



LONG-TERM CARE FACILITY ADVISORY BOARD

Regular Meeting

April 12, 2017 at 1:30 in Room 1102

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

MINUTES

April 12, 2017

1) Call to Order

Dr. Andrew Dentino, Chair, called the meeting to order at 1:32 p.m.

2) Roll Call

Lori Bautista called roll with the following LTCFAB members present: Christean Bolding; Willie Burkhart; Joyce Clark; Dustin Cox; Theo Crawley; Andrew Dentino; Ivoria Holt; Pamela Humphreys; Adam Jordan; Joanna Martin; Alan Mason; Jim McWhirter; Jacki Millspaugh; Kay Parsons; Dewey Sherbon; Wendell Short; Diana Sturdevant; William Whited and Denise Wilson.

The following LTCFAB members were absent: Tracy Chlouber and Terry Ferrel.

The following guests were present: Michael Cook, OSDH; Debbie Zamarripa, OSDH; Don Maisch, OSDH; Alisa West Cahill, OU; James Joslin, OSDH; Alexandria Hart-Smith, OSDH; Mary Brinkley, Leading Age OK; Becky Moore, LTC Consultant; Vicki Kirtley, OSDH; Shelba Murray, Francis Tuttle Tech; Henry Hartsell, OSDH; Esther Houser, general public; Julie Myers, OSDH; Lori Bautista, OSDH.

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

A quorum was met with 19 members present.

3) Review and Action to Approve/Amend January 11, 2017 Meeting Minutes:

Agenda Item #3

Vote 1

Motion: Approval of the January 11, 2017 Regular Meeting Minutes

Motion Made by: Alan Mason Seconded: Dustin Cox Motion Carried: Yes

Aye: 17 Abstain: 2 Nay: 0 Absent: 2

Meetings are posted at:

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

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

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

Aye: 17 Abstain: 2 Nay: 0 Absent: 2

Christean Bolding	<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
Willie Burkhart	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Joyce Clark	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millsbaugh	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" 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
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
Andrew Dentino	<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
Terry Ferrel	<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
Ivorla Holt	<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
Pamela Humphreys	<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
Adam Jordan	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay		Shading = Absent

4) Review and Action to Approve/Amend February 9, 2017 Special Meeting Minutes:

Agenda Item #4

Vote 2

Motion: Approval of the February 9, 2017 Special Meeting Minutes

Motion Made by: Kay Parsons Seconded: Denise Wilson Motion Carried: Yes

Aye: 14 Abstain: 5 Nay: 0 Absent: 2

Aye: 14 Abstain: 5 Nay: 0 Absent: 2

Christean Bolding	<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
Willie Burkhart	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Alan Mason	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Tracy Chlouber	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jim McWhirter	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay
Joyce Clark	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Jacki Millsbaugh	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Dustin Cox	<input checked="" 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
Theo Crawley	<input checked="" type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Dewey Sherbon	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Andrew Dentino	<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
Terry Ferrel	<input type="checkbox"/> Aye <input type="checkbox"/> Abstain <input type="checkbox"/> Nay	Diana Sturdevant	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay
Ivorla Holt	<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
Pamela Humphreys	<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
Adam Jordan	<input type="checkbox"/> Aye <input checked="" type="checkbox"/> Abstain <input type="checkbox"/> Nay		Shading = Absent

5) LTC Workforce and Family Councils:

Alisa Cahill, Lead Researcher for the OU Knee Center Positive Aging Initiative, introduced herself and gave an overview of her background. She spoke about a new positive aging initiative that started last October 2016. The topic of discussion was about developing human service training and practice scenarios to guide the preparation of personnel for the new realities of an aging population in Oklahoma. For the research project, the researchers would like to contact LTCFAB Members, as key informants, within the next month to help gain a better understanding what the principle concerns and needs are when it comes to the field of aging. The question posed

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by Alisa Cahill was, “What type of professionals of community support personnel are needed within the field of aging to help people age best and well?” They would like to have one on one interviews, either in person or via phone. They would like the interviewees to share experiences and what they feel are the principle challenges and possible resolutions, as well as some areas of focus to work on when it comes to the field of aging. Alisa Cahill will get contact information for the LTCFAB Members from Mike Cook after the meeting. She also provided her e-mail address, alisa.w.cahill-1@ou.edu for board members to get in contact with her.

6) Long Term Care Service Update: (Moved from Agenda Item #9)

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

- *1) Civil Monetary Penalty (CMP) for Nursing Homes – CMS Tool:* In November 2015, an inflation adjustment act was passed and went into effect September 6th, 2016. Since 1994, the Social Security Act did not allow for inflation adjustment of CMPs. The maximum was increased to up to \$21,000 per day from \$10,000 per day. As scope and severity increases, penalties increase incrementally. Long Term Care must comply with minimum and maximum. The fines for D-L were left unchanged. The 2017 CMP inflation adjustment went into effect on February 3rd, 2017. CMS requested that LTC change their incremental amounts within the scope and severity grid. LTC will look at the difference of CMPs charged to facilities between September 6th, 2017 and February 3rd, 2017. CMS has the discretion to increase fines. LTC will review and make possible adjustments to the incremental fines for scope and severity of D - L. Another major change was on Denial of Payment for New Admissions (DPNA). DPNA for scope and severity for J, K, L, has been changed to an Immediate DPNA for scope and severity G – L, which will go into effect 15 days after the receipt of the statement of deficiencies. Mike Cook hopes to have the incremental fines adjusted for scope and severity of D – L by the next LTCFAB Meeting.
- *2) Appointments:* The LTCFAB consists of a maximum of 27 members. The last couple years, we have had 27 members. Currently, there are six vacancies. Lori Bautista and/or Natalie will be sending the information on appointments. Mike listed the six vacancies: Adult Day Care Facility Owner – Operator (2); General Public Over Age of 65 (2); Osteopathic General Practitioner (1); and Residential Care Home Operator (1). Please send Dr. Dentino or Mike Cook any recommendations of people to fill the vacant positions.
- *3) 2567 Questions at Survey Exit Conference:* CMS does not allow the surveyors to give the F-tags they plan to cite at the exit interview. There is usually a survey team of 3 - 5 members who do most of the work when they are in the office going over paperwork after the survey is completed. LTC is willing to discuss deficient practices and findings once the statement of deficiencies has been received by the facility. There have been concerns on the plan of correction (POC) date of either being the date the facility puts down or when the survey team shows up. The survey team actually calculates when the exact correction date is. A POC date can be the day after the survey exit date only in certain circumstances. Monitoring or quality assurance cannot be completed the day after the survey. The deficiency is corrected when supporting evidence is received by LTC.
- *4) Unlicensed LTC Facilities:* Mike Cook brought a letter sent to Dr. Cline in June 2016 from Janine McCullough from the Interagency Long Term Care Task Force to the attention of OSDH and the LTCFAB to ask the advisory board to address the concerns stated in said letter.

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In response to the letter, in the last 6 months, OSDH and Adult Protective Services (APS) jointly created a task force to investigate unlicensed facilities. There were four facilities that were examined. One of the facilities was closed. One facility was not operating as a long term licensed facility. There were two operating as unlicensed facilities. A recommendation was made to legal about the two facilities. If one facility changed a couple practices, it could operate without a license. The other facility, which is actually two facilities under one name, is in the process of being served. The facility that is currently closed, requested a hearing to prove that they do not need to be licensed. Two facilities are in rural areas and the other two are closer to metropolitan areas. LTC will keep an eye out for the unlicensed facilities. In response to the request for an ad hoc committee be created in relation to unlicensed facilities, Mike Cook recommended that the LTCFAB wait and see what other information is brought forward and let APS, OSDH and the Ombudsman, who have been collaborating in relation to unlicensed facilities, work through their solutions. They can update us the LTCFAB of the status within the next couple meetings.

7) Humanity of the Unborn Child Act (Bathroom Signage Bill): (Moved from Agenda Item #6)

Don Maisch gave an update on House Bill 2797 that was passed May 27th, 2016. The bill requires that all facilities that are licensed by the State Department of Health to place signage in their public restrooms that would have the following statement “There are many public and private agencies willing and able to help you carry your child to term and assist you and your child after your child is born, whether you choose to keep your child or to place him or her for adoption. The State of Oklahoma strongly urges you to contact them if you are pregnant.”

Starting June 2016, OSDH began the process of writing rules. The rules were sent out for public notice and comment. Public comment ended in November 2016. The rules were voted on in December 2016 based on changes requested from public comment. The rules were adopted by the board of health. The rule is not in effect. The bill is in legislature.

Senate Bill 30 is new legislation that is pending and still alive. It has passed through the Senate and headed to the House. If approved by the House, then it will go to the Governor for approval. Free standing clinics that complete abortions would be the only facilities that would be required to have the signage, if this bill passes. The signage would have to be in full public view, not only in all public restrooms. If this bill passes, LTC facilities would not be required to have the signage in all public bathrooms. It would cost between a few hundred to thousands of dollars to place the signage in bathrooms for LTC facilities.

8) Licensure, Nurse Aide Registry and Background Check Update: (Moved from Agenda Item #7)

James Joslin provided three reports on the Nurse Aide Registry Statistics: 1) Composite Scorecard for Oklahoma Nursing Homes: Long-stay metrics for the period ending December 31st, 2016; 2) Nurse Aide Registry Third Quarter Fiscal Year 2017 Statistics; and 3) Abuse, Neglect, Misappropriation (ANM) Findings through Third Quarter FY2017.

The first handout provided by James Joslin was the Composite Scorecard for Oklahoma Nursing Homes: Long-stay metrics for the period ending December 31st, 2016. On the handout, green

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lights show significant improvement, yellow lights show no significant change and any red lights show significant decline. Seven metrics showed significant improvement. Seven metrics showed no significant change. There are no metrics that showed significant decline. Table 14 on the scorecard shows a composite score for all the tables combined. Julie Myers, Alex Hart-Smith and Hank Hartsell have compiled the information included on the composite scorecard. Please contact James Joslin with any questions or recommendations. Alex Hart-Smith will make the scorecard available online. Diane Henry and her staff train all the MDS coordinators in the facilities to score consistently on the assessments for the long-stay metrics. There are between 17,000 and 18,000 assessments completed every quarter. Hopefully, next year, all metrics will be green lights.

The Healthy Aging Initiative, the CMP Fund Program and the quality improvement organization from CMS uses the data compiled from the long-stay measures. Each facility can get the data for their each individual facility. The Plan, Do, Check, Act method is put in to effect to help affect the metrics for the composite scorecard. A comment was made about the Antipsychotic Medications metric and that Oklahoma is steadily increasing. Mike Cook mentioned that Oklahoma made great strides and improvements, initially. Now, all the other states have started to make improvements. Julie Myers spoke about a two-year quality improvement project for the reduction of antipsychotic medications that LTC received an award for and how we have sustained since then. The baseline MDS data goes back more than a couple years. A recommendation was made to send out the composite scorecard to the facilities and commend them for the green lights and having zero red lights. It would show the facilities what is actually looked at statistically when using MDS data. A recommendation was made for surveyors to go into facilities recognizing which metrics each facility is doing well on and then make recommendations for improvements.

James Joslin next presented the Nurse Aide Registry Third Quarter Fiscal Year 2017 Statistics handout. Nurse Aide Registry Statistics has a new format developed by Vicki Kirtley, where data can be compared quarter to quarter. In the Total Abuse Table on page 2, there is a correction for the total from 12 to 21 in column FY17-Q03.

The final handout James Joslin talked about was the Abuse, Neglect, Misappropriation (ANM) Findings through Third Quarter Fiscal Year 2017. He noted that for Fiscal Year 2017 Third Quarter, 24 is the largest count to date since reporting started. A new row was added to show how many are getting cleared within six months. Three were settled with an administrative order of either probation or suspension. Some old cases on the docket were still getting cleared off. The backlog was caught up in the March 2017.

James Joslin gave an update on licensure concerning the upper payment limit and the supplemental payment. Applications started being received and within two weeks, 56 applications were received to change ownership to a non-state governmental organization. It was anticipated that about 200 total would apply for change of ownership. CMS evaluated the state plan amendments submitted by the Health Care Authority and responded with questions. To date 19 applications have been put on hold while they amend their applications. If all 56 providers were approved as of April 1st, 2017 compared to July 1st, 2017, it would be worth 20 million dollars over a 3 month period. None of the applications were approved by April 1st, 2017. OSDH and the OK Health Care Authority are working together with responses to the questions posed by CMS.

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The last update that James Joslin gave pertained to the rule changes that OSDH had been working on. They have been approved by the board of health and are currently waiting for the legislature and/or the Governor for their action(s).

9) Health Aging Report Ad Hoc Report: (Moved from Agenda Item #8)

Dr. Dentino said that the Ad Hoc Committee has not met since November 29th, 2016. The two objectives for the Ad Hoc Committee are 1) Preventing falls with major injury and 2) Increasing influenza and pneumococcal immunizations among nursing home residents.

As of October 1st, 2016 to today: there have been 90 Influenza-associated deaths statewide with 62 of those aged 65 years and older; approximately 17 long term care facilities reported influenza outbreaks; and one long term facility reported a pneumococcal outbreak. The OSDH has asked a current contractor of the CMP Fund Program to pilot initial efforts. Activities included: regional meetings, which included the meeting last October; assessment of current practices relative to healthcare worker vaccination; direct support to at least 40 homes; and data analysis to lead future efforts.

The Next meeting will be June 20th, 2017 at 1:00 p.m.

10) New Business:

1. *No New Business*

11) Public Comment:

1. *Nursing Home Funding:* Alan Mason mentioned that there was going to be a report on channel 9 about funding for nursing homes. He said that if funding for nursing homes is cut more than 10%, then many residents will become homeless. Alan posed the question, "Where do we stand with the Health Care Authority?" Mary Brinkley talked about Senior Day at the Capitol that occurred on April 11th, 2017. It was mentioned, "With a 10% cut in funding to LTC Facilities, 50% of the facilities are projected to close." There was a concern about where residents will be relocated to, if facilities do close. Dr. Dentino mentioned the LTCFAB approved Letter of Concern regarding the impact of proposed Medicaid budget cuts on the aging citizens of Oklahoma that was sent to Executive and Legislative branches and other selected individuals and agencies dated April 18th, 2016. Appropriations will occur in May 2017 and any cuts in funding to LTC Facilities will be addressed at the next LTCFAB meeting.

12) Adjournment

The meeting adjourned at 3:20 p.m.