

MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE
OFFICE OF HEALTH CARE QUALITY

Assisted Living Forum
Lobby Level Conference Room L-1
O'Connor State Office Complex
201 West Preston Street
Baltimore, Maryland

Wednesday, July 13, 2005
10:00 AM to 12:00 Noon

MEETING NOTES

In Attendance

1. JoAnne Stough, BCDSS
2. Lugene "Mike" Mason, NAMI
3. Linda Moore, BCHD
4. Beverly Harris, BCHD
5. Joyce Vanjile, CCDoA
6. Rosemary Burton, Golden Legends
7. Haven Bare, Golden Legends
8. John McNlottlin, All Care Assisted Living
9. Darlene Fabrizio, Somerford Corp.
10. William Dorrill, OHCQ
11. Yvette Dixon, OHCQ
12. Herb Jolie, Liberty Gardens
13. Lisa Jolie, Liberty Gardens
14. Danna Kauffman, LifeSpan
15. Lisa Abrams, MHA
16. Mark Wah, Angel's Touch
17. Nicole Kaiser VA Baltimore
18. Yvette Daniels, VAMHC
19. Terri Haysen, Howard County
20. Steven Gorozdos, Potomac Ridge Behavioral Health
21. Jane Allen, Consumer (Family Member)
22. Delegate Adrienne Mandel
23. Darrin Brown, AARP
24. Lynne Condon, OHCQ
25. Roslyn Tyson, OHCQ
26. Susan Quast, Montgomery County
27. Marie Matthews, Rose Garden Cottage
28. Carolyn Henn, Augsburg Lutheran
29. F. Banks, Baltimore County
30. Joann Sarvin, Ausbury Methodist Village
31. Shelia Mackertich, HFAM
32. Kenyatta Brooks, Lingue Services
33. Margaret Nemetz, Elder Law Attorney
34. Janet Zadera, Consumer (Family Member)
35. Jerry Zader, Consumer (Family Member)
36. Bonnie Hampton, Charles County
37. Otto Drengwitz, Voices for Quality Care
38. Dosemary Desmond, Assisted Living Centers
39. Glenda Elliott, Assisted Living Centers
40. Beth Wisemer BCASCO
41. Joe Locks, JLR Systems
42. Kevin Crysk, Rock Spring Village
43. Luke Frazier, Catholic Charities
44. Dianne Fox, VA
45. Stephanie Lyon, Alzheimer's Association
46. Roy Kiewe, CHAI
47. Nanci Target, Heartlands
48. Bruce Raffel, Catered Living Group
49. Valerie Richardson, OHCQ
50. Paula Carder, UMBC
51. Sister Irene Dunn, Victory Housing
52. Lindsey Merson, VA
53. Suzanne Greer, VA
54. Muriel Hesler, Montgomery County
55. Margaret Gunzelman, Hopkins ElderCare
56. Mayer Handelman, Board of Pharmacy
57. Linda Cole, MHCC
58. Clare Whitbeck, United Seniors
59. Michele Douglas, Alzheimer's Association
60. Kevin Henderson, Sunrise Senior Living
61. Kenyatta Brooks, Almost Home
62. Ilene Rosenthal, MDoA
63. Barbara Newman, MBoN
64. Denise Adams, MDoA
65. Karin Lakin, Senior Network
66. Marie Ickrath, Baltimore Mental Health
67. Yvette Housen, Housen Homecare
68. Sandara Cephas, Classic Residence by Hyatt
69. Silva Gerety, Five Star Quality Care
70. Peg Lattin, Rexford Place
71. Jill Spector, Medicaid

72. Wesley Malin, Hillhaven
73. Chikina Powell, Chance II Change
74. Susan Shubin, Legal Aid Bureau
75. Francene Hill, Montgomery County
76. Debra Campbell, Montgomery County
77. Tom Maxwell, Anne Arundel County
78. Wayne Griffon, ALNCS
79. Steven Gorozdos, Potomac Ridge Manor
80. Linda Day-Butler, BCHD
81. Evelyn Hoban, Prince Georges County
82. Meg DeSchraver, Brook Grove

83. Karyna Balbveena, Brook Grove
84. Robin Kelly, Sunrise Senior Living
85. Karen Acton, Sunrise Senior Living
86. Evelyn Burton, NAMI
87. Kim Mayer, OHCQ
88. Carol Benner, OHCQ
89. Ted Meyerson, AARP
90. Phyllis Meyerson, AARP
91. Anna Jeffers, Board of Pharmacy
92. Dennis Byrne, SALA

I. Call to Order and Introductions

Ms. Carol Benner, Director of the Office of Health Care Quality (OHCQ), called the Assisted Living Forum to order at approximately 10:20 AM. Ms. Benner thanked everyone present for their interest in Maryland's Assisted Living Program.

II. What is the Purpose of the Assisted Living Forum?

In 2003, the Department initiated a comprehensive evaluation of the Maryland's Assisted Living Program. An Assisted Living Forum (ALF), which is an assembly of providers, consumers, stakeholders, advocates, State and local governments, health professional regulatory boards, family members and interested parties, was convened to openly discuss how the program could be strengthened in order to better protect the health and safety of assisted living facility residents.

Assisted Living is a difficult issue. There are many different opinions on what an assisted living program should like and what level of regulation government should impose. Participants in the ALF are advisors to the Department. The ALF evaluates current requirements and standards as well as suggestions for strengthening those requirements. The discussions are used as a basis for the Department's decisions.

The ALF utilizes many different informational resources and reviews current studies. The ALF has reviewed materials from the National Assisted Living Workgroup, the Association of Health Facility Survey Agencies, the National Academy for State Health Policy, the National Center for Assisted Living and studies from the University of Maryland on the Evaluation of the Delegating Nurse 45 Day Review and Johns Hopkins University's on the treatment of dementia in Maryland's assisted living programs.

The Department has published two reports containing consensus recommendations to improve the quality of care received by frail seniors and develop a more efficient regulatory process. This year, the ALF will focus on quality of care standards and the regulatory structure of Maryland's Assisted Living Program.

III. Update from the Maryland Board of Nursing: Changes for the Requirements for Certified Medication Technicians and Delegating Nurse/Case Manager

Ms. Barbara Newman, Director of Nursing Practice at the Maryland Board of Nursing, provided an update on recent changes to the requirements for delegating nurses and medication assistants, now known as certified medication technicians.

Certified Medication Technicians

In 2004 Senate Bill 405 was passed by the Maryland General Assembly. The bill strengthened the requirements for medication assistants in assisted living, school health, adult day care, juvenile service, Developmental Disabilities Administration alternative living units and group homes, etc.

- The New Board approved Medication Technician Training Program. - The new Board approved Medication Technician Training program has three parts – classroom, simulations and clinical observations. *Part one* contains classroom content (e.g., how to transfer a medication order onto a medication administration record) and content which is unique to each practice setting (e.g., disease processes, medications, and high risk drugs). The theory classroom time is increased from 16 to 20 clock hours. New classroom requirements include that all mini-tests/feedback exercises be completed in the class by each individual student, not as part of a group activity or take home examination. Classroom limits were also established that include no more than six classroom clock hours at one time and one instructor per 15 students. *Part two* of the course deals with simulations wherein the student must demonstrate in the simulated skills laboratory a medication pass. *Part three*, which is a new component, requires a clinical observation of the student administering medication to a client in the assisted living program, not to be included in the 20 classroom clock hours. The instructor of the course may observe only one student pass medication at one time in this component. In addition, *prerequisites* have been established for the course that require a student to be at least 18 years of age, pass a basic reading comprehension and basic math test, and be an employee of an assisted living program. Clinical updates are required every two years in order for certification to be renewed.
- Individuals who are currently registered with the Board of Nursing as medication assistants. – An individual currently registered on the Board's web page as a medication assistant on October 1, 2004, will be certified as a medication technician. The Board began the certification process for medication assistants in early 2005 and estimates that it will take approximately two-years to certify all individuals.
- Individuals who are seeking certification as a Medication Technician – An individual who wants to become a certified medication technician must be at least 18 years old and successfully complete a Board approved Medication Technician Training Program. The individual must submit to the Board an application that is signed by a registered nurse approved to teach the Medication Technician Training Program along with a 2x2 passport size photo. The individual will receive initial certification in the practice setting in which they receive training. For example: if the individual is trained in assisted living, their certificate would appear as "Medication Technician-Assisted Living". Only the initial certification will identify the practice setting. Should the medication technician change practice settings, it is the responsibility of the employer to ensure that a registered nurse approved to teach the Medication Technician Training Program specific to that practice setting, provides the employee with the course content specific to that new practice setting.
- Individuals who are renewing the Technician Certificate. – Certification of a medication technician will need to be renewed every two-years. The certification expires on the 28th day of the individual's birth month. The Board will mail the medication technician a renewal form 60 to 90 days prior to the expiration date of the certificate. A medication technician that is born in an even year will renew in an even year and a MT that was born in an odd year will renew in an odd year. The medication technician must successfully complete a Board approved clinical update specific to their practice setting within 90 days prior to expiration of their certificate. As already required, the registered nurse approved to teach the Medication Technician Training Program will submit the medication technician's clinical update verification electronically. The Board will then electronically match the clinical update verification with the medication technician's renewal form and a new certificate will be mailed.

If an assisted living program has a medication assistant that has completed the appropriate training and whose name does not appear on the Board's registry, the program should contact the Board of Nursing immediately.

The provider should be prepared to provide the Board the following information: (1) the individual's name, (2) their social security number, (3) the date of their initial training, (4) the date of their last clinical update, (5) the name of the registered nurse who provided their training, and (6) the date the information was submitted to the Board of Nursing. Questions concerning medication technicians can be directed to Williet Jackson at 410.585.1918 or by e-mail at wjackson@dhhm.state.md.us or LaToya Strange at 410.585.2051 or by e-mail at lstrange@dhhm.state.md.us. For more information about medication technicians, or to verify a medication technician, assisted living providers are encouraged to check the Board of Nursing's web page at www.mbon.org.

Delegating Nurse/Case Manager

The Board of Nursing became aware that delegating nurses needed additional training to improve their skill set in both the theory and clinical aspects concerning the delegation of nursing acts to unlicensed individuals. The Board has developed a 16-hour course that all delegating nurses must complete. The course reviews topics such as how to effectively delegate nursing acts to unlicensed personnel, what degree of supervision is required, the principles of case management, ethical and legal concerns, contractual obligations, etc. The course will provide a foundation from which delegating nurses will be able to effectively advocate for residents' needs as well as learn how to access community resources. Delegating nurses will also learn how to improve the 45-day assessment process.

The Central Maryland Red Cross, the Health Facilities Association of Maryland, the Beacon Institute of LifeSpan and 9 community colleges statewide are approved by the Board to provide the delegating nurse/case manager training. A list of approved programs is available on the Board's web site at http://www.mbon.org/main.php?v=norm&p=0&c=practice/rncmdn_training_sites.html. A list of delegating nurses who have taken the training is also available on the Board's website at http://www.mbon.org/main.php?v=norm&p=0&c=practice/rncmdn2005/del_nurses2005.html and is sorted by county.

IV. Where Are We?

- Problems with the Definition of Assisted Living have been identified. - Maryland's definition of assisted living is like none other in country. It includes both activities of daily living and instrumental activities of daily living. We license large institution-like programs and small single family residents as assisted living programs. Because of our definition, Maryland has more assisted living programs per capita than every state except for Michigan. New Jersey with almost twice the population of Maryland has only one-tenth the number of assisted living programs. It is clear that Maryland includes a much broader variety of residential programs within its definition of assisted living than other states.
- The Condition of Residents in Assisted Living is Much More Frail than Anticipated. The Department has learned from reviewing the national and Maryland-specific studies that individuals in assisted living programs are much more frail than was anticipated when the program was implemented in 1996. Two-thirds of residents in assisted living programs will have moderate to severe dementia. Most residents will have multiple medical diagnoses, some debilitating, and all of the residents will take on average 9 to 14 medications per day.
- The One-size Fits All Regulatory Framework Does Not Work. – When the assisted living regulations were initially developed one set of quality standards for all providers regardless of the number of residents was adopted. Therefore, the administrative, paperwork and clinical requirements are the same for a 2-bed program as they are for 200-bed program. This type of regulatory approach is not working. What has resulted is smaller programs are over-regulated and larger programs are under-regulated. A new regulatory

structure that balances safety and quality with an appropriate level of oversight and that maintains protections for all residents regardless of the size of the assisted living program is needed.

- The Department has broad authority to change regulations. – The OHCQ’s Assisted Attorney General has advised that the current Assisted Living Statute provides the Department with broad authority to implement regulations. It is clear that we can not change the definition of assisted living without legislation. The Department can continue its discussions on how to appropriately strengthen regulatory standards to improve the quality of care in assisted living. The resulting recommendations can then be implemented via promulgating regulations, if appropriate, and may require public hearings.
- Maryland was ahead of the curve on assisted and now we are behind it. – In 1996, we were ahead of curve in regulating assisted living programs. Now, however, many states have revised their regulations to strengthen quality standards and enhance consumer protections. For example, many states have implemented a multi-tiered framework for regulating assisting living. This type of approach appears to provide appropriate safeguards as well as addressing the uniqueness of certain residential settings.
- Report on the 2005 Maryland General Assembly Session. – Several bills were introduced that would have made significant changes to Maryland’s Assisted Living Program. The 2005 Assisted Living Legislative Report can be found online at http://www.dhmf.state.md.us/ohcq/alforum/as_leg_rpt.pdf
- Update on Assisted Living Manager Training Requirements. – Managers of assisted living programs licensed to serve five or more individuals are required as of January 1, 2006, to complete an 80-hour training course that includes an examination and 20-hours of continuing education every two-years. Grand-fathering is provided for those managers who have been employed as managers for one-year prior to the implementation date. The Department has drafted regulations, which will be published in the July 22rd edition of the Maryland Register to implement the provisions of SB 265 from the 2005 Legislative Session.

V. Discussion Requirements for Awake-Overnight Staff

In the Department’s 2003 Assisted Living Evaluation Report, the Assisted Living Forum (then called the Maryland Assisted Living Workgroup), reached consensus that awake-overnight staff sufficient to meet the needs of residents should be required for assisted living programs with 17 or beds. In 2004, the ALF further recommended that the awake-overnight staff sufficient to meet the needs of residents should be required in assisted living programs with five or more beds. In addition for programs with five to nine beds, the program would have the flexibility to have either awake-overnight staff or a Department approved electronic monitoring system.

There were many differing views on the requiring awake-overnight staff for assisted living programs and the decision was lively. Some individuals felt that there should be no requirement for awake-overnight staff because of the potential costs. Some expressed that they agreed with the recommendation in the 2004 Report. Still others expressed serious concerns about not requiring specific staffing ratios for awake-overnight staff. The Department will take the all of the information provided at the meeting and evaluate it and make a decision on this issue.

VI. End Notes

The Department has become aware that some assisted living providers have promoted to their residents and family members that sweeping changes to the assisted living regulations have occurred. This is not true. OHCQ has identified an emerging pattern of serious quality of care issues in assisted living facilities. The program has become unwieldy to manage and lacks appropriate standards. As a result, both the Department and members of

the Legislature have expressed concerns about direction the State should take in regulating assisted living facilities.

There are currently no proposed regulations that alter the current nursing staffing patterns within assisted living facilities. However, recommendations to make changes to the current requirements are included as consensus recommendations in both of the 2003 and 2004 Assisted Living Evaluation reports issued by the Department. It is likely that any revised regulations will include strengthening of the nursing requirement for certain types of assisted living providers. When regulations are developed on this subject, input from all stakeholders will be solicited and public hearings may be required.

VII. 2005 Interim Meeting Schedule

The Department is planning to tentatively hold ALF meetings on August 24, 2005, in the Auditorium of the 300 Building at the O'Connor State Office Building, from 10:00 AM to 12:00 noon, September 21, 2005, location to be determined and October 19, 2005, location to be determined.

VIII. Adjourn

There being no further business before the ALF, the meeting was adjourned at 12:00 noon.