

**SKILLED NURSING FACILITY QUALITY WORKGROUP  
MEETING SUMMARY**

Monday, January 22, 2009

10:15 A.M. – 3:15 P.M.

University of Southern California State Capitol Center  
1800 I Street, Sacramento, CA 95814

**Attending Stakeholder Workgroup Members:**

Geneva Carroll, Sacramento Ombudsman, Ombudsman & HICAP Services of No. CA  
Mike Connors, California Advocates for Nursing Home Reform (CANHR)  
Lori Costa\*, Aging Services of California  
Jack Christy\*, Aging Services of California  
Deborah Doctor, Disability Rights Association  
Corinne Eldridge, Service Employees International Union (SEIU)  
David Farrell, SNF Management  
Jim Gomez, California Association of Health Facilities (CAHF)  
Nancy Hall, Disability Services and Legal Center  
Dionne Jimenez, Service Employees International Union (SEIU)  
Jocelyn Montgomery, California Association of Health Facilities (CAHF)  
Mary Mundy, Service Employees International Union (SEIU)  
Darryl Nixon, California Association of Health Facilities (CAHF)  
Tamara Rasberry, Service Employees International Union (SEIU)  
Deb Roth, Service Employees International Union (SEIU)  
Richard Thomason, Service Employees International Union (SEIU)  
Michael Torgan, Country Villa Health Services  
Nina Weiler-Harwell, American Association of Retired Persons (AARP)  
Bill Powers $\Delta$ , California Alliance for Retired Americans (CARA)  
Betty Perry $\Delta$ , Older Women's League

\*/ $\Delta$  Represents rotating members of the Stakeholder Group for this meeting - only one rotating member was represented at the table at any one time.

**State Representatives and Facilitator:**

Toby Douglas, Department of Health Care Services (DHCS)  
Ty Christensen, Office of Statewide Planning and Development (OSHPD)  
Pam Dickfoss, California Department of Public Health (CDPH)  
Monique, Parrish, Facilitator

**I. Welcome/Review Agenda**

The seventh and final AB 1629 Workgroup meeting opened with member and public introductions followed by a review of the agenda (see attached). The focus of this final meeting was to review and vote on submitted recommendations and to identify a format for the final summary report.

## **II. Review Summary of 1/12/09 Meeting**

Members cited several corrections to the 1/12/09 AB 1629 Workgroup Meeting Summary:

1. The following statement on page 3 of the 1/12/09 Summary has been amended to reference more specifically “the end of 2005 or sometime in 2006.”
  - Pages 3-4: Nursing hours per patient day broken down by staff type.
    - 1629 effects would show up at the end of 2005 or sometime in 2006.
2. Disability Services and Legal Center was added to the Consumer/Advocates stakeholder group recommendations identified on page 16. The list now reads - California Advocates for Nursing Home Reform, Disability Rights California, Ombudsman & HICAP Services of No. CA, AARP, and Disability Services and Legal Center. Members of this stakeholder group noted that Disability Services and Legal Center was also left off with this same group in the AB 1629 Workgroup Recommendations document. Members asked to be sure that this organization be listed with the above group of Consumers/Advocates alongside their submitted recommendations in the final summary report.

## **III. Status of Outstanding Issues/Requests**

Several members asked about the status of their request to DHCS for the staffing ratio cost estimation methodology. Toby Douglas (DHCS) indicated that the information was not available at this time.

The facilitator noted that she had received feedback on the AB 1629 Workgroup Recommendations document sent out to members and the public on Monday, 1/19/09. Based on the feedback, the facilitator elected to weight the recommendations by member support (i.e., the number of members signed on to supporting the recommendation). The revised document, distributed to members and the public at the meeting and posted on the AB 1629 Workgroup website - <http://www.dhcs.ca.gov/services/medi-cal/Pages/SNFQualityWorkgroup.aspx>, reflects changes made in Sections I and II based on the new methodology.

### Public Comment

No public comments were made.

## **IV. Continued Development of AB 1629 Workgroup Recommendations:**

The facilitator asked members to address the following items to establish a process for both reviewing and voting on the recommendations and organizing the Workgroup final report:

- Review order of recommendations (listed in the distributed AB 1629 Recommendations document)
- Identify a process for reviewing and voting on recommendations
- Identify a format for the final summary report

Members indicated that the order of the recommendations was, overall, satisfactory; however, SEIU asked that their following recommendation (p. 4) be deleted from the document:

*Identify appropriate costs for Olmstead implementation that could be reimbursed separately from other costs. These costs should be reimbursed as a pass-through in order to provide greater incentives for assisting residents in transferring to the community.*

Regarding a process for reviewing and voting on recommendations, members discussed different approaches for addressing the recommendations. Members agreed on the following process:

1. Vote on all recommendations
2. Allow 2-3 minutes of discussion on each recommendation
3. Identify a subgroup of members to meet within 10 days time, via conference call, to wordsmith recommendations with full consensus

At this time, due in part to the anticipated complexity of the recommendations voting process, the facilitator decided to address the formation of the subgroup and the format for the final summary report after lunch. Members agreed and then asked for a five-minute break.

### BREAK

Four sets of recommendations were submitted and comprise the three sections of the AB 1629 Workgroup Recommendations Document. They are referenced by the following designated acronym or listing:

- Congress of California Seniors = (CCS)
- California Advocates for Nursing Home Reform (CANHR), AARP, Disability Rights California, Ombudsman & HICAP Services of Northern California, Disability Services and Legal Center = (C/A – for Consumers/Advocates)
- California Association of Health Facilities, Aging Services of California, Country Villa Health Services, SnF Management = (Providers)
- Service Employees International = (SEIU)

In the voting, stakeholder groups are referenced as follows:

- Consumers/Advocates= C/A
- SEIU = SEIU
- Providers = Prvdrs

After some discussion, and starts and stops, the Workgroup agreed to vote on each issue area and recommendation with votes recorded by both stakeholder group and individuals. Initially, the voting process included yeas or nays. After the first several votes, members agreed to include abstentions. The following is a record of the stakeholder group vote and discussion highlights, by issue area. Accurately capturing member discussion and exchange was difficult; hence, members were encouraged to submit written comments on presented issue areas and recommendations. Written comments will be part of the final summary report. Additionally, because individual votes have not been fully verified, only the stakeholder group votes are represented in this meeting summary. The complete record of individual votes, by issue area and recommendation, will be available in the final summary report.

In the following voting record, which covers Sections I and II of the AB 1629 Workgroup Recommendations document, issue areas are identified by letter; recommendations, within that issue area by number. The organization(s) submitting the recommendation is identified in the parentheses next to the recommendation. Members voted their interest/support for the following issue areas and recommendations.

## **Section I: Common Issue Areas with Stakeholder Recommendations**

### **A. Cost Reporting – Methodology - Yeas: 18 Nays:0 Abstentions: 0**

1. Improve and update the current Medi-Cal free-standing skilled nursing facility cost reporting methodology. (Providers)  
**Yeas: 18 Nays: 0 Abstentions: 0**
2. Require facility cost reports to specifically capture management fees to corporate offices and other corporate office costs. (C/A)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions:0**
3. Require cost reports to be synchronized with the AB 1629 rate system. (C/A)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions:0**
4. Redesign the Long-Term Care Facility Integrated Disclosure and Medi-Cal Cost Report. (SEIU)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions:0**

**B. Cost Reimbursement – Timing -      Yeas: 18      Nays: 0 Abstentions: 0**

1. Shorten the lag time between facility expenditures and Medi-Cal reimbursement rate adjustments. (CCS)  
**Yeas: 0      Nays: 18      Abstentions:0**
2. Advance timing for cost recognition when determining annual AB 1629 facility-specific rates. (Providers)  
**Yeas: 12 (C/A & Prvdrs) Nays: 6 (SEIU)      Abstentions:0**
3. Address the time lag of facilities increasing costs and recognition of these costs in Medi-Cal reimbursement rates. (SEIU)  
**Yeas: 18      Nays: 0      Abstentions: 0**

**Discussion**

- Shorten lag time.
- Any changes should be cost neutral.
- Cost reporting should include payroll.
- Electronic reporting will take 3-5 yrs, so the State should focus on getting cost reports closer than they are now in terms of timing.

**C. Staff Training      Yeas: 18      Nays: 0      Abstentions: 0**

1. Expand and redefine the caregiver training pass-through component to a 100% pass-through for all training to nursing home staff, which is directly related to the quality of resident care and services. Require the California Department of Public Health Licensing and Certification Program to review survey and Quality Measure data at least once a year in order to identify and recommend priority-training topics for skilled nursing staff. (Providers)  
**Yeas: 6 (Prvdrs) Nays: 5 (C/A) Abstentions: 7 (6 SEIU & 1 C/A)**
2. The department and interested stakeholders should work to identify why so little training is reimbursed through this pass-through and to identify the changes that can be made to increase reimbursement for staff training, especially for training programs created through contractual arrangements with a joint labor-management Taft-Hartley fund. These programs can include training unique to the long-term care industry that support opportunities for employee advancement, RN and LVN training and dietary training.<sup>1</sup> (SEIU)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions:0**

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<sup>1</sup> An addendum to this recommendation was added – to include the words cultural, linguistic, and disability competency.

## Discussion

- Expand staff training.
- Q: Explain how recommendation #1 relates to the rate method? A: quality measures are identified at the federal level and should be considered by State departments. *Comment:* We believe providers should take on this role, not DPH.

### **D. Payroll Reporting Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions: 0**

1. Require skilled nursing facilities to report staffing information from payroll records on a quarterly basis. (C/A)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions:0**
2. The state should require payroll data reporting for purposes of enforcement of staffing requirements and more updated labor cost reporting into the rate system. (SEIU)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions:0**

### **E. Staffing Standards RNs/LVNs Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions: 0**

1. Create a new state minimum staffing standard for registered nurses in skilled nursing facilities – we recommend a .32 hour pp/pd standard for RNs. (CCS)  
**Yeas: 0 Nays: 11 (Prvdrs & 5 C/A) Abstentions: (6 SEIU & 1 C/A)**
2. Increase the minimum staffing requirements from 3.2 to 3.5 hours per resident day (hprd). Of this total, the Legislature should require that at least 1.0 hprd be provided by licensed nurses (LVNs or RNs), with no less than 0.5 hprd by registered nurses. (C/A)  
**Yeas: 6 (C/A) Nays: 6 (Prvdrs) Abstentions: 6 (SEIU)**
3. We recommend the immediate implementation of the staffing ratio regulations required by Health and Safety Code Section 1276.65 to translate the current standard of 3.2 hours per patient day into specific minimum ratios for licensed nurses and CNAs. We also recommend that the Legislature raise the minimum 3.2 standard to 3.5 hours per patient day, as promised in AB 1075, and map out how to progress toward the 4.1 minimum standard recommended by NCCNHR and many researchers and senior advocates. SEIU also recommends that the staffing ratios be implemented without waiting for a specific state appropriation for that purpose. (SEIU)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions: 0**

## Discussion

- CAHF will oppose all these suggestions until funding is available.
- There are other components that are connected to staffing patterns that are not being considered.

- We want get our money's worth out of this legislation and think it is important to spell out what our State's priorities should be.
- I believe better nursing care begins with higher staffing levels.
- We have had some of the highest staffing levels at a number of facilities around the state and we don't see a direct correlation to quality; we believe the minimum standard (3.2) should not be lowered but we also believe we need to be thoughtful about this issue as it relates to quality. We do agree on increasing staffing levels but mandates are not the way to go.
- It is appropriate that the minimum standards are part of measuring quality especially if spending money is in the right place.
- That will not necessarily change methodology.
- There's no cookie-cutter standard though for each provider.
- Are we then mandating morality?

## LUNCH BREAK

Members returned from lunch and indicated that a subgroup of representative members (one from each stakeholder group) would not be necessary. This conclusion was based on members' decision to vote on each recommendation as it is currently written, in lieu of attempting to wordsmith a single recommendation or concept. The Workgroup also agreed to the following for the final summary report:

1. Votes will be recorded on all submitted recommendations and identified issue areas, by stakeholder group and individual.
2. Recommendations will include supporting information submitted by Workgroup member(s).
3. Written comments on recommendations will be accepted and will be included in the final report.

Members then resumed their voting on the following issue areas and recommendations.

**F. Transitioning Residents to the Community and Assisting in Meeting Olmstead Requirements      Yeas: 18    Nays:0    Abstentions: 0**

1. Adjust the reimbursement methodology and reporting requirements for costs associated with transitioning patients to community based care. (CCS)
  - The Department of Health Care Services will establish a stakeholder group to help it identify and define facility costs associated with transitioning patients to community based care and will establish a level of cost reimbursement at the 95th percentile for facilities within a peer group for patient transition activities.  
**Yeas: 0 Nays: 11 (Prvdrs & 5 C/A) Abstentions: 7 (6 SEIU & 1 C/A)**
2. Due to the budget crisis, the legislature should freeze total Medi-Cal spending on skilled nursing facilities at current levels, and use the General Fund savings to

address short- and long-term recommendations that bring California into compliance with the Supreme Court's Olmstead decision. (C/A)

**Yeas: 5 (C/A) Nays: 13 (6 Prvdrs & 6 SEIU & 1 C/A) Abstentions: 0**

3. The state should do more to enable community living by establishing statewide nursing home transition programs; strengthening requirements for discharge planning and hospital-to-home transitional care services; expanding our current home and community-based services (HCBS) waiver slots to provide more choices to individuals; and expanding the number of the state's existing Aging and Disability Resource Centers to provide statewide coverage so that every Californian has easy access to information, counseling and program linkage on aging and long-term care support options. (SEIU)

**Yeas: 12 (C/A & SEIU) Nays: 0 Abstentions: 6 (Prvdrs)**

### Discussion

- We support re-entry into the community while respecting regional differences and facility types
- *Comment:* I don't understand the recommendation, the system is fragmented, I don't want to see a recommendation going to just one segment. *A:* We saw the "big picture" with this recommendation. *Comment:* would you be willing to remove "statewide transition programs?" *A:* No, we feel it is important.
- We are comfortable with Olmstead, but would like to use language other than 'Compliance with Olmstead.'
- Group agreed on changing the original issue area written as *Transitioning Residents to the Community/Compliance with Olmstead* language to *Transitioning Residents to the Community and Assisting in Meeting Olmstead Requirements*.

### **G. Labor-Driven Operating Allocation Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions: 0**

1. Revise the Labor-Driven Operating Allocation currently used in Medi-Cal rate reimbursements. Divide LDOA into two parts: one part for meeting state staffing mandates and one part for staffing at levels above the minimum. (CCS)

**Yeas: 0 Nays: 18 Abstentions: 0**

2. Repeal the labor-driven operating allocation established at Welfare & Institutions Code §14126.023(c)(3). (C/A)

- The savings from the repeal of the labor-driven operating allocation should be used to pay for an increase in the minimum staffing requirements; and,





## II. Common Issue Areas with Stakeholder Recommendations:

### **A. Staff Turnover/Retention Yeas: 13 (6 C/A & 6 SEIU & 1 Prvdr) Nays: 4 (Prvdrs) Abstentions: 1 (Prvdr)**

1. Provide a financial incentive in the rate system to reduce turnover and improve retention of nursing staff. (C/A)  
**Yeas: 6 (C/A) Nays: 6 (Prvdrs) Abstentions: 6 (SEIU)**
2. The state should develop a program to evaluate turnover and retention issues in nursing home staff. Specifically, the state should categorize facilities according to turnover and retention and work with low-performing homes – those with the highest turnover and least stability among staff – on a management audit that identifies the causes of turnover and makes recommendations for improving conditions so as to decrease turnover. Homes that fail to comply with the recommendations should be penalized. High-performing homes should get a small bonus in their Medi-Cal rate. (SEIU)  
**Yeas: 12 (C/A & SEIU) Nays: 1 (Prvdr) Abstentions: 5 (Prvdrs)**

### Discussion

- We feel these recommendations should be part of pay-for-performance (P4P).

### **B. Audit System/Process Yeas: 16 (6 C/A & 6 SEIU & 4 Prvdrs) Nays: 0 (Prvdrs) Abstentions: 2 (Prvdrs)**

1. Require and fund home office audits to review corporate office expenses.  
**Yeas: 12 (6 C/A & 6 SEIU) Nays: 0 Abstentions: 6 (Prvdrs)**
2. Require nursing home chains to be audited as a group.  
**Yeas: 17 (6 C/A & 6 SEIU & 5 Prvdrs) Nays: 0 (Prvdrs) Abstentions: 1 (Prvdr)**
3. Require field audits once every two years and desk audits during intervening years.  
**Yeas: 12 (6 C/A & 6 SEIU) Nays: 0 Abstentions: 6 (Prvdrs)**
4. Require DHCS to establish measures on audit system impact and report them on Medi-Cal's AB 1629 webpage.  
**Yeas: 12 (6 C/A & 6 SEIU) Nays: 3 (Prvdrs) Abstentions: 3 (Prvdrs)**
5. Establish clear definitions and provide clarification on problematic terminology.  
**Yeas: 17 (6 C/A & 6 SEIU & 5 Prvdrs) Nays: 0 (Prvdrs) Abstentions: 1 (Prvdrs)**

6. Require that rate adjustments based on audit appeals be paid within the overall cap. (C/A)  
**Yeas: 6 (C/A)                      Nays: 6 (Prvdrs)   Abstentions: 6 (SEIU)**
7. Consider establishing a combined rate review process and audit appeal process. (Providers)  
**Yeas: 6 (Prvdrs)   Nays: 0   Abstentions: 12(6 C/A & 6 SEIU)**

Discussion

- We support a strong and viable audit system and feel there is a basis for a strong audit system.
- We also agree there should be changes but what goes too far?

BREAK

After a brief break, members resumed their discussion and voting on the following Section II issue areas and recommendations.

**C. Management Fees Yeas: 12 (6 C/A & 6 SEIU) Nays: 6 (Prvdrs) Abstentions: 0**

1. Cap management fees to parent corporations and salaries of owners and their families. (C/A)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions: 0**
2. The rate system should be modified to provide for greater identification and auditing of home office costs and management fees paid to parent corporations. Reimbursement for management fees should be capped. (SEIU)  
**Yeas: 12 (C/A & SEIU) Nays: 6 (Prvdrs) Abstentions: 0**

Discussion

- We understand the concern but believe controls are already there.
- Our concern focuses a lot on the family-owned facilities where the management fees are not always transparent.
- OSHPD: There are limits to administrative compensation.

**D. Staff Wages and Benefits Yeas: 12 (6 C/A & 6 SEIU) Nays: 5 (Prvdrs) Abstentions: 1(Prvdrs)**

1. Require operators to increase caregiver wages and benefits annually by at least the percentage of rate increase. (C/A)  
**Yeas: 6 (C/A )                      Nays: 6 (Prvdrs)   Abstentions: 6 (SEIU)**

2. Increase the reimbursement rate to 100% of costs for RN direct care staffing and Gerontological Nurse Practitioner services in nursing homes. (Providers)  
**Yeas: 6 (Prvdrs ) Nays: 10 (6 C/A & 4 SEIU) Abstentions: 2 (SEIU)**  
***THIS RECOMMENDATION WILL BE MOVED TO SECTION III  
 IN THE FINAL REPORT\*\*\****

Discussion

- Where would the money come from if there were a cost increase for this?
- Our concern is that CNAs (a designated focus of the legislation) are not getting the proportional increase we thought they would receive.
- We are not sure that recommendation #1 would bring any value.

**E. Develop a system for defining, collecting and reporting data on quality of care and quality of life in skilled nursing facilities Yeas: 18 Nays:0 Abstentions: 0**

1. AB 1629 Workgroup should be extended until 2012, operate as an advisory body to the Secretary of Health and Human Services, and generate annual reports addressing quality of care and quality of life issues. (CCS)  
**Yeas: 0 Nays: 16(6 Prvdrs & 6 SEIU & 4 C/A) Abstentions: 2 (C/A)**
2. Develop a uniform data collection system and a reliable reimbursement mechanism to obtain nursing home resident, family and staff satisfaction measures. Add satisfaction levels and satisfaction improvement rates as publicly reported measures in California. (Providers)  
**Yeas: 6 (Prvdrs) Nays: 7 (4 C/A & 3 SEIU) Abstentions: 5 (2 C/A & 3 SEIU)**

Discussion

- The group agreed to rename this issue area, formerly titled “Data Collection/Quality of Care/Quality of Life” with *Develop a system for defining, collecting and reporting data on quality of care and quality of life in skilled nursing facilities* – formerly the first part of recommendation #1.

With the conclusion of the above issue area and recommendations discussion and voting, voting on Sections I and II of the AB 1629 Workgroup Recommendations Document was completed. The facilitator then queried members about the best way to finish voting on recommendations in Section III. After considering various options, the facilitator stated she would compile the current voting record, by stakeholder group and individuals, and would send that out early the following week so each member could review the current voting record and register his or her votes for Section III. Additionally, the facilitator noted that she would send out the time frame for members interested in submitting comments on the recommendations, as well as the deadline for additional recommendations from members of the Workgroup and the public. Last, the facilitator noted that members would be apprised of their opportunity to provide feedback on a draft of the final summary report.

The facilitator noted that the final summary report would not include information (data, PowerPoints, reference material, etc.) provided to the Workgroup but would reference the availability of the information on the Workgroup website:

<http://www.dhcs.ca.gov/services/medi-cal/Pages/SNFQualityWorkgroup.aspx>

Toby Douglas, DHCS expressed his thanks to members of the Workgroup for all their hard work and dedication to the workgroup process.

#### Public Comment

Randy Hicks (via phone): Thanked members of the group for their efforts and reminded members to address Olmstead and community transitions in their recommendations.

### **V. Closing Remarks and Meeting Evaluation**

The facilitator thanked the following individuals and organizations: the California HealthCare Foundation for sponsoring the Workgroup; the University of Southern California for generously providing the meeting space; staff from DHCS, DPH, OSHPD and the Ombudsman Office for their tremendous efforts in providing data and other requested information; staff from DHCS for their logistics and technical support; and, Tyrone White for his professional sound system services.

### **VI. Adjournment**

SKILLED NURSING FACILITY QUALITY WORKGROUP  
AGENDA

Thursday, January 22, 2009

10:15 a.m. to 3:15 p.m.

University of Southern California State Capitol Center  
1800 I Street Sacramento, CA 95814

|  |                                   |
|--|-----------------------------------|
| Welcome  | Monique Parrish (MP), Facilitator |
| Review agenda  | MP                                |
| Review summary of 1/12/09 meeting                            | MP                                |
| Status of outstanding issues/requests                        | MP                                |
| Public comment   | MP                                |
| Continued development of AB 1629 workgroup recommendations   | MP                                |
| Public comment   | MP                                |
| Discussion of Workgroup Summary Report                       | MP                                |
| Public comment   | MP                                |
| Final closing remarks and summary meeting process evaluation | MP                                |
| Public comment   | MP                                |
| Adjournment  | MP                                |

**Notes:**

**Morning and afternoon breaks will be included as part of this agenda.**

**A working lunch is scheduled - lunch is provided for the Workgroup only.**