Oklahoma State
Department of Health

LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

July 08, 2015 at 1:30 in Room 1102

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

MINUTES

July 08, 2015

1) Call to Order

Dewey Sherbon, Chair, called the meeting to order at 1:30 p.m.

2) Roll Call

Natalie Smith called roll with the following LTCFAB members present: Dewey Sherbon, Chair; Christean Bolding; Linda Brannon; Joyce Clark; James Colgan; Andrew Dentino; Ivoria Holt; Pamela Humphreys; Kenneth Jones; Adam Jordan; Joanna Martin; Alan Mason; Randy McKinney; Robert Quatro; Wendell Short; Diana Sturdevant; Eileen Wilson and William Whited.

The following LTCFAB members were absent: Donna Bowers, Willie Burkhart; Dustin Cox; Theo Crawley; Carrie DuRoy; Jimmy McWhirter; Kay Parsons; Luke Tallant; and Monica Woodall.

The following guests were present: Oralene Sherbon, general public; Julie Myers, DHA/PHS; Mary Womack, OSDH; Beverly Clark, PHS/LTC; Nancy Atkinson, OSDH; Vicki Kirtley, OSDH; Michael Jordan, OSDH; Debbie Zamarripa, OSDH; Kris McKinney; Ed McCaffey, OSDH; Becky Moore, OAHCP; Esther Houser, general public; Henry Hartsell, OSDH; Michael Cook, OSDH; Lori Bautista, OSDH; Mary Brinkley, Leading Age OK; Hollie Kee, ORALA; Don Maisch, OSDH; James Joslin, OSDH.

Currently, there are no vacancies on the LTCFAB, which consists of 27 members.

A quorum met with 18 members present.

3) Review and Action to Approve/Amend April 08, 2015 Regular Meeting Minutes:

Agenda Item #*3*

Vote 1

Motion: Approval of the April 08, 2015 Regular Meeting Minutes

Motion Made by: Linda Brannon Seconded: Eileen Wilson Motion Carried: Yes

Aye: 18 Abstain: 0 Nay: 0 Absent: 9

Aye: 18 ***Abstain: 0*** ***Nay: 0*** ***Absent: 9***

Christean Bolding	☑Aye ☐ Abstain ☐ Nay	Joanna Martin	☑Aye ☐ Abstain ☐ Nay
Donna Bowers	☐Aye ☐ Abstain ☐ Nay	Alan Mason	☑Aye ☐ Abstain ☐ Nay
Linda Brannon	☑Aye ☐ Abstain ☐ Nay	Randy McKinney	☑Aye ☐ Abstain ☐ Nay
Willie Burkhart	☐Aye ☐ Abstain ☐ Nay	Jimmy McWhirter	☐Aye ☐ Abstain ☐ Nay
Joyce Clark	☑Aye ☐ Abstain ☐ Nay	Kay Parsons	☐Aye ☐ Abstain ☐ Nay
James Colgan	☑Aye ☐ Abstain ☐ Nay	Robert Quatro	☑Aye ☐ Abstain ☐ Nay
Dustin Cox	☐Aye ☐ Abstain ☐ Nay	Dewey Sherbon	☑Aye ☐ Abstain ☐ Nay
Theo Crawley	☐Aye ☐ Abstain ☐ Nay	Wendell Short	☑Aye ☐ Abstain ☐ Nay
Andrew Dentino	☑Aye ☐ Abstain ☐ Nay	Diana Sturdevant	☑Aye ☐ Abstain ☐ Nay
Carrie DuRoy	☐Aye ☐ Abstain ☐ Nay	Luke Tallent	☐Aye ☐ Abstain ☐ Nay
Ivoria Holt	☑Aye ☐ Abstain ☐ Nay	Eileen Wilson	☑Aye ☐ Abstain ☐ Nay
Pamela Humphreys	☑Aye ☐ Abstain ☐ Nay	William Whited	☑Aye ☐ Abstain ☐ Nay
Kenneth Jones	☑Aye ☐ Abstain ☐ Nay	Monica Woodall	☐Aye ☐ Abstain ☐ Nay
Adam Jordan	☑Aye ☐ Abstain ☐ Nay		Shading = Absent

4) Proposed Rule Changes regarding nonprescription drugs in nursing and specialized facilities:

Mike Cook, Director Long Term Care Services, presented the rule changes regarding nonprescription drugs in nursing and specialized facilities.

Chapter 675. Nursing and Specialized Facilities
Subchapter 9. Resident Care Services
310:675-9-9-1
SUMMARY:

This proposal amends OAC 310:675-9-9.1(i), which deals with bulk non-prescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in nursing facilities. This change inserts verbatim language from the law concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled dosage regimens and only upon written order of a physician. This change will allow nursing facilities to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute [Title 63 O.S. Section 63.1-1950(B)] which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

The pros, cons, and issues were discussed in relation to the rule changes. The cons are that OAC 310:675-9-9.1(i) is more restrictive than Title 63-1-1950 and that it is causing problems on survey. A suggestion was mentioned to change "physician" to "prescriber." After considerable discussion, the decision was made to vote on the rule changes as presented in the summary.

5) Review and Action to Approve/Amend Proposed Rule Changes regarding nonprescription drugs in nursing and specialized facilities:

Agenda Item #*4*
Vote 2

Motion: Approval of the Proposed Rule Changes regarding nonprescription drugs in nursing and specialized facilities

Motion Made by: Linda Brannon Seconded: Joyce Clark Motion Carried: Yes
Aye: 18 Abstain: 0 Nay: 0 Absent: 9

Aye: 18 ***Abstain: 0*** ***Nay: 0*** ***Absent: 9***

Christean Bolding	☑Aye ☐ Abstain ☐ Nay	Joanna Martin	☑Aye ☐ Abstain ☐ Nay
Donna Bowers	☐Aye ☐ Abstain ☐ Nay	Alan Mason	☑Aye ☐ Abstain ☐ Nay
Linda Brannon	☑Aye ☐ Abstain ☐ Nay	Randy McKinney	☑Aye ☐ Abstain ☐ Nay
Willie Burkhart	☐Aye ☐ Abstain ☐ Nay	Jimmy McWhirter	☐Aye ☐ Abstain ☐ Nay
Joyce Clark	☑Aye ☐ Abstain ☐ Nay	Kay Parsons	☐Aye ☐ Abstain ☐ Nay
James Colgan	☑Aye ☐ Abstain ☐ Nay	Robert Quatro	☑Aye ☐ Abstain ☐ Nay
Dustin Cox	☐Aye ☐ Abstain ☐ Nay	Dewey Sherbon	☑Aye ☐ Abstain ☐ Nay
Theo Crawley	☐Aye ☐ Abstain ☐ Nay	Wendell Short	☑Aye ☐ Abstain ☐ Nay
Andrew Dentino	☑Aye ☐ Abstain ☐ Nay	Diana Sturdevant	☑Aye ☐ Abstain ☐ Nay
Carrie DuRoy	☐Aye ☐ Abstain ☐ Nay	Luke Tallent	☐Aye ☐ Abstain ☐ Nay
Ivoria Holt	☑Aye ☐ Abstain ☐ Nay	Eileen Wilson	☑Aye ☐ Abstain ☐ Nay
Pamela Humphreys	☑Aye ☐ Abstain ☐ Nay	William Whited	☑Aye ☐ Abstain ☐ Nay
Kenneth Jones	☑Aye ☐ Abstain ☐ Nay	Monica Woodall	☐Aye ☐ Abstain ☐ Nay
Adam Jordan	☑Aye ☐ Abstain ☐ Nay		Shading = Absent

6) Proposed rule changes regarding nonprescription drugs in residential care homes:

Mike Cook, Director Long Term Care Services, presented the rule changes regarding nonprescription drugs in residential care homes.

Subchapter 13. Medication Storage and Administration
310:680-13-2. [AMENDED]
SUMMARY:

This proposal amends OAC 310:680-13-2, which deals with bulk nonprescription drugs. This rule change removes a limitation on dispensing over the counter medications from bulk supplies of drugs maintained in residential care homes. This change inserts verbatim language from the law concerning the ordering or authorizing of medications by a physician. This change deletes language which restricts the use of bulk over the counter medications to only as needed or unscheduled

dosage regimens and only upon written order of a physician. This change will allow residential care homes to dispense scheduled regimens of over the counter medications with an order or other authorization. This change brings the rule into conformity with the authorizing statute [Title 63 O.S. Section 63.1-1950(B)] which is permissive, rather than restrictive, regarding the dispensing of bulk over the counter medications based on a nonscheduled regimen.

It was proposed to vote on the rule changes as presented in the summary.

7) Review and Action to Approve/Amend Proposed rule changes regarding nonprescription drugs in residential care homes:

Agenda Item #*5*
Vote 3

Motion: Approval of the Proposed rule changes regarding nonprescription drugs in residential care

Motion Made by: Randy McKinney Seconded: Alan Mason Motion Carried: Yes
Aye: 18 Abstain: 0 Nay: 0 Absent: 9

Aye: 18 ***Abstain: 0*** ***Nay: 0*** ***Absent: 9***

Christean Bolding	☑Aye ☐ Abstain ☐ Nay	Joanna Martin	☑Aye ☐ Abstain ☐ Nay
Donna Bowers	☐Aye ☐ Abstain ☐ Nay	Alan Mason	☑Aye ☐ Abstain ☐ Nay
Linda Brannon	☑Aye ☐ Abstain ☐ Nay	Randy McKinney	☑Aye ☐ Abstain ☐ Nay
Willie Burkhart	☐Aye ☐ Abstain ☐ Nay	Jimmy McWhirter	☐Aye ☐ Abstain ☐ Nay
Joyce Clark	☑Aye ☐ Abstain ☐ Nay	Kay Parsons	☐Aye ☐ Abstain ☐ Nay
James Colgan	☑Aye ☐ Abstain ☐ Nay	Robert Quatro	☑Aye ☐ Abstain ☐ Nay
Dustin Cox	☐Aye ☐ Abstain ☐ Nay	Dewey Sherbon	☑Aye ☐ Abstain ☐ Nay
Theo Crawley	☐Aye ☐ Abstain ☐ Nay	Wendell Short	☑Aye ☐ Abstain ☐ Nay
Andrew Dentino	☑Aye ☐ Abstain ☐ Nay	Diana Sturdevant	☑Aye ☐ Abstain ☐ Nay
Carrie DuRoy	☐Aye ☐ Abstain ☐ Nay	Luke Tallent	☐Aye ☐ Abstain ☐ Nay
Ivoria Holt	☑Aye ☐ Abstain ☐ Nay	Eileen Wilson	☑Aye ☐ Abstain ☐ Nay
Pamela Humphreys	☑Aye ☐ Abstain ☐ Nay	William Whited	☑Aye ☐ Abstain ☐ Nay
Kenneth Jones	☑Aye ☐ Abstain ☐ Nay	Monica Woodall	☐Aye ☐ Abstain ☐ Nay
Adam Jordan	☑Aye ☐ Abstain ☐ Nay		Shading = Absent

8) Nurse Aide Investigations Ad Hoc Report:

Wendell Short provided an update on the work of the Ad Hoc Committee for Nurse Aide Investigations, which included the identification of opportunities to reduce abuse, neglect, exploitation and misappropriation. The Ad Hoc Committee had a meeting on June 24th, 2015 and they reviewed data for 2005 to 2015. The average time from OSDH receipt to posting of notations on the registry, was three days during that time period. A status update will continue to be presented quarterly to the LTCFAB. The top cause of neglect comes from making a one-person transfer when a two-person transfer is needed. In 2015, OSDH cited 45 deficiencies for failure to report allegations, investigate, make corrections, and report results. For 2015, 28 confirmed findings were made as of June 24, 2015 of abuse, neglect and misappropriation made against nurse

aides. Male nurse aides accounted for 20 findings, or 71% of cases. The committee recommended additional reporting on type of facility, type of neglect, and whether or not the aide appeared for the hearing. The Ad Hoc Committee went through a process to identify the most critical areas and narrowed it down to the following: nurse aide training, fulfilling the obligation to report incidents, and facility processes and policy development. They also determined that there are five important data sets to evaluate.

9) Healthy Aging Report Ad Hoc Report:

Dr. Andrew Dentino gave a progress report from the Ad Hoc Committee on Healthy Aging. The committee had a meeting on July 8th, 2015 and has completed their sixth meeting and it was the first step towards developing an action plan.

From the most recent data for the quarter ending March, 2015, the percentage of nursing facility residents with falls with major injury was 5.6%. Questions to consider that might affect the higher percentage: "Is something inherently different in the facilities?" "Are patients sicker?" "Are falls being reported more robustly for other reasons?"

The Ad Hoc Committee brainstormed factors underlying Oklahoma's relatively high rate of falls with injury among nursing home residents. One consideration is that the high rate may be related to differences in reporting by Oklahoma nursing homes as comparted to the region and nation. A next step includes further inquiry into the reasons for Oklahoma's reported higher rate of falls with major injury.

The committee reviewed a presentation by Julie Myers, OSDH, outlining a proposed Comprehensive Fall Prevention Program for Nursing Homes. The proposal is to begin with one to three facilities starting on or about October 1, 2015 to field test the program for 12 weeks.

Oklahoma State Department of Health staff will revise the proposed fall reduction program based on the committee's critical questions and next steps. The committee requested completion of the revisions within two to four weeks, so the fall reduction program can be finalized by early August.

The AIM Statement was developed and is stated as follows: An opportunity exists to reduce the rate of falls with major injury in nursing facilities in Oklahoma, starting with a rate of 5.3% in September 2014, moving through 5.0% by June 30, 2016, to 3.0% by June 2019. This effort should increase physical, mental, social and emotional well-being and functioning of residents of nursing homes as currently measured in the composite scores, moving from 10.0 in June 2014, to 6.0 by June 2019. The process is important to work on immediately because falls are a significant cause of morbidity and mortality in older adults in nursing facilities. The baseline measurement are defined in the following metric: quarterly rate of falls with major injury in nursing facilities, and quarterly composite scores on 13 quality indicators from Centers for Medicare and Medicaid Services' Minimum Data Set reports.

10) Nurse Aide Registry Update and LTC Criminal History Screening Update:

James Joslin, Director Health Resources Development Services presented the Nurse Aide Registry update and the LTC Criminal History Screening update. James first spoke about a hearing held for people requesting waivers for background checks. Eight people that were not eligible had requested waivers. Three of the eight had received consent orders to issue their waivers. The other five were scheduled for hearings today. Two did not show. For the three left, the evidence did not show that they completed their deferment, so the decision will be made by the judge.

James Joslin provided the Nurse Aide Registry update for FY2015 Fourth Quarter. With the implementation of a desk on the first floor for aides to get assistance, 1,260 individuals were served during the last quarter. Vicki Kirtley, program manager, was recognized by the department last quarter for her teamwork and customer service. For Substantiated Abuse for FY2015, there were a total of 30 substantiated findings for abuse, neglect, and misappropriation.

The next report presented by James Joslin was on Abuse, Neglect, and Misappropriation (ANM) Findings for FY2015. The report breaks down the thirty findings from July 1, 2014 through June 30, 2015.

- The average years between certification to when they had a finding was six years, with minimum equal to one year and the maximum equal to nineteen years
- The average age at finding was thirty-three years, with the youngest equal to nineteen and the oldest equal to sixty
- Most of the aides are women, and more of the findings were from women with 67% (20 out of 30 findings)
- By type of certification, majority of aides were LTC and/or have home health certification (HHC), which consisted of 47% of the findings. Another 30% had LTC only findings. 20% were against certified medication aides (CMA) and only 1 finding was from a developmentally disabled care aide (DDCA)
- For finding types, sixteen (53%) were from misappropriation. Of the sixteen, 13% were misappropriation of meds. 10% of the 53% was misappropriation of cash and 30% was misappropriation of property. 30% of the findings were from neglect. Lastly, there were five (17%) cases of abuse. Three of the five were physical abuse, along with one sexual abuse and one verbal abuse
- By type of facility: 73% are nursing homes, 10% assisted living, 10% home care agencies, one ICF/IID and one private
- For training sources: 50% were trained at career tech, 23% were trained in a facility, 10% had private training, three had unknown training sources and two had been training at OSU
- Findings and OK-SCREEN (OKS) applicant reviews: of the thirty, eleven had applications in OKS and of those eleven; seven who had a finding had a determination of eligible. The other four, the providers saw a pending notation/abuse notation and stopped the process
- Of the seven with determination of eligible in OKS, only one had prior criminal history
- Once there was a finding against the seven with determination of eligible in OKS, three were terminated prior to being posted to OKS, three were terminated shortly after the finding was posted to OKS and one is pending, but does not work at the facility any longer

A new contract has been approved for a new finger printing vendor effective November 1, 2015. The new vendor will be using UPS stores, which have Saturday hours and will require pre-registration, but an appointment will not be needed.

11) <u>Appoint Nominating Committee for 2016 officers:</u>

The following LTCFAB members have been appointed to the nominating committee: Kay Parsons (Chairperson), Linda Brannon, William Whited, Kenneth Jones, Diana Sturdevant, Randy McKinney, Pamela Humphreys. Board members with expired terms can be voted on to be extended.

12) <u>Long Term Care Service Update:</u>

Mike Cook, Director Long Term Care Services, presented the Long Term Care update.

1. *Oklahoma State Board of Health Dashboard:* Long Term Care is monitored quarterly, where certain areas are measured. For LTC, state standard surveys, nursing facilities and their average being equal to 12.9, assisted living centers interval kept at 12.9 and below, IJ's are kept at 100% for nursing facilities, assisted livings, residential cares and non-IJ highs are observed, also. LTC received four green lights for the first time ever.
2. *Sending Plans of Correction (POC)/Statement of Deficiencies:* LTC requires updated e-mail contact information to send plans of corrections and statement of deficiencies, since e-mail is the primary form of communication. Generally, on survey, the survey team would like to meet with the administrator immediately to make sure e-mail and mailing contact information is up to date and correct.
3. *Annual Report for LTC:* The annual report is sent to the Governor, the senate, the legislature, Dr. Kline and summarizes the activities of the LTCFAB board for the past year. The annual report is due December 31st every year. Dr. Hartsell and Michael Cook work on and complete the report. Dewey Sherbon reviews it and it is forwarded on. Natalie will send out the previous year's report and request input on what should be included in the report.
4. *Provider Training:* On June 18th, Provider Training was held at the OU Schusterman Center in Tulsa. The next training session for nursing homes is being held at the Moore/Norman Technology Center on July 23rd. Provider training for the subsequent months will include ICF/IID, Assisted Living and Residential Care.
5. *MDS (Minimum Data Set) Focused Surveys:* MDS surveys are currently being conducted. CMS is compiling their data and will supply information and results from the surveys. Three months are allotted to complete the surveys. It takes two to three days to complete each survey. The surveys will be completed by the end of September.
6. *Surveyor Positions:* During summer months, the vacancies increase. And when fall starts, positions begin to be filled again. Currently, there are 10 positions open. Typically, down to only 5 positions open at any one time. Hiring is an ongoing process where interviews are conducted monthly.
7. *Improvement Teams:* Quality improvement (QI) processes were started. A mandates team was started over 3 years ago. Currently, an assisted living process improvement team was put together and the electronic POC was developed. LTC has its own internal QI program for team management has been meeting every other month since February, 2015.

8. *Oklahoma Residential Assisted Living Association (ORALA):* The first meeting was held in June with OSDH. The team agreed on the mutual goal of group, which is to serve residential care home clients and ensure residential care services continue to be available as a viable alternative in the continuum of care. The group agreed to focus on improved consistency and improve relationships as priorities for improvement.
9. *Long Term Care Service Staff:* Introduction and reports from Beverly Clark, LTC training specialist and Debbie Zamarripa, who recently received a promotion to Regional Manager of Survey.
    - *Beverly Clark:* The topics Beverly covered were surveyor training, Quality Indictor Survey (QIS) training, ongoing surveyor training, and provider training. Surveyor training includes on the job, classroom, and online training. There are currently twenty-five QIS surveyors and the goal is to train 4 teams a year. Council on Licensure, Enforcement and Regulation (CLEAR) training is being conducted July 14-16th, 2015. Mike Cook mentioned that LTC completely revised the training program in November, 2014.
    - *Debbie Zamarripa:* She stated the thirteen licensure surveyors, who have completed 869 surveys and 172 complaints in FY2015, have met all the state mandates for both surveys and complaints in assisted living, residential care and adult day care centers. All licensure surveyor positions are now currently filled. The protocols for the Adult day centers are being developed with input from LeadingAge Oklahoma. Falls are being addressed in licensure facilities, as well.

13) <u>New Business:</u>

1. *Paper prescriptions for controlled drugs:* Joyce Clark, LTCFAB member, started a discussion concerning paper prescriptions and having to physically go to each physician's office to them pick up, and then bring them to the pharmacy to be filled. It is causing a strain on providers, since extra staff must be hired. It was started by the Drug Enforcement Administration (DEA), due to the high incidence of prescription abuse nationally. Legislature would need to change the law. After discussion, a decision was made to make a request to have Darrell Weaver, agency director, and Mark Woodward, bureau spokesman from the Oklahoma Bureau of Narcotics to come and address the issue and how it affects nursing homes.

14) <u>Public Comment:</u>

1. *Mary Womack Retirement:* Mary is one of the attorneys in the legal department who represent the department on cases ranging from enforcement with facilities to licensure to reviewing certificate of need orders, certificate of need actions, receiverships, etc. She has been a guiding hand for the HRDS program. The LTCFAB recognizes her for her years of service to the department and long term care facilities in the state of Oklahoma.

15) <u>Adjournment</u>

The meeting adjourned at 3:18 p.m.