modina Allen; Esther Houser; Patricia Ingram; Adam Jordan; Joanna Martin; Charles Schwartz; Wendell Short; William Whited; Don Courtney; Jonathan Bushman and Denise Wilson.

The following LTCFAB members were absent: Paula Porter; Steve Blunk; Jacki Millspaugh; Stephen Ross; Alan Mason; Diana Sturdevant and Dewey Sherbon.

The following guests were present: Rocky McElvany, OSDH; Michael Cook, OSDH; Mr. Joslin, OSDH; Vicki Kirtley, OSDH; Diane Henry, OSDH; Melissa Holland, OKALA; Luvetta Abdullah, OSDH; Alexandria Hart-Smith, OSDH; Beverly Clark, OSDH; Natalie Smith, OSDH; Lisa McAlister, OSDH; Natasha Mason, Care Providers Oklahoma; Ann Osborn, Francis Tuttle Tech; Eboni Bolds, OHCA; Lois Baer, Leading Age; Greg Frogge, McAfee & Taft; Sandra Terry, TMF Health Quality; Irene Sanderson, OHCA; and LaShawn Lewis, OSDH.

Currently, there are four vacancies on the LTCFAB, which consists of 27 members.

A quorum met with 14 members present.

3) Review and Action to Approve/Amend July10, 2019 Regular Meeting Minutes:

Meetings are posted at:

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

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

Approved minutes are posted at <http://www.health.ok.gov/calendar/mtngs/ltcab.html>

**Agenda Item #4
 Vote 1**

Motion: To correct July 10, 2019 Regular Meeting Minutes

Motion Made by: Wendell Short Seconded:

Motion Carried: Yes

Aye: Abstain: 0 Nay: 0 Absent: _____

Aye: 14 Abstain: 0 Nay: 0 Absent: 8

Joanne Alderman	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Joanna Martin	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Paula Porter	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Stephen Ross	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Mr. Mc Whirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Jonathan Bushman	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millspaugh	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<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
Lori Morton	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Charles Schwarz	<input checked="" 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	Dewey Sherbon	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Modina Allen	<input checked="" 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	Diana Sturdevant	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Donald Courtney	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	William Whited	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Patricia Ingram	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Steve Blunk	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Denise Wilson	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
			Shading = Absent

4) Licensure, Resident Assessment, Nurse Aide Registry:

James Joslin reported on the Nurse Aide Registry 4th Quarter report. The Registry is now tracking nurse aide certifications that are revoked because of disqualifying criminal history discovered during the employment screen. The Registry went from 24 revocations in the third quarter to zero revocations in the last quarter due to delays in making the referrals to the office of General Counsel.

The Registry Walk-In program continues to be a huge success, which allows aids to walk in and process their certification renewal on the spot.

Mr. Joslin discussed the Patient-Driven Payment Model (PDPM) training. Ms. Diane Henry of the Department staff spoke to state that on September 26th and 27th the first PDPM training was held with over 300 registering and about 280 in attendance. The PDPM is CMS' new case-mix classification model that became effective October 1, 2019, and will be used under the Skilled Nursing Facility (SNF) Prospective Payment System (PPS). This data is important and influences how the facilities are paid.

The first complete renewal cycle is occurring since nursing home licenses were changed to three-year renewals. The goal remains that all renewals will be processed in 30 days. The Nurse Aide Registry had suspended mailing out renewal notices but has now resumed mailing out notices as a postcard. Those are mailed out every two months.

The Alzheimer's/Dementia Care Disclosure is required to be filed with the Department if you have a special program or unit for Alzheimer's/Dementia Care. We have 109 facilities that have designated beds, of those, 67 are Assisted Living, with the remainder being Continuum of Care, Nursing and VA Homes. The requirement for the disclosure form is with

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each renewal. The status of the disclosures has been audited and it was found that a number were out of date or had not been filed. Letters were sent out reminding providers of the disclosure requirement and those are being updated or the designation removed. These updated disclosures will be put on website we are developing. The vision is to have a website listing facilities, their disclosures, and a link to their survey reports. There is a website where you can see survey findings and can search based on facility type: Assisted Living, Nursing Home and VA's. We would like to add the ability to search based on whether they have designated Alzheimer's/Dementia care beds.

5) Reporting of RN Staffing Hours:

Payroll-Based Journal (PBJ) is an online journal CMS requires all facilities to use, to report staffing data. The data shows a number of facilities with low hours and days with no RN coverage. The federal requirement is eight hours of RN coverage per day. We continue to monitor the data and the number of facilities and days with no RN hours continues to drop. We are doing some direct interviews with some of our facilities that have more than five days without RN coverage to find out what is going on.

We emailed a survey to nursing homes to ask about their problems with RN staffing and the use of the PPBJ. Eight-one percent of the respondents said they are reviewing the Payroll Based Journal data in Casper, thirty-five percent stated their average RN wages were coming in at twenty-five dollars to twenty-nine dollars an hour for RN wages. Nurse staffing recruitment strategies were reported. We will compare those who are meeting the standards to those who are not meeting the standards, to see what kind of differences might emerge in the data.

6) Civil Monetary Penalty (CMP) Program:

Luvetta Abdullah works with the Oklahoma State Department of Health Nursing Home Civil Monetary Penalty Program fund. The purpose of the fund is CMS assets fines or penalties on Nursing Homes. Some of the funds go back to the state and the state is to use the funds to improve the care and quality of life for residents within those homes. The RFP has finally posted, Luvetta has provided a link for the details of the solicitation. The solicitation states we have two million dollars to fund up to about ten projects. The purpose is coming from the Civil Monetary Penalty revolving fund and the purpose is to protect or improve the quality and life of care for the residents. This year is an open forum where you tell us your ideals at the time; Luvetta will select an evaluation team to rank those ideals.

7) Appointed Nominating Committee for LTCFAB 2020 Officers:

Kay Parsons (Chair) and Jacki Millsbaugh

8. Long Term Care Rules Discussion:

Mike Cook had some updates on LTC Rules and Regulations Workgroup whom meet in August. There is one slot open for the workgroup for a Department of Health and all others well represented. We meet again in September after having voted on what we wanted to work on, two topics that rose up to the very top where Assisted Living Rules and Regulations. The second topic for discussion is Assisted Living license every three years; we have done this for Nursing Homes, and Residential Care. Another big topic was the water temperatures in the Assisted Living regulations that do not have a range. We are going to put the range of numbers in there similar to Nursing Homes, but not exactly the same. In discussion was also Assisted Living Scope and Severity Grid. In addition, we talked about implementing that for Residential Care, the biggest thing being that fines are not the same for each facility type, it varies, but the audiology behind the scope and severity grid has been utilized. Some of the more difficult areas we worked on were looking at is staffing. The issue is in Assisted Living were seeing a considerable higher level of equity coming into these types of facilities and try to define some staffing.

Draft rules we would like to bring forward for review redefine the definition in Adult Day Care, Nursing Homes and Specialized facilities for Tuberculosis (TB). We are going to update the language from Tuberculin Skin Test to Test for

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Tuberculosis. We are doing this in several of the Medical Facility Chapters as well. Anything that has an underline Chapter 605 Adult Day Care Centers; you will see how they have redefine some of the information. This is a comment period for the board; once we go through the comment period, we will come back in January and do the final comments. Chapter 675 last section, we will be removing tuberculin Skin Test to Test for tuberculosis.

Senate Bill 142 as it pertains to 663 from the rule impact statement the proposal adds new language for the administration of antipsychotic medications; the proposal defines probation prescribing and administration of the medication under certain conditions. The proposal sets forth its provisions for informed consent and emergency situations for distribution of the medications, the proposal established a residents right to refuse the medication and the facilities procedures where the residents refusal to consent to the administration of the medication. Therefore, Senate Bill 142 put many guidelines on a physician prescribing antipsychotic medication. There are other provisions such as residents having extenuating behavior that might result as an emergency, allows the facility to administer those when in an emergency. There is another position in the bill where the medical doctor decides, you need to take the medications and the resident refuses, and there is the ability to have a hearing either for the resident or for the facility.

Rules we added the definition of “antipsychotic drug”. Italics is a direct quote from the statute, an underline means it is being added, strike through means it has been deleted. In addition, they went in and added the definition for Long-Term Care facility; we added definition for “Prescribing Clinician”. Originally, this was put under statute 63 1-1881, which was about psychiatric hospitals; we had to incorporate that in a manner into the Assisted Living rules and regulations. The last thing where it says Antipsychotic drug administration shall be consistent with 63 1-881 is actually statute 142, which refers back to the statute.

Senate Bill 142 puts in place the ability to go to a hearing as we do in voluntary discharge right now we will be following a similar process; they will fill an application out stating they do not agree with the prescribing physician. It will go before an ALJ and they will make a determination. The resident can do this or the facility can come fourth state the resident refuses to take the medication and they think it is a danger to other residents, so the facility can request an ALJ.

The prescribing physician has to prove that whatever they are prescribing as needed, this is where they fail. They have no supporting evidence of why it was administered whether PRN, or a daily dosage. We look at the behavior of the resident on the medication; we look at the records and the care plan. For the Nursing Home, the antipsychotic is a quality measure; it’s definitely a part of the survey process. If they are putting in the recommended dosage for antipsychotic, they are going to red flag it when we do the recertification.

Chapter 675 Senate Bill 142 the rule impact statement summary is the same page 1 draft chapter 675 for rules Senate Bill 142 the definition of antipsychotic drugs, the definition for Long Term Care facility, definition for prescribing clinician, the definitions of residents side by side with the definition of resident under chapter 675.

Senate Bill 280 deals with staffing; it is for Nursing Homes and Specialized Facilities. Out of the three hundred nursing homes, only one not federally certified for Medicare and Medicaid and has to follow the SOM. We survey this when we do annuals and re-certifications, or if we receive a complaint about staffing. We look to see if they are staffing to the level of needs for the residents they have, and we look at the state language. This removes what we call Flex staffing now called 24 hour based. When we come in and do the re-certification, we will pull the monthly record. We will look at staffing and come up with a 2.9 ratio in order for you to continue. If you lose the 2.9 ratio you go back to shift based staffing.

9) New Business;

LTCFAB 2020 Meeting Dates

January 8, 2020, April 8, 2020, July 8, 2020 and October 14, 2020

10) Public Comment:

Public comment made throughout the meeting.

11) Adjournment

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July 10, 2019 Minutes

The meeting adjourned at 3:27 p.m.

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