

**Minutes of Meeting  
Health Services Council  
Project Review Committee-II**

**DATE: 7 February 2008**

**TIME: 2:30 PM**

**LOCATION: Conference Room 401  
Department of Health**

**ATTENDANCE:**

**Committee-II: Present: Victoria Almeida, Esq., (Vice Chair), Raymond C. Coia, Esq., Sen. Catherine E. Graziano RN, PhD, Robert Hamel, RN, Robert J. Quigley, DC, (Chair), Rev. David Shire (Secretary)**

**Not Present: Rosemary Booth Gallogly, Wallace Gernt**

**Excused: Denise Panichas, Gary J. Gaube**

**Committee I: Present: Amy Lapierre**

**Staff: Valentina D. Adamova, Loreen Angell, Michael K. Dexter, Robert Marshall, PhD., Joseph Miller, Esq.**

**1. Call to Order, Approval of Minutes, Conflict of Interest Forms and**

## **Time Extension for the Minutes Availability**

**The meeting was called to order at 2:37 PM. The Chairman noted that conflict of interest forms are available to any member who may have a conflict. The Chairman requested a motion for the extension of time for the availability of minutes pursuant to the Open Meetings Act. A motion was made, seconded and passed by a vote of six in favor and none opposed (6-0) that the availability of minutes for this meeting be extended beyond the time frame as provided for under the Open Meetings Act. Those members voting in favor were: Almeida, Coia, Graziano, Hamel, Quigley, Shire.**

## **2. General Order of Business**

**The next item on the agenda was the application of Allegiance Hospice Care of Rhode Island, LLC (subsidiary of Allegiance Hospice Group, Inc.) for initial licensure to establish a Hospice Care Provider Agency at 615 Jefferson Boulevard in Warwick.**

**Mr. Zubiago, legal counsel to the applicant, introduced the representatives of the applicant. The Chair asked if the marketing study done to evaluate the status of hospice services was available. The applicant said that the study drew upon available data and agreed to provide it to the Committee.**

**Mr. Tavares, Executive Director of the RI Partnership for Home Care, provided an update of the hospice care situation in RI. He said that between 2003 and 2006 home care costs in RI grew from \$33.3 million to \$40.4 million (about 7%) while hospice care costs grew from \$12.8 million to \$37.2 million (a nearly three-fold growth). He associated this growth with the entry of two for-profit hospice programs, Beacon and Odyssey, into the Rhode Island market. He said that the two for-profit hospice programs received \$14.3 million in payments from Medicare in 2006. He also suggested that some hospice patients may lack choice, due to agreements between nursing homes and for-profit hospice providers. He noted that existing hospice programs could respond to any new demand for hospice care.**

**Mr. Tavares discussed the “high standing” of current providers who have served the state for many decades, and pointed out that in the absence of new Medicare certifications by the Department of Health, JCAHO certification was the only way the proposed new agency could qualify for Medicare reimbursement. He also compared the projected “start-up” estimates of the applicant to the Beacon agency that increased revenues from \$4.8 million in the first year to \$11.7 million in the third year.**

**Sen. Graziano asked if the hospice programs provide any clinical services. Mr. Tavares referred the question to Ms. Wulfkuhle, President and CEO of Home and Hospice Care of RI, who responded**

**that pain management and other clinical services are typically provided—all under the direction of the patient’s physician, nursing home physician or hospice medical director.**

**Staff asked if the applicant engaged in “exclusive relationships or contracts” for hospice services with nursing homes. The applicant responded that they have “agreements” with nursing homes, but none of them are “exclusive” in the sense that residents can only use the applicant’s services. Only hospitals have a requirement to provide a list of agencies to patients. Ms. Heren, representing the Alliance for Better Long Term Care, said that the Patient’s Bill of Rights under the federal Omnibus Budget Reconciliation Act (OBRA) gives nursing home patients the right to choose. The Nondiscrimination Provision of the Balanced Budget Act of 1997 provides that hospitals must give patients a list of post-hospital home care and nursing home agencies and permit patients choice upon discharge. However this provision does not apply to hospice services under this act. Mr. Tavares commented that on many occasions community hospices do lose patients when they are referred to nursing homes and then these patients get referred to other hospice providers upon discharge.**

**Sen. Graziano asked if hospice use in RI is in line with US utilization. Ms. Wulfkuhle stated that the US goal is 40% of applicable deaths to be served by hospice and RI is at about 43-45% currently.**

**Rev. Shire asked staff for guidance on the criteria of approving initial licensure. Staff responded that the four criteria included: character, financial viability, safe and adequate treatment and access for the traditionally underserved. Staff noted that concerns of the Committee about this application need to address the review criteria.**

**The Vice Chair asked about the age breakdown of hospice patients. The applicant responded that 90% or more are Medicare eligible. Mr. Tavares read from a report by the National Hospice and Palliative Care Organization, based on data from 2006, which identifies the ages breakdown as follows: less than 35 (0.9%); 35-64 (17.3%); 65-74 (17.1%); 75-84 (31.4%); 85 or more (33.2%). Thus over 60% are 75 years and older.**

**Ms. Lapierre inquired about the status of the applicant's Medicare certification in light of no Medicare surveys being conducted by the state agency in the foreseeable future. The applicant responded that they plan to pursue JCAHO certification, which will be accepted by CMS in lieu of a state survey. This will take about 3 to 6 months following licensure. The applicant stated that they must provide services during that time to receive JCAHO accreditation and regard this as a start-up cost of doing business. Any subsequent Medicare payments would only be retroactive to the date of the survey.**

**The applicant reiterated these points with regards to the proposed facility: that the frail elderly person in a nursing home is the target**

population; they plan to offer a full-service hospice; there are no “exclusive” contracts or agreements with nursing homes; and that all hospices pay nursing homes the same rate, in RI and elsewhere.

Mr. Bigney, Administrator, Hospice of Nursing Placement, presented some comments about the early payment process of for-profit hospices that put the non-profits at a disadvantage. The applicant responded that they experience a 28-day payment turnaround in Massachusetts. The applicant also noted that growth in hospice utilization is appropriate and beneficial to people who can benefit from this end of life care.

Ms. Roberts, President and CEO of VNA Care of New England, addressed the “aggressive case finding” practices of some agencies, including use of a wider array of diagnoses. She also noted that the hospice average length of stay in RI is 40-50 days—not 80 days as in other places. The applicant responded that 67% of their clients die within 30 days.

Mr. Zubiago noted that the issues at hand were the criteria for initial licensure and repeated the representation that the applicant did not engage in “exclusive” contracts. The Chair affirmed that the committee’s consideration should be related to those criteria. Ms. Lapierre asked the staff for clarity on the relationship between need and fiscal viability. Staff responded that the committee could link the two, but would have to do so in the context of financial viability.

**The Chair asked the applicant for data comparing the home and nursing home-based hospice services in RI and comparisons with other states. The applicant agreed to provide the data.**

**Rev. Shire requested information about the applicant's provision of spiritual care. The applicant agreed to provide the information.**

**Sen. Graziano asked why the applicant reports providing 5% of hospice care in private homes, if nursing homes are the target market. The applicant responded that some areas do not have inpatient facilities available. The applicant added that they do not engage in the practices of casefinding through confidential health records or of exclusive contracts. Of about 500 nursing homes in Massachusetts, the applicant has contracts with 161 facilities.**

**Ms. Wulkuhle referred to her letter of 7 February 2008 in which she proposed a number of requests for additional information related directly to the criteria for review of initial licensure. She asked the Health Services Council to request additional information regarding Allegiance's past practices in Massachusetts, Maine and New Hampshire. She noted that a request about business practices of corporate executives would provide more information about "character, commitment, competence and standing". Information about the agency's record of interdisciplinary team services per patient would relate to "safe and adequate treatment." A number of**

items would help inform the “record of quality improvement,” including: quality improvement reports, family satisfaction surveys, compliance with the new Medicare Condition of Participation and national Quality Assurance/Performance Improvement.

Ms. Wulfkuhle noted that more information about the “record of providing access” can be obtained by requesting Allegiance company records on serving long term care vs. patients in the community; diagnostic categories of patients served; and the records regarding free care, cultural diversity, geographic outreach and the CLAS standards for serving culturally diverse populations. Regarding “demonstrated financial commitment” she recommended that the Health Services Council request information on borderline eligibility for services, average length of stay and general inpatient utilization of long term care facilities. Finally, she recommended that a review of information regarding individualized care planning and utilization of nursing assistants would provide a view of quality and financial commitment.

The Vice Chair commented that these suggestions for additional information speak directly to the review criteria and asked that staff send them to the applicant for a written response. Also, Vice Chair requested that the applicant provide information about consumer satisfaction and the quality of services by the applicant. The Chair announced that the applicant would receive additional questions and the committee would review the responses at a subsequent meeting.

**There being no further business, the meeting was adjourned at 4:30 PM.**

**Respectfully submitted,**

**Robert Marshall, PhD**