

SKILLED NURSING FACILITY QUALITY WORKGROUP MEETING SUMMARY

Monday, December 1, 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
**Gary Passmore, Congress of CA Seniors
**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
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)
Letitia Robinson (for Joe Rodrigues), Office of the State Long-Term Care Ombudsman
Pam Dickfoss, California Department of Public Health (CDPH)
Gina Henning, California Department of Public Health (CDPH)
Monique Parrish, Facilitator

I. Welcome/Review Agenda

The fourth 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 fourth meeting was to discuss the elements of quality that

pertain to nursing facilities and to hear information/data presentations from the Department of Public Health and 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. Review summary of 11/24/08 meeting

The workgroup reviewed the meeting notes from the 11/24/08 meeting. The facilitator apologized for the delay (attributed to the Thanksgiving holiday) in sending the notes to workgroup members in advance of the meeting. In response to a question about the quality elements discussed during the previous meeting, the facilitator clarified that those elements, which were listed on the board during the 11/24/08 meeting, were reflected in the meeting notes.

III. Status of outstanding issues/requests

The facilitator opened the outstanding issues and requests discussion with the following items:

1. The facilitator reminded meeting participants to fill out evaluation forms.
2. The facilitator reviewed the pyramid structure introduced at the 11/24/08 meeting – a framework for the group’s work – and provided a quick recap of the layers developed thus far and the reason for each: member/facilitator roles and responsibilities – emphasized that while the facilitator and the workgroup members have distinct roles, there should be a synergy between the two; recognition of member interests and mutual gains – stressed that members represent unique but complementary perspectives, all voices are important, and the workgroup process is not a zero sum game; and, the process for agreement and decision-making – affirmed the group’s decision that it be a process of listening and compromise, and of identifying areas for consensus where possible and voting when necessary. The group elected to table the issue of quality until today’s meeting. Additionally, the group agreed to listen to the information requests responses before deciding on specific criteria for evaluating the information or moving on to the other process steps [layers] in the pyramid.
3. The facilitator asked the workgroup members to focus their discussions on the problems the group is trying to address, not on individual members. Although the group is working on long-standing issues that have caused difficulties in the past, the facilitator asked the group to be respectful of one another.

Discussion of Quality Indicators

The workgroup resumed the discussion of nursing facility quality indicators. This discussion was introduced at the 11/24/2008 meeting and tabled to give workgroup members additional time to review the quality elements introduced at that meeting and to think about additional elements. The facilitator listed (on the white erase board) the factors the workgroup was invited to consider (from AB 1183, the 2008 health budget trailer bill), in making recommendations to AB 1629/ratesetting methodology. Workgroup members asked for clarification on the purpose of the quality discussion. The facilitator responded that the discussion represented a critical procedural step for the workgroup – identifying the broad parameters of quality, so the group could then constructively address how best to vet information and make recommendations based on a common understanding of the issue of quality.

The facilitator asked workgroup members for their recommendations on how to proceed with the discussion. It was recommended that the workgroup try to agree on broad quality buckets and then discuss individual metrics under the buckets. David Farrell (SnF Management) indicated that quality is a complex issue. He further noted that achieving quality in a nursing home is contingent on multiple factors, not a single indicator. He recommended that the group consider quality measures as part of an interdependent chain of quality measures (e.g. the number of staff is only meaningful when you also look at turnover/retention). Mr. Farrell also suggested that the workgroup look at the work other groups have done to identify evidence-based quality metrics. Mary Mundy (SEIU) stated that, from her perspective as a caregiver, staff isn't the only element of quality but underscored her experience that a facility cannot have any measure of quality if it is understaffed.

After much discussion, workgroup members identified common ground on the following elements of quality:

1. **Higher Staffing.** Workgroup members generally agreed that higher staffing is preferable. Discussion of staffing levels included the following points:
 - Both RN hours and patient acuity should be measured.
 - Total patient care hours should be measured including non-clinical staff time such as social service staff, ward clerks, dietary staff, activity staff and med techs.
 - High staff satisfaction leads to low staff turnover.
 - Higher staffing is better when taken in context with other measures; staffing levels alone do not guarantee quality.
 - The current rate-setting system doesn't support higher staffing levels.

- Process of care and systems of care must be in place to ensure quality.
 - Greater attention needs to be given to technology that allows staff to be more efficient. *Michael Torgan will share information about the impact of technology on medication errors.*
 - Workgroup should consider staff competency levels and facility management structure.
 - Workgroup could look at whether technology and management should be reimbursed at the 90% cap rather than the 50% cap.
 - Workgroup might look at raising the 90% caps to 95% or eliminating caps –Jim Gomez (CAHF) noted for the group that if a cap is changed, money is redistributed. He recommended the workgroup think about the financial impact of any proposed changes.
2. **Turnover/Retention.** Workgroup members generally agreed that staff turnover should be decreased and retention should be increased. Discussion of turnover/retention included the following points:
- Payroll data is needed to capture turnover/retention.
 - Turnover is costly and inefficient.
 - Evidence doesn't show that higher staff wages and benefits increase quality. Not all workgroup members agreed with this statement.
 - Operators should be subject to market forces in the same way staff is subject to market forces.
 - Need to know what incentives can be promoted to capture staff turnover/retention.
 - Need to know what factors besides staffing levels predict nursing home quality. This information will help operators understand how to focus their efforts to improve quality.
 - *Dionne Jimenez offered to share information about factors other than staffing that are correlated with quality.*
3. **Reduce Lag Time in Ratesetting to 12 Months or Less.** Workgroup members generally agreed that there should be less of a lag between when expenditures are made and when they are reflected in facility rates.
4. **Get More Up-To-Date Payroll Data.** Workgroup members generally agreed that more current payroll data is needed.
5. **Improve Data Collection.** While the workgroup had not yet decided what data should be collected, it was generally agreed that better data collection processes are needed.
6. **Measure Resident Satisfaction.** It was generally agreed that nursing home resident satisfaction should be measured. Discussion of resident

satisfaction included the following points:

- Michael Torgan stated that a customer satisfaction survey taken by 18,000 individuals showed that management follow-up to resident and family concerns was the number one predictor of satisfaction.
- *Jocelyn Montgomery agreed to share information about the relationship between satisfaction and quality.*

Workgroup members discussed pay-for-performance (P4P). One member clarified that in the eight states that have P4P programs, the performance bonus is an add-on to the base rate. Several members of the workgroup expressed interest in a P4P system, while several others expressed reservations about moving to a P4P system, citing the absence of an infrastructure for a P4P system. Jim Gomez (CAHF) stated that CAHF is not trying to push P4P, though organizationally they feel it's the right thing to do. He suggested that the workgroup table the discussion of P4P and focus on seven or eight important quality elements to begin measuring as a first step in improving quality. The workgroup agreed to table the P4P discussion.

The workgroup subsequently agreed to proceed with department presentations and resume the quality discussion in the afternoon, time permitting.

IV. Public comment

The public added the following to the discussion:

- The issue of staff turnover is a facility-issue that is the responsibility of facilities and of CAHF: it should not be a government or workgroup responsibility.
- Quality controls are needed to ensure that facilities have the funding to make the system work.

V. Lunch break

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

VI. CA Department of Public Health Presentation: "Status of January 1, 2009 Report" with question and answer period

The facilitator reported to workgroup members that their information requests (to multiple state departments) were being processed; however, not all the requested information was available. Both the Department of Public Health and the Department of Health Care Services presented the information they had available to the workgroup.

Department of Public Health

Representatives from the Department of Public Health (DPH) informed the workgroup that they were not able to share the findings from the January 1, 2009 report or the details of the methodology. DPH representatives acknowledged the workgroup's frustration at not having access to the information. Representatives shared some data elements from the report that were based on publicly available information. Workgroup members did not feel however that they could adequately evaluate the data or data elements without reviewing the entire report. Public comment was taken from Bob Sands, Assistant Secretary from the California Health and Human Services Agency (CHHSA), who offered to work with the Governor's Office on releasing the report. *It was agreed that DPH would defer their additional presentations to the 12/17/2008 meeting and would provide information in writing.*

Department of Health Care Services

Representatives from the Department of Health Care Services (DHCS) distributed written information in response to the workgroup's various informational requests. DHCS representatives reviewed the distributed materials and answered questions as follows:¹

- DHCS presented data on the number of Medi-Cal facilities and percent of audited facilities. DHCS reviewed the number of facilities audited in previous rate years through 2007-08. The workgroup discussed the increase in the number of audits from the initial year of AB 1629, which was attributed to increased number of DHCS auditors in recent years. It was stated that the traditional audit takes two years to complete. Gary Passmore (CA Congress of Seniors) stated for the record that he has been told that the reason for the lag in reimbursement rates is the need to audit cost data. It was clarified that 2006 cost reports were used to develop 08-09 rates. DHCS stated that they plan to audit close to 100 percent of facilities each year though the statutes only requires an audit once every three years. It was suggested that the statute could be changed to reflect that reality.
 - *Follow up item: DHCS will report back to the workgroup about how many of the audits were full scope audits versus desk audits.*
- DHCS presented data on the percent of the budget devoted to various home and community-based services categories.
- DHCS presented a brief response as to how it will know if the audit system is working.
 - *Follow up item: DHCS will report back to the workgroup about potential flaws with the law and the rate methodology from an*

¹ DHCS information presented at the meeting will be posted on the AB 1629 Workgroup Web page.

auditing perspective.

- DHCS presented data on annual payments to facilities by peer group.
- DHCS presented data on the maximum quality assurance fee that could be collected under AB 1629.
 - *Follow up item: DHCS will redo the chart to reflect the amount that comes from the state General Fund. DHCS will try to provide similar information for freestanding subacute facilities.*
- DHCS presented data on 2008-09 estimated program expenditures. These expenditures are based on 2006 cost report data. Percent increase is the increase from 2005-06 to 2008-09. Some of the data points are based on pre-1629 cost reports. Expenditures do not reflect the impact of the cap. It was clarified that facilities do not have to show how they spend the Labor driven Operating Allocation (LDOA).
 - *Follow up item: DHCS will provide the percent increase for the Labor Driven Operating Allocation (LDOA). DHCS will try to provide similar information for freestanding subacute facilities.*
- DHCS presented data on the breakdown of cost categories by peer group by year. Workgroup members discussed possible interpretations of the data.
- DHCS presented data on reimbursement for professional liability insurance. Workgroup members discussed possible interpretations of the data. It was stated that one facility in particular was an outlier for one of the reported years. It was also stated that a number of providers did not previously have liability insurance, a development reflected in the data.
- DHCS presented data on reimbursement for training. It was stated that AB 1629's incentive to provide training hasn't worked. It was recommended that this item be flagged for further discussion due to the complexity of this issue. For example, some costs are included in the direct care labor category. Also, a facility that receives a G level deficiency loses the ability to provide training.
- DHCS provided information about P4P metrics.

Darryl Nixon asked to be on record thanking the department for providing the requested information quickly and in written format.

Presentations Reintroduced:

Discussion was continued from the 11/24/2008 workgroup meeting regarding presentations from external experts. Due to concerns about timing, it was

recommended that the workgroup ask presenters to submit written materials in advance and be available by phone for a brief discussion and question and answer period during the 12/17/2008 meeting. The workgroup agreed to this approach.

A presentation by CMS was again requested. *DPH and DHCS agreed to make the necessary arrangements for the CMS presentation.*

A presentation by My InnerView was again requested, and concerns were raised about their methodology. Deborah Doctor stated for the record that she could not support resident satisfaction any more strongly; however, her concern with My InnerView focused on the company's methodology. She reaffirmed her support for a credible information-gathering process in which residents have the maximum opportunity to express themselves. After much discussion, it was suggested that the group choose another expert to discuss satisfaction surveys. *David Farrell agreed to make a presentation at the 12/17/2008 meeting summarizing the information patient, family and staff satisfaction. Jocelyn Montgomery agreed to provide articles about the relationship between satisfaction and quality.*

It was suggested that the workgroup hear a presentation about using the rate setting system as a tool or incentive for deinstitutionalization. *Megan Juring, Assistant Secretary for Long-Term Care at CHHSA, will work with DHCS to provide written information on the California Community Choices project. Ms. Juring will be available to answer questions at the 12/17/2008 meeting.*

In summary, the workgroup will hear the following three presentations at the 12/17/2008 meeting (in addition to previously scheduled presentations by DPH, DHSC and OSHPD):

1. Presentation by CMS on their payroll data project.
2. Presentation by David Farrell on satisfaction surveys.
3. Presentation by CHHSA/DHCS on Olmstead and the California Community Choices project.

VII. Public comment

The public added the following to the discussion:

- Asked whether presentation materials for the 12/17/2008 meeting would be distributed in advance. The facilitator said the departments would do their best.

VIII. 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

Process for Reviewing the Final Set of Recommendations:

The facilitator proposed the following process for making recommendations:

- The respective interest groups will meet separately and develop a list of recommendations ranking them in order of importance, with those that have the greatest likelihood of consensus at the top.
- Interest groups will draw names out of a hat to determine the order in which they will share recommendations with the entire workgroup.
- The first interest group will share its top recommendation. If the workgroup reaches consensus on that recommendation, it would be recorded as such. If consensus is not reached, the workgroup will vote.
- The next group will share its top recommendation and the process will repeat.

The goal of this process will be to identify five to ten consensus recommendations during the course of two meetings, with minimal wordsmithing.

The facilitator asked the workgroup members to think about this proposed process or any feasible alternatives they would like to propose. It was suggested that the workgroup develop criteria for narrowing and reviewing the recommendations. The following items were offered as criteria:

- Financial impact and ability to achieve the recommendation.
- 11 principles submitted by the consumers.
- Evidence-based, achievable, quantifiable, practical.
- Connected to the goal of the workgroup.
- Improves access for income individuals to nursing facilities.
- Improves safety.

After much discussion, the group agreed to revisit the process for reviewing recommendations at the 12/17/2008 meeting. The facilitator asked workgroup members to think about how they would like to structure the process. The workgroup may or may not use established criteria to review each recommendation, but it does need a process to present recommendations. With limited time available at the 12/17/2008 meeting, due to the informational presentations, the workgroup suggested that the process for making recommendations be discussed by first revisiting the common ground items identified during today's earlier discussion on quality.

IX. Public comment

The facilitator asked for public comment for in-person and phone participants. No comments were made.

X. Develop meeting agenda for January 12, 2008 meeting

The facilitator suggested that the workgroup devote most of the 1/12/2009 meeting to making recommendations. David Farrell suggested that the workgroup look at (1) quality measures, including key indicators and outcomes, and (2) regulatory compliance and consequences for noncompliance.

Michael Torgan offered to share information about CMS' efforts relative to compliance.

XI. Public comment

The public added the following to the discussion:

- Thanks for the meeting and thanks in advance for sending out information for the 12/17/2008 meeting. Thanks also to Deborah Doctor for sharing information about Olmstead.

XII. Closing remarks and meeting evaluation

Workgroup members were reminded that information posted to the workgroup website must be in an accessible format.

Workgroup members were asked to complete their evaluations.

XIII. Public comment

The facilitator asked for public comment for in-person and phone participants. No comments were made.

XIV. 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 925.254.0522.

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Monday, December 1, 2008

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 11/24/08 meeting	MP
Status of outstanding issues/requests	MP
Public comment	MP
CA Dept. of Public Health Presentation: "Status of January 1, 2009 Report" with question and answer period	MP
Public comment	MP
Continue discussion and Refinement of Objectives 1 & 2 and begin discussion of Objective 3	MP
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	MP
Develop meeting agenda for December 17, 2008 meeting	MP
Public comment	MP

Closing remarks and meeting evaluation MP

Public comment MP

Adjournment

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.

NEXT MEETING: DECEMBER 17, 2008 10:15 a.m – 3:15 p.m.