

# **SKILLED NURSING FACILITY QUALITY WORKGROUP MEETING SUMMARY**

Thursday, November 19, 2008

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:**

Deborah Doctor, Disability Rights California

Mike Connors, California Association of Nursing Home Reform (CANHR)

Geneva Carroll, Sacramento Ombudsman Former Nursing Home Resident

Nancy Hall, Senior Advocates

\*\*Gary Passmore, Congress of CA Seniors

\*\*Nina Weiler-Harmon, AARP

\*\*Betty Perry, Older Women's League (OWL)

\*\*Bill Powers, California Alliance for Retired Americans (CARA)

Jim Gomez, California Association of Health Facilities (CAHF)

Darryl Nixon, California Association of Health Facilities (CAHF)

Jocelyn Montgomery, California Association of Health Facilities (CAHF)

Lori Costa, Aging Services of California

Michael Torgan, Country Villa Health Services

Mary Jann (for David Farrell), SnF Management

Tamara Rasberry, Service Employees International Union (SEIU)

Dionne Jimenez, Service Employees International Union (SEIU)

Deb Roth, Service Employees International Union (SEIU)

Mary Mundy, Service Employees International Union (SEIU)

Richard Thomason, Service Employees International Union (SEIU)

\*\* Represents the four rotating members of Stakeholder Group: only two members of this rotating group were 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)

Laticia Robinson (for Joe Rodrigues), Office of the State Long-Term Care Ombudsman

Monique Parrish, Facilitator

### **I. Welcome/Review Agenda**

The second Skilled Nursing Facility Quality Workgroup Meeting opened with brief introductions and a review of the agenda (see attached). Workgroup members and the public attended the meeting in-person and through a conference call-in line. The focus of this second meeting was to assist the group with developing a

strategic structural framework for achieving the group's primary goal of developing AB 1629/ratesetting recommendations for the Department of Health Care Services.

The public (in-person and on the phone) was invited to comment or pose questions following each agenda item, at designated times. The workgroup process is supported by a grant from the California HealthCare Foundation, based in Oakland, California.

## **II. Status of Outstanding Issues/Requests and Develop Workgroup Process**

The facilitator opened the outstanding issues and requests discussion by reviewing the following:

1. Copies of the Bagley-Keene Act were provided to workgroup members. Attendees were also encouraged to access the Bagley-Keene Act website through the AB 1629 Workgroup web page:  
<http://www.dhcs.ca.gov/services/med-cal/Pages/SNFQualityWorkgroup.aspx>
2. Attendees were invited to submit comments or corrections to the workgroup's meeting summary from 11/06/2008. A correction was requested regarding the average rate for Nursing Home Medi-Cal reimbursement under AB 1629 for 2007-2008. The rate is \$154.11, not \$185 as written in the 11/06/2008 meeting summary. The correction was duly noted and DHCS indicated they would continue to focus on presenting the most accurate and up-to-date data.
3. The facilitator also thanked the workgroup members for participating in brief one-on-one information gathering conference calls with her. The purpose of the calls is to assist the facilitator with understanding the complexity of issues and experiences with regard to AB 1629. Each member is asked the following two questions:
  - a. Please describe your individual as well as representative group (labor, facilities, consumer/advocates) experiences with AB 1629.
  - b. What do you hope the workgroup will accomplish?

The facilitator reported that at the conclusion of the calls, she would prepare a redacted summary of the information collected, highlighting themes that surfaced, as well as workgroup member areas of commonality and differences.

### Develop Workgroup Purpose

The facilitator explained that synthesizing a summary statement of the workgroup's charge would provide members with a defined purpose they could reference throughout the workgroup process. After much discussion, the group agreed on the following purpose statement, culled from AB 1183:

*The AB 1629 workgroup, representing diverse stakeholders, has the responsibility of developing AB 1629/ratesetting methodology recommendations for the Department of Health Care Services (DHCS), pursuant to W&I Code Section 14126.02(a), and may take into consideration all factors deemed relevant to ensure the quality of resident care.*

### Public Comment

The public requested that the workgroup's statement of purpose be placed on the AB 1629 workgroup website.

### **III. Identify Workgroup Principles and Values**

The group was reminded that although they had identified the values of respect, inclusive vs. exclusive dynamics, etc. in the first session, the group had agreed to spend more time, in this second meeting, identifying additional principles and values to frame the workgroup process.

A multitude of principles, values, and areas of concern were submitted by group members.

- Create positive incentives to inspire positive behavior (eliminate negative reinforcement)

Several members of the Consumers/Advocates group offered the following principles (workgroup members received a handout of these principles from Michael Connors, CANHR)

1. Improve Care: The Medi-Cal rate system's purpose is improving and maintaining quality care for nursing home residents. Every public expenditure should be measured against this purpose.
2. Increase Staffing: Because adequate staffing is key to quality care, operators should be required to utilize funding to employ and maintain sufficient, qualified staff, including by increasing staffing and pay.
3. Serve Residents' Interests: As the customers of the Medi-Cal system, the rate system must be designed to serve residents' interests.
4. Equal access: As a precondition of Medi-Cal reimbursement, operators must not discriminate against Medi-Cal beneficiaries, including in admission.

5. Access to Less Restrictive Care: Because quality of care includes ensuring that nursing home residents have access to other less restrictive long term care settings, nursing homes must plan and deliver care, discharges and transitions serving that goal.
6. Olmstead Compliant: California must not disproportionately fund nursing homes at the expense of community-based long-term care services.
7. Equitable: The rate system should efficiently and promptly pay nursing homes for reasonable costs that are necessary to meet public standards and provide quality care.
8. Control Costs: The rate system must contain effective cost-control measures to avoid unnecessary spending and a strong audit system to prevent and detect financial abuses.
9. Accountability: The rate system must not pay nursing homes that do not perform.
10. Transparency: Pertinent information must be continuously collected from facilities to inform the public, regulators and legislators about quality of care, facility staffing, beneficiary access, Olmstead compliance and other factors affected by the rate system.
11. Integrated Enforcement: The reimbursement, inspection and enforcement systems must be integrated to prevent, detect and respond to substandard care.

Other workgroup members identified the following additional principles:

- Business stability
- Reasonable rate of return on investment
- Pay all costs of care as incurred by providers
- Pre-fund all labor costs for upcoming years
- Remove all caps from all categories
- Facilitate choice
- Certify
- Evidence base quality measures

After this collection of principles had been listed, several workgroup members expressed concern the exercise was moving the group in a different direction. Additionally, one member indicated it was essential the group establish a process for reaching agreement. The facilitator concurred that the group would need to make a determination about reaching consensus/agreement and indicated that the group would have time to begin that process in the afternoon. As several

members had provided their list of principles and values, the facilitator agreed to invite other members to express their principles and values. Tamara Raspberry, SEIU, provided the following:

- Evaluate and promote opportunities for real time reporting of staffing
- Complete enforcement and implementation of AB 1075 ratios (?)
- Deficiency enforcement reports be part of the public records
- Establish higher standards for staffing ratios and nursing hours beyond 3.2
- Facility compliance with assessment to ascertain resident's ability to return to community
- Geographical rate setting
- Improved staffing training and retention
- Improved state oversight of facilities
- Penalties for non-compliance of state staffing requirements
- Mandatory reporting of 'never events'
- Move the liability pass through into the administrative cost center
- Focus on quality
- Quality of life

Prior to concluding this item, the facilitator indicated that while some of the principles and values reflected recommendations, the process was an important exercise in allowing all voices to be heard. The group was then encouraged to continue framing their work and tying it back to their statement of purpose.

#### Public Comment

The public added the following to the discussion:

- What is the State's role in monitoring compliance?
- The workgroup needs to focus on decision-making and group process.
- Additional items to consider include 1) a culture change discussion; 2) family and resident satisfaction and quality of life; and 3) Nursing Home management skills/capacity.

#### **IV. Review Notes from September 16, 2009 Meeting, "Improving Quality in Nursing Homes: Measuring, Reporting, and Paying for Quality"**

The facilitator reported to the group that the graphic illustration summary of the September 16, 2009 Meeting, "Improving Quality in Nursing Homes: Measuring, Reporting, and Paying for Quality" hosted by the California HealthCare Foundation would be posted on the AB 1629 workgroup website. The facilitator emphasized that the purpose of the graphic recording was: 1) to give meeting participants something to refer to during the discussion; 2) to ensure that each person's contributions were heard and understood by all participants; and, 3) to serve as a high-level summary of the discussion for meeting participants. She noted that while the meeting provided the California HealthCare Foundation with the input necessary to support the workgroup process, it was not a particularly effective summary of the meeting for those who did not participate. Members of

the workgroup and public were asked to indicate if they needed a hard copy of the summary. A workgroup member asked that the summary be translated into text format to make it accessible. This recommendation was noted.

### Public Comment

A community member recommended several organizations that might assist with making the meeting summary accessible via text and Braille.

- A brief lunch was provided by the California HealthCare Foundation for workgroup members.

## **V. Review of Workgroup Goal**

To begin to provide a strategic framework for the purpose of the group, the facilitator suggested the following primary goal for the group:

*To develop AB 1629 ratesetting methodology recommendation*

This goal was accepted by the workgroup. There was no comment by the public.

## **VI. Develop Workgroup Objectives**

The facilitator indicated that to support achieving the workgroup's primary goal, specific objectives – broadly defined targets with specific tasks, responsible persons/entities, and a timeline – would need to be identified. The following objectives were recommended, and subsequently accepted by the group. The first addresses content, the second and third address process.

### Objective #1

*Identify information needed to make recommendations.*

### Objective #2

*Define a process for reviewing information and making recommendations.*

### Objective #3

*Establish a process for reviewing final set of recommendations for workgroup summary report with public impact.*

The group decided with respect to Objective #1 that it might be helpful to list questions from all group members as well as related requests for information. The facilitator indicated that once the information was collected and properly typed-up, the workgroup would review the information and begin to make decisions regarding what should and should not, or could or could not be

addressed within the timeframe permitting and within the context of the identified group purpose.

### **General:**

- Information regarding average length of stay in facilities. Need characteristics of that stay.
- How much \$ is collected annually by the Quality Assurance Fee (QAF)?
- What is the Department's (DHCS) perspective on how the audit system is going?
- Is DHCS confident about making changes based on that system?
- Can DHCS share what recommendations for change they are considering (with respect to AB 1629)?
- Please provide the average rates in 'different areas.'
- What is considered pay for performance (P4P)?
- Are there other P4P state models available to review? (e.g. CMS has looked into this.)

### **Staffing**

- Need general information on staffing RNs, CNAs, and administrators. Are the staffing trends going up or down, etc? What are the trends showing? What is labor force doing to respond to staffing changes?
- Average nursing staffing, year by year, from 2004-2007, compared to the 3.2 nursing standard (nursing hours per patient day – NHPPD).
- What is the California Department of Public Health (CDPH) methodology for estimating the cost of implementing the shift to staffing ratios?
- Change in wages/compensation benefits for each category/geographic.
- Can CDPH provide the workgroup an advanced copy of the study due on January 1, 2009?
- Has DHCS obtained and reviewed the 2008 Action Plan for Nursing Home Quality? Has it consulted with CMS about its action plan to implement an electronic reporting system of payroll data?
- What information is available on current staffing levels/
- How many total days were SNFs understaffed since AB 1629 took effect what is the value of this understanding?
- How many citations for insufficient staffing has CDPH issued since AB 1629 took effect?
- What impact has AB 1629 had on LVN and RN staffing levels?
- What impact has AB 1629 had on turn over of direct caregivers?
- How do we know if the staffing information reported by SNF is accurate?
- How much would it cost Medi-Cal if minimum staffing requirements were increased to 3.5 (hours per resident per patient day – hprpd), 3.8 hprpd, and 4.1 hprpd?

### **Quality of Care**

- Is patient acuity going up or down?

- Are falls in nursing homes going up or down?
- Is the restraint rate going down at the same time the falls go up?
- What type of information does the Ombudsman have in regard to reporting requirements?
- Define the measures that constitute quality we want to look at – by when – what evidence, etc.
- Define measures that constitute quality we want to look at. By when? What evidence? How is it going in CA regarding quality measures?
- How have different [SNF] measures changed since 2004?
- How do trends in CA compare nationally and in other 'leader' states?
- How do we reconcile information from different sources on different timelines?
- What is the status of the CDPH report due in January 2009 on AB 1629 staffing turnover, quality-defining metrics/areas of study elements? We would like to Invite CDPH to present.
- Does DHCS do statistical analysis of data to see what is related (e.g. if staffing goes down, does that mean quality went down as well – are we sure they are related)? Is there a functional database that would allow a functional analysis?
- Do we have a reliable database to determine if elements tracked for measurements of quality are accurate and contain the information? Need to know benchmarks.
- Break down by geographic area.
- What is pay for performance (other state models); pay for improvement; pay for process?
- By year, what is the total number of complaints filed against skilled nursing facilities that are reimbursed under the 1629 rate system?
- By year, what is the total number of facility reported incidents filed by skilled nursing facilities that are reimbursed under the 1629 rate system?
- By year what is the total number of federal deficiencies issue to SNFs that are reimbursed under the 1629 rate system?
- By year, what is the total number of complaints filed against skilled nursing facilities that are reimbursed under the 1629 rate system?
- By year, what is the total number of facility reported incidents filed by skilled nursing facilities that are reimbursed under the 1629 rate system?
- By year, what is the total number of federal deficiencies issued to skilled nursing facilities that are reimbursed under the 1629 rate system?
- By year, what is the total number of federal deficiencies issued at level G or higher to skilled nursing facilities that are reimbursed under the 1629 system?
- By year what is the total number of CA deficiencies issued to skilled nursing facilities that are reimbursed under 1620 rate system/
- By year and by classification, what is the total number of citations issues by the CDPH to skilled nursing facilities that are reimbursed under the 1629 rate system?

## Cost

- QAF – how much saved? How much collected? Does it go into the General Fund (GF)? Need a general overview.
- What did AB 1629 result in, regarding spending? How much was spent on the cost categories: training; liability insurance; labor? What was the financial effect of the cost setting methodology? How do the cost categories differ geographically (DHCS had said that they would revisit Navigant's cost categories)?
- Sources of money to pay the rate: state GF, income fee, federal funds.
- Look at costs broadly (energy – food – health inflation index during this same period of time).
- Look at what was happening to health care inflation over a decade and compare that to the rate increases and see if it has caught up.
- Keep a perspective about the current budget crisis in the context.
- Provide details of annual aggregate Medi-Cal spending for SNF care (including subacute) since 1629 took effect. How much has spending increased. What is it being spent on?
- Provide details of the actual percentage increase in M/C payments each year compared to 1629 spending caps.
- Provide details of spending on direct caregiver wages and benefits since 1629 was enacted. Has spending on these costs kept pace with the level of increased reimbursement under 1629; what is the range of spending increases for these costs?
- Provide aggregate annual spending on the labor driven operating allocation since AB1629 took effect.
- Provide aggregate annual spending on reimbursement for liability insurance since 1629 was enacted. How does this compare to pre 1629 spending? What is the range of reimbursement? What controls exist to prevent excessive reimbursement for liability insurance?
- Provide aggregate annual spending on facility legal fees. What is the range of reimbursement? How much Medi-Cal money is going to pay for legal challenges to defend substandard care. What controls exist to prevent excessive reimbursement?
- Provide aggregate annual spending on management fees to corporate offices. What is the range of reimbursement? What controls exist to prevent excessive reimbursement?
- How do we know if the audit system is working?
- What percent of budget has gone to various HBC categories (home health, nursing, ADHC, meals on wheels, nursing homes, IHSS, etc) in the health care system areas?
- Show growth per capita. What is the rate of increase – caseload in nursing homes, census numbers, service numbers, acuity, and waivers?

**Footnote:** Cost report data is critically important but there is a two-year lag in getting those data reports and there is a lag in reimbursement.

### **Olmstead**

- How is CDPH measuring the extent to which residents who had expressed a preference to return to the community were able to do so, as required by W&I Code section 14126.033 (C)(4)(B)? What process did CDPH use to establish its methodology?
- What have nursing homes done to give residents information and support so residents can return to the community? What specific information has been given? How has CDPH implemented this part of AB 1629?

In addition to information requests, the workgroup suggested several possible presentations from the following entities:

### Presentations

- CMS – to present on current pilot project collecting real time staffing payroll data (work plan, viability, status).
- MyInterview – to present on what is being done nationally regarding employee and resident satisfaction, as well as pay for performance.
- CMS – to present on their pay for performance study via Abt contractor.

Prior to concluding this item, the facilitator encouraged the workgroup and the public to submit additional questions by close of business Friday, November 21, 2008. The facilitator indicated that she would then prepare the final list of questions for the workgroup to review at its next scheduled meeting on Monday, November 24, 2008. A workgroup member asked that the list of information requests be reviewed in advance of the meeting by appropriate State departments so members would know what information is available at this time. DHCS agreed to solicit this information from the departments and disseminate it to workgroup members.

### Public Comment

A community member asked that the information request list, with department feedback, be made available to the workgroup and the public by close of business, Thursday, November 20, 2008, so both groups could review the information and only provide additional appropriate information requests to the facilitator by close of business Friday, November 21, 2008. DHCS agreed to this request.

It was also suggested that an Olmstead presentation be included in the list of presentations.

## **VII. Prioritize Workgroup Objectives**

Based on workgroup member feedback, the facilitator opened this agenda item with a discussion on specifics for reaching workgroup agreement for all aspects of the workgroup process, including meeting the proposed objectives. Multiple suggestions were made regarding how best to reach consensus and/or agreement. Suggestions included having a majority vote and minority report, with each person having one vote vs. consensus within each represented group. In addition to clarifying a process for reaching agreement, one workgroup member indicated that the group needed to identify an analytical framework for making decisions. The complexity of the decision making process was further highlighted by concerns raised by some workgroup members that achieving unanimous agreement would take much longer than the current timeframe for the workgroup permitted. Workgroup members then agreed to address and make a decision regarding the processes for reaching consensus/agreement and evaluating information and making recommendations (analytical framework) at the next meeting scheduled for Monday, November 24, 2008. Additional workgroup comments from this discussion are included below:

- We need to evaluate information requests against a set of criteria such as:
  - Is it reasonable?
  - Is the information accessible?
  - Can we get the information in time?
- What resources will DHCS and the California HealthCare Foundation bring to the table regarding the workgroup – will the workgroup continue after six meetings?
- We need to also make sure that we are evaluating all information based on our identified purpose for the workgroup.

### Public Comment

The public added the following comments:

- Roberts Rules – workgroup should attempt to follow these rules.
- Attempts to achieve complete agreement will take the group until 2010; the focus should be on gaining consensus in as many areas as possible.

## **VIII. Closing Remarks, Develop Next Meeting Agenda, Meeting Evaluation**

The facilitator summarized the meeting, and invited the workgroup to brainstorm the agenda for the December 1, 2008 workgroup meeting. Members identified the following:

Welcome

Review agenda

Review summary of 11/24/08 meeting

Status of outstanding issues/requests

**Public comment**

CA Dept. of Public Health Presentation: “Status of January 1, 2009 Report” with question and answer period

**Public comment**

Continue discussion and Refinement of Objectives 1 & 2 and begin discussion of Objective 3

- Objective 1: Identify information needed to make recommendations to the Department of Health Care Services for the Legislative Report
- Objective 2: Define a process for reviewing information and making recommendations
- Objective 3: Establish a process for reviewing the final set of recommendations for the workgroup summary report, with public input

**Public comment**

Develop meeting agenda for December 17, 2008 meeting

**Public comment**

Closing remarks and meeting evaluation

**Public comment**

Adjournment

Public Comment

The public added the final following comments:

- Recommend no presentations to the workgroup – not enough time
- CDPH do a presentation

**IX. Adjournment**

The meeting was formally adjourned at approximately 3:15 p.m.

The AB 1629 workgroup contact person, for questions, information, and recommendations, is facilitator Monique Parrish [mparrish@lifecourse-strategies.com](mailto:mparrish@lifecourse-strategies.com) 925.254.0522.

**SKILLED NURSING FACILITY QUALITY WORKGROUP  
AGENDA\***

Wednesday, November 19, 2008

10:15 A.M. – 3:15 P.M.

University of Southern California State Capitol Center

1800 I Street, Sacramento, CA 95814

1.	Welcome Review Agenda	10:15- 10:20	Monique Parrish (MP) Facilitator
2.	Status of outstanding issues/requests Develop workgroup purpose	10:20 – 11:00	MP
3.	PUBLIC COMMENT	11:00- 11:05	MP
4.	Identify workgroup principles & values	11:05- 11:25	MP
5.	PUBLIC COMMENT	11:25- 11:30	MP
6.	Review notes from September 16 Meeting, “Improving Quality in Nursing Homes: Measuring, Reporting and Paying for Quality”	11:30- 12:00	MP
7.	PUBLIC COMMENT	12:00- 12:05	MP
8.	WORKING LUNCH – BREAK (Lunch provided for workgroup members)	12:05- 12:15	MP
9.	Review workgroup goal – <b>to develop AB 1629/ratesetting methodology recommendations</b> <ul style="list-style-type: none"> <li>• Review and discuss recommended factors (13) for workgroup to consider to achieve this goal</li> <li>• Discuss additional factors to consider</li> </ul>	12:15- 1:15	MP

10.	PUBLIC COMMENT	1:15- 1:20	MP
11.	Develop workgroup objectives (To achieve workgroup goal)	1:20- 2:00	MP
12.	PUBLIC COMMENT	2:00- 2:05	MP
13.	BREAK	2:05- 2:15	
14.	Prioritize objectives Begin development of goal matrices with prioritized objectives – outline: <ul style="list-style-type: none"> <li>• Tasks</li> <li>• Person(s) Responsible</li> <li>• Timeline</li> </ul>	2:15- 2:55	MP
15.	PUBLIC COMMENT	2:55- 3:00	MP
16.	Closing remarks, develop next meeting agenda, meeting evaluation	3:00- 3:10	MP
17.	PUBLIC COMMENT	3:10- 3:15	MP
18.	Adjournment	3:15	MP

\*All times are approximate.

The order in which agenda items are considered may be subject to change. Opportunities for public comment will be provided throughout the agenda. If you wish to speak, place your name on the sign-in list. If you participate by phone, the facilitator and/or operator will provide instructions for making your comment. Prior to making your comments, please state your name for the record and identify any group or organization you represent. Depending on the number of

individuals wishing to address the workgroup, the facilitator may establish specific time limits on presentations.

For individuals with disabilities, the Department of Health Care Services will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of training or meeting materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write:

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Civil Rights Office  
Department of Health Care Services  
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Email: [Jennifer.Lovett@dhcs.ca.gov](mailto:Jennifer.Lovett@dhcs.ca.gov)

Please make your request for assistive services at least seven days in advance of the meeting.