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Sen. Patricia Miller, Chairperson
Sen. Ryan Mishler
Sen. Vaneta Becker
Sen. Edward Charbonneau
Sen. Beverly Gard
Sen. Jean Leising
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Sen. Sue Errington
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Rep. Win Moses
Rep. Scott Reske
Rep. Timothy Brown
Rep. Richard Dodge
Rep. David Frizzell
Rep. Don Lehe
Rep. Eric Turner



HEALTH FINANCE COMMISSION

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MEETING MINUTES¹

Meeting Date: August 19, 2009
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St., the Senate Chambers
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Sen. Patricia Miller, Chairperson; Sen. Ryan Mishler; Sen. Vaneta Becker; Sen. Edward Charbonneau; Sen. Beverly Gard; Sen. Jean Leising; Sen. Sue Errington; Sen. Jean Breaux; Sen. Vi Simpson; Rep. Charlie Brown, Vice-Chairperson; Rep. Peggy Welch; Rep. John Day; Rep. Scott Reske; Rep. Richard Dodge; Rep. David Frizzell; Rep. Eric Turner.

Members Absent: Sen. Carlin Yoder; Sen. Earline Rogers; Rep. Craig Fry; Rep. Charles Moseley; Rep. Win Moses; Rep. Timothy Brown; Rep. Don Lehe.

Chairperson Miller called the meeting to order at 10:07 a.m. and introduced the

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Commission members. Chairperson Miller told the Commission members that she is tentatively scheduling Commission meetings for September 1, 2009, September 29, 2009, and October 19, 2009.

Tracking of endangered adults

Captain Mike Pruitt, Wayne Township Fire Department, described the Project Lifesaver program to the Commission. See Exhibit 1. The voluntary program uses a small radio transmitter that is worn by a person at risk as a wristband. If the at risk individual is missing, specially trained personnel are deployed to locate the individual using radio technology. The Indianapolis area currently uses donations and fund raising to support funding of the program. The program services the elderly as well as children with autism. The average recovery time is less than thirty minutes. The battery in the wristband needs to be replaced on a monthly basis. Mr. Pruitt stated that the program saves money by utilizing fewer resources. The start up costs for the program are approximately \$7,000 to cover the cost of 2 receivers, the wrist bands, batteries, and training of personnel.

Michael Sullivan of the Alzheimer's Association stated that the definition of endangered adult may need to be modified for use in a tracking system requirement. The Alzheimer's Association supported the passage of the Silver Alert program during the last legislative session once the bill made it clear that the authorities had discretion about issuing the alert regionally or statewide. There is a cost to an individual who participates in a tracking program and requiring participation may not be appropriate unless the individual has triggered multiple Silver Alerts.

Denise Saxman of the Alzheimer's Association described the Association's MedicAlert + Safe Return program, a twenty-four hour nationwide emergency response service. The individual wears a color-coded bracelet with personal information included on it so the individual can be returned home if the individual wanders. Contact information, a picture, and medications the individual takes are stored in a central repository database. The program has had a 92% success rate.

Pam Huffer of the Area 2 Area Agencies on Aging stated that she has an issue with requiring an individual to participate in a tracking program. However, she supports offering and funding a tracking program.

Paul Chase of the AARP stated that the AARP supported the Silver Alert legislation. He has due process concerns with requiring an individual to participate in a tracking program, saying it would be an intrusion on an individual's liberty. There would need to be some sort of hearing or court adjudication before requiring an individual to wear a tracking device.

Senator Miller stated that the Indiana State Police reports that there have been five Silver Alerts since the legislation was enacted in July, 2009. Three of the Silver Alerts resulted in finding the individual alive. There were zero Amber Alerts during this time frame.

Training of health facility inspectors

Terry Whitson, Indiana State Department of Health (Department), stated that the Department has been focusing on health care quality by providing training two times per year for health facility employees on long term care issues, including pressure sore prevention and the use of restraints. See Exhibit 2. The training has had good attendance and Indiana has since improved its statistics in these areas. There were 171 fewer pressure ulcers reported in the last quarter, which has provided savings in the cost of care.

Mr. Whitson stated that health facility surveyors employed by the Department are required to be nurses with a minimum of a Bachelor's degree. Many of the current surveyors have master's degrees. The Department also requires the individual to have experience in health care. Upon employment, the surveyor attends a twelve-week training program (7.5 hours a day, 5 days a week). Upon completion of the training program, the individual is paired with experienced surveyors in the field. The individual also attends a one week federal training program administered by the federal Centers for Medicare & Medicaid Services (CMS) within six months of employment and the individual is required to pass a federal exam.

Health facilities have an annual unannounced licensing inspection that happens every 9 to 15 months. The Department also conducts complaint surveys that are required for every filed complaint within 45 days of the complaint. The Department currently employs 99 surveyors, which is almost fully staffed. There is a lot of turnover of surveyors. Long term care facilities are divided into seven areas, with three to four teams consisting of 3 or 4 individuals per team.

In response to a question on quality control, Mr. Whitson stated that CMS periodically sends surveyors to do a back to back survey to draw comparisons with the state surveyor's findings. When asked whether surveyors are pressured to find something wrong at a health facility, Mr. Whitson stated that 12.8% of the surveys are deficiency free - twice the national average. Further, CMS has never said that the Department surveyor cited a health facility when it should not have; CMS has only pointed out citations that should have been made by the Department but were not.

Mr. Whitson informed the Commission of a pilot computer-based system that CMS is implementing which uses a computer template for the survey. This system has been implemented in 11 states and has resulted in increased deficiencies. Indiana will be implementing this system at the end of 2010 or beginning of 2011.

When asked whether the Department checks on surveyors or obtains feedback from health facilities, Mr. Whitson stated that a health facility is allowed to provide feedback at the end of the survey, although not many do for fear of retaliation. When asked whether a surveyor can survey a former employer, Mr. Whitson stated that the state has a conflict of interest policy that prevents the surveyor from reviewing a facility where the surveyor was formerly employed for a two year time frame. After the two year period, the Department attempts not to send a surveyor to survey a former employer, but this is hard to do with the recent consolidation of nursing home providers.

Eric Vermeulen, Director of Member Services for the Indiana Health Care Association, stated that his Association is advocating for fair and consistent regulations statewide. The Association's biggest concern is with consistency of the surveys, and he believes that the surveys vary based on the region within Indiana and the facility being surveyed.

John Grimm, Administrator, South Shore Terrace and Rehabilitation in Gary, IN, stated that a report in June ranked Indiana third in immediate jeopardy citations. Mr. Grimm stated that health facility administrators have to pass both federal and state board examinations, as well as participate in continuing education every two years. Mr. Grimm stated that twelve weeks is not adequate time to teach a surveyor about the over 500 pages of health facility regulations. Mr. Grimm stated that he believes there are higher deficiencies in certain areas of the state due to inconsistency by the surveyors. Mr. Grimm recommended that the surveyors have training similar to that of the health facility administrators.

Lara Engelking stated that she is an attorney who represents health facilities in medical malpractice litigation and is also a registered nurse. Ms. Engelking stated that the training for surveyors is insufficient. She gave examples of instances when the surveyor did not properly investigate citations before the citation was given.

Pam Huffer testified that better training is always important and good. The Area Agencies on Aging support surveyors in their ability to help ensure quality of care. Ms. Huffer stated that she feels there should be more stringent requirements on safe food practices and require more training of health facility personnel.

Robyn Grant, United Senior Action of Indiana, stated that from the consumer experience, the Department fails or downgrades problems in health facilities. She supports appropriate and uniform training and said that the current training is uniform in that the federal training is nationwide. She would support additional training that includes training from the consumer side as well. CMS's new surveying system should address any consistency issues and the Commission should wait to see how the new process works out before making any changes.

Bob Decker, Hoosier Owners and Providers for the Elderly, stated that he is frustrated. He has thirty-six years of experience in long term care and the training issue should not be an issue before the General Assembly. Additional training could be used for both surveyors as well as health facility personnel. The issue is turnover in long term care and additional compensation for surveyors would help avoid turnover. He stated that he feels that progress in quality of care has been made in the last couple of years.

Jim Leich, Indiana Association of Homes and Services for the Aging, stated that his Association has been working with the Department over the years on quality improvement. The Department's main job is compliance, but quality improvement is also important.

Third party dispute resolution of health facility surveys

Terry Whitson of the Department described the current informal dispute resolution process. Federal law requires the state to use an informal dispute resolution process. The process may be conducted face to face, by telephone, or by paper. The state is held responsible to CMS on the results and decisions made in the informal dispute resolution process and CMS may review an informal dispute resolution decision.

Mr. Whitson stated that senior staff of the Department conduct the informal dispute resolution - one surveyor who only conducts the informal dispute resolutions plus a supervisor from another area not involved in the survey. Parties are given the opportunity to provide additional information. Twenty percent of the citations appealed are reviewed through the informal dispute resolution process and removed. If the citation results in enforcement action, the facility may request an administrative hearing which is a more formal process.

Eric Vermeulen stated that other states use a third party dispute resolution process and said that the General Assembly is the proper forum to address this issue. Mr. Vermeulen questioned whether a 20% turnover of citations is high enough to reflect objectivity in the process. The other avenue currently available to health facilities in Indiana, the use of a company from Michigan to conduct the review at the facility's expense, has not made any difference and the facilities do not see it as an objective process. Mr. Vermeulen suggested establishing a process similar to a medical review board process used for medical malpractice suits.

Lara Engelking testified that the current informal dispute resolution process lacks structure, expertise, and objectivity. Many of the citations issued to health facilities require extensive medical knowledge. Health facilities do not believe appealing a survey result would result in any change and often do not do so. Ms. Engelking referred to the medical malpractice process as an objective process that includes medical experts.

Robyn Grant stated that the health facilities asked for a third party dispute process several years ago and received the option of using the Michigan company. The results were the same as those obtained under the informal dispute resolution process and now health facilities are asking for a change again. Ms. Grant stated that changing to a more formal process would be very time intensive and take the surveyors out of the field. The process would also be very expensive. Ms. Grant believes that the current system provides adequate due process for the facilities unlike the process for consumers who file complaints against a facility. There is no appeal process for a consumer complaint.

The Commission did not hear testimony on the immunization update or the federal grant update due to lack of time but will discuss the issues at a later meeting.

The meeting was adjourned at 1:35 p.m.