

**Minutes of the
Illinois Long Term Care Council Meeting
Springfield/Chicago Video Conference
July 29, 2009**

Members in Attendance: Nancy Flowers, Pat Comstock, Ann Ford, Eva Hall, Phyllis Mitzen, Wendy Meltzer, Margaret Niederer, Michael O'Donnell, Pam Edelman-Sall, Brigit Dyer-Reynolds, David Sutor.

Members Not Present: Ann Ford, Pat Comstock, Barbara Craig, Sue Kerrigan, Ben Perkins, Dave Vinkler

Guests: Eva Hall's husband, Matt Hartman for Pat Comstock (PM),

State of Illinois Staff: Sally Petrone, Lee Beneze, Rick Dees, Sgt. Debra Dell, Rebecca Harshbarger, John Hosteny, Neyna Johnson, Sharon Woods, Connie Hill, Amy Wiatr

Welcome/Introduction: The meeting was officially opened by Co-Chairs Nancy Flowers and Lee Beneze. They introduced themselves and asked Council members to do the same.

Approval of Last Meeting Minutes: The minutes from the March 10, 2009 meeting were approved. The revised meeting minutes were put to the **motion** of approval made by Nancy and **seconded** by Mike O'Donnell. The minutes were approved.

Presentation: "U. S. Administration on Aging Analysis of LTCOP Data" by Amy Wiatr, Aging Services Program Specialist, discussed the analysis of FY2007 Ombudsman (OMB) Program data. Information on the Illinois Facility beds by type of facility, Illinois cases opened/closed and complaints, Region V LTCOP Complaints per LTC Facility bed FY2000-2008, Illinois complaints vs consultations to individuals, IL OMB Consultations to Facilities. Illinois LTC beds per OMB staff and certified volunteers, FY2008 funding per bed, complaints per bed, beds per OMB FTE, Region V funding per bed FY2008, IL Number of OMB staff and certified OMB volunteers, the Top 5 nursing facility complaints and the top 5 board and care and similar facility complaints. Amy may be reached at 312-886-8536 or mail her at amy.wiatr@aoa.gov More in depth data/information is available at www.data.aoa.gov

Old Business: The Illinois Long Term Care Council Report for 2004-2008 Achievements and Challenges (Draft form) was discussed. The structure content was discussed and the report is due annually, but will have to finalize the 5 year draft and will be discussed at the September for final decisions. Margaret noted the information will be viewed by public and legislators and it is the responsibility of this council to list the council's actions and recommendations. Any LTC Council functions and accessible to public and public response accepted. The first person presentation should have been noted in this report. A list of council actions/recommendations, follow-up and product produced with dates. (ex. Increased funding request each year). Attachment with meeting minutes used to draw out issues and put under legislative mandates. Appendix should include members listing (past and present). Barriers should be noted, such as lack of funding for OMB and based on what has been accomplished. What is the purpose of the report? Responses to the missions of this council with examples of needs listed, partnerships, AoA, responsibilities of council and put out of motions. Deadline for review and final suggestions if September 15, 2009.

Corrections to Council Membership List, Sally Petrone noted a few changes to the Council Membership listing. Maria Havens retired from State Government and may be replaced by Rebecca Harshbarger.

IDPH update: Rick Dees gave an update on the IDPH regulations of nursing facilities licensure fines. The Director has discretion to correct the situation and operation does not direct imposing assessment of penalties with a 35% reduction of federal funds. Mr. Dees discussed the administrative law judge made some changes in the licensure and reduction in fines being assessed, the language in amount of penalty in assessment and fines threshold were developed years ago. Assessment A violations per individual and fines assessing accordingly.

Revisions to LTC Council Bylaws - Mr. Beneze will sent out to members for review and hope to remind members of the meeting attendance. He asked for any thoughts of other items on structure of this council. The by-laws are located on the Department's web site. A group discussion will occur on any changes. The meeting minutes should be posted to the Department's web site, as well as the meeting agenda and any future meeting dates.

Legislation: Review of previous legislations and passed bills were discussed by Mr. Beneze. Mart Hartman and Sharon Woods discussed the payment expedition are required a 30 day payment cycle. All current providers/contractors are paid up.

SB314 Penalty relocation bill has not been signed.

Revision of the Power of Attorney Act has went through both houses

AARP came in with Uniform Act Adult Guardianship and asked states to support to better protect POA-clients. This will set up a procedure for intra states problems/issues. We will need a report at the next meeting.

HB 750 and SB 1930 consists of the same language.

Status of legislation items will be incorporated into the minutes.

Draft of LTC Council 2004-08 Report

Margaret Niederer noted a few suggestions regarding the information to the public audience: Shorter recommendations, more succinct, and in some cases they need explanations, eliminate acronyms, motions are not clear and complete with mandated duties, persons not presently on the council be listed in the report, as they should be recognized for their efforts, and issues pertaining to the long term care and Illinois Long Term Care Ombudsman Program

Consumer Choice Reports – Ms Petrone discussed the reports and announced they are located on line for review. 727 nursing home and 233 assisted/supportive living facilities have been entered and completed the report. They will add more searchable areas with hopes to increase to more area in the future. Facilities self reports and downloaded into system in a readable format.

Committee Reports – Mr. Beneze reported there are no sub-committee reports at this time. Margaret Niederer requested a list of committees and add members of newly appointed terms.

Quality, Legislation, Pioneer Practices, OMB are the sub-committee discussed. All were accepted as sub-committees and the request for assignments were put forth by Mike O'Donnel. 1. Need specific assignments for each sub-committee.

Presentation: Update on IDPH regulations of nursing facilities Bill Bell, Acting Division Manager, Office of Health Care Regulations

New Business: Meeting minutes should include (bold) motion adopted format and (bold) action idea and whose responsibility. Lee, Nancy, Phyllis will assist with the initial process.

FY2010 Budget Impact Issues

Ms Killough reported the Department escaped most of the budget cuts they had expected. There is a general 10 percent decrease in funding across almost all aging

programs and grant lines. The Department may expect reserved funding later in the year. The Department met with OMB last Thursday and is in the process of working to incorporate the rate increase.

The Governor's office wants to maximize the amount of money available to the CCP program through federal, state, and co-pay sources.

There is a 10 percent reduction in the Department's elder abuse program (actually a 5 percent reduction in last year's amount in addition to the elimination of the \$1 million increase previously proposed by the Governor.) There will be changes to this program as a result, but they have not been determined to date.

The LTC Ombudsman program was cut by 10 percent, as well. The Department is also faced with a reduction in personal services, which include layoffs. The Circuit Breaker program lost 50% of their budget.

The CCP Program is subject to reserves, but final numbers are unknown, but we do anticipate some funding out of the \$2.3 billion.

We all should keep in mind the top three priorities with the number of OMB visits are concerns due to budget crises and the need to decrease the number of visits or explore other avenues. Travel cost, staff cutbacks and volunteers enrollment decreasing. Education to family members vs OMB, with more empowerment to residents with web site materials.

Nancy Flowers will write a letter to the Director Johnson, urging strong support for budget funding for this program. The reinstatement of OMB funding is so important. **Margaret moved a motion and Ann Ford seconded the motion.**

Margaret Niederer motioned **the FY2011 funding needs to remain the main topic of sub-committee, both sub-committee Legislative and OMB budget carried.** Mike O'Donnell second the motion. Phyllis Mitzen remarked on other sources of funding avenues, internal funding options, municipal monies and any strategies to receive additional funding to move forward. This has been assigned to the OMB sub-committee. The advocate groups needs to focus on this to add legislative sub-committee.

Bed Tax Funding – Mr Beneze noted that a source of funding could be a bed tax and that there are three legislative items for next year, funding, bed tax and response to the Rosewood Case. Mr. Beneze motioned to instruct this committee to complete by the 2010 legislative session (**with Mike O'Donnell first the motion and Bridet Dyer-Reynolds seconding the motion**) to propose a bed tax and where to fix it in the legislation. We will need a sponsor and to fix in the federal code. DPH would need status authority. **Motion** adopted to draft legislation for a

bed tax model to present to 2010 Legislation session. Money collected would go to the general revenue coffers and state agencies could not collect the money. Motion #3 wait to see what DPH (motion) is going to draft PNA build on MSA work done on PNA initiative discussion. No funding to accomplish this Every year a bed

Response to the Rosewood Case, Bill Bell reported the State officials have appealed a decision by a Sangamon County judge that puts a \$10,000 limit on nursing home fines, but the ruling already has affected dozens of case statewide. Fines involving 40 Illinois nursing homes have been reduced, with facilities agreeing to pay \$10,000 or less, since Circuit Judge Leo Zappa issued his February 13 decision. State officials are considering reducing individual fines that exceed \$10,000 in more than 80 other cases going back to 2006.

Illinois Department of Public Health, spokeswoman, Melaney Arnold said the department hasn't decided how to proceed in a pending case against Woodstock Residence, now known as Crossroads Care Center, in which the Woodstock nursing home was fined \$300,000 a record level, in May 2009. State regulators have investigated five suspicious deaths there, as well as a former employee who allegedly used drug cocktails on residents.

Zappa issued his ruling in a case involving Peoria's Rosewood Care Center, which had appealed a \$25,000 fine stemming from the death of 95 year-old Katherine Martin in 2006. Zappa found that the Department violated state law and bypassed administrative rules when it began to impose fines of more than \$10,000 several years ago. He barred the Department from enforcing fined of more than \$10,000 in past cases that were pending and any future cases.

Public Health officials believe state law allowed them to boost fines to \$50,000 whenever they determined that bad care directly caused a resident's death. The Department in 2006 also began issuing fines of at least \$20,000 when residents sustained serious injuries connected with bad care.

IDPH said high fines rightly punished bad behavior and promote better care even if the amount eventually paid often is renegotiated. The court's ruling probably will lead to lower final payments by nursing homes overall. IDPH have appealed the decision, however they also plan to ask the II General Assembly to give the Department more latitude in dishing out fines. In the meantime, the Department is looking at changing the way it issues fines so nursing homes still could face monetary penalties higher than \$10,000.

If new legislation is proposed for fines, the nursing home industry will work with IDPH on "a reasonable position we call all take".

Added Representation on Council- Mr. Beneze and Ms Petrone discussed the correctiosn to the Long Term Care Council membership list. Rebecca Harshberger

replaced Maria Havens, Phyllis Mitzen replaces Martha Holstein. Margaret Niederer noted the need for fair and impartial selection of members to the Council. We need representation from all areas of the state, and post any openings on the web site. To recommend to the Department to better notify the public to fill vacancies on this council and identify each area of member listing.

Future Meetings: The 2009 Council meeting dates and locations are as follows (all meetings are from 10:00 am till 3:00 pm):

September 15, 2009 – Springfield at the Northfield Inn and Suites Conference Center, 3280 Northfield Drive. **This meeting has been changed to Video Conference in Chicago and Springfield locations.**

Final Announcements and Wrap-up:

Briget Dyer-Reynolds announced her resignation from this committee.

Briget Dyer-Reynolds reported on the State Journal Register article on advocate seeks probe of nursing home death and neglect might have played a role. A local advocate for nursing home residents is questioning whether a longer period of neglect might have played a role in Keri Daugherty's death. Bri get stated she wanted to find out if her death could have been prevented and she does not want to see this happen to another resident.

Brigit filed a written request July 9 with Logan County Coroner Robert Thomas that an investigation be performed into Daugherty's death and that her body be exhumed for an autopsy. Thomas told the State Journal Register he has asked Logan County States Attorney Michael McIntosh for advice on how to respond to Brigit's request. One of his deputy coroners handled the case, but he didn't do an "in- depth investigation" at the time of her death.

Daugherty's who ha d spina bifida, had been living at Maple Ridge since September 24. Documents from the Illinois Department of Public Health indicated that a nurse found Daugherty without a pulse and unresponsive at 8:20 p.m. on March 22. Maple Ridge staff members decided not to follow Daugherty's known wishes, outlined in her medical records – to try to revive her via cardiopulmonary resuscitation. The home director of nursing told a Public Health investigator's report, the nursing director" said she couldn't bear to "break up" her little body by performing CPR". The investigator wrote that the nursing director, whose name wasn't listed, said she had worked in hospital ER rooms for many years and couldn't see the point of attempting to resuscitate someone who already was dead. The state's fine was based on the refusal to perform CPR.

Brigit also noted in her complaint to the coroner. "Our concern is whether or not Ms. Daugherty was experiencing distress and her death could have been avoided had she been given timely medical attention. We are concerned that she may have experienced further neglect upon her return to Maple Ridge which may have contributed to her death".

Next Meeting Agenda items:

- Revisit/investigate the 3 day rule
- 2010 LTC Council meeting schedule for 2010
- Amy Wiatr presentation –response
- OASCA and CCP transfer NH to community

Meeting minutes prepared by Connie Hill.