

# **LONG-TERM-CARE COORDINATING COUNCIL**

## **Full Council Meeting**

**Wednesday, October 12, 2005**

**Room 313 1<sup>st</sup> State House**

**Providence, Rhode Island**

## **Meeting Minutes**

### **I. Call to Order**

**Ms. Maigret, LTCCC Executive Director, convened the meeting at 10:35 AM. She announced that Chairman Fogarty was at the Emergency Management Agency for a forum on hurricane evacuation planning and would be arriving in about ten minutes. In the meantime Ms. Maigret said they would take up the scheduled presentation by Kathleen McKeon, Assistant DEA Director, on The POINT Project.**

**In attendance were:**

**Lt. Gov. Charles Fogarty, Chairman Roberta Hawkins**

**Maureen Maigret, Executive Director Jane Hayward**

**Maria Barros Bill Jackson**

**Mary Benway Al Santos**

**Corinne Calise-Russo Bonnie Sekeres**

**Roberta Merkle (representing C. Conant-Arp)**

**Karen Smith Angelo Rotella**

**Kathleen Spangler Bob DiCenso**

**Elizabeth Earls Jim Flanagan**

**Susan Sweet Sen. June Gibbs**

**Anna Tucker Dr. David Gifford Paul Tencher (Sec of**

**State's office) Cindy Soccia**

**Anna Prior Kathleen Connell**

**Neil Corkery**

**Guests: (partial list)**

**Larry Grimaldi Mary Forgue**

**Paula Parker Alan Tavares**

**Kathleen Kelly Susan Saccocia-Olson**

**Susan Leone Kathy McKeon**

**John Cabral Ray Henry**

**Joan McLaughlin Andy Andrade**

**John McLaughlin John Young**

**Don Williams Denise Saran**

**Ken Parisault Diane Pelletier**

**Rhonda Schwatz Nancy Ehrlich**

**Joan Kwiatkowski John McGehearty**

**II. Department Report - THE POINT Project ;V Kathleen McKeon,  
Assistant Director ;V DEA**

**(See Attachments # 1 & 2)**

**Ms. McKeon provided background on the AOA/CMS Grant that had lead to the development of THE POINT project. This project was previously called the Aging and Disability Resource Center (ADRC)and the federal grant previously had been referred to as the "one-stop" proposal designed to integrate and coordinate access to long term care services. Ms. McKeon noted that a call center contract**

had been awarded to EDS. EDS was selected from among six agencies that responded to the RFP. EDS operates 194 call centers worldwide. The call center will be physically operated from NetWork RI located at 1 Reservoir Avenue, Providence. November 1st is the start date for the call center. It is expected that the initial workload will focus on calls about Medicare Part D. In addition to regular business hours, the call center will operate two evenings a week and on Saturday mornings. Ms. McKeon reported that in addition to the call center, six new access grants have been awarded under which customer information specialists will be located in regional case management agencies. A website for THE POINT project is operational. ([www.ThePointRI.org](http://www.ThePointRI.org)) Ms. McKeon noted that an advisory commission, which is co-chaired by herself and Diane Kayala from DHS, has been working throughout the course of the grant and she would welcome any new members to the advisory commission. If persons are interested they may contact her.

Ms. Barros asked about the language capability for the call center system. Ms. McKeon reported that EDS uses a language translator program with a capacity to handle some 60-70 languages. At a minimum, translation services for Spanish and Portuguese speaking individuals will be available.

Ms. Sweet raised two issues, one related to the Medicare Part D program and RIPAE, and one related to the scheduling of a public hearing for proposed regulations for the Home and Community Care program. Ms. McKeon suggested that it would be more appropriate for Mr. Grimaldi to address the first issue and he would be presenting

later during the meeting. She also said that the date for the public hearing had not been set as of yet.

### **III. Approval of Minutes of June 15, 2005**

**NOTE: Chairman Fogarty arrived and took over chairing the meeting with a call for review of the minutes of June 15th. He noted the minutes as distributed needed correction in that Judy Jones had not attended the meeting (minutes stated she had been in attendance) and Cindy Soccio had attended the meeting (minutes stated she had been represented) Upon motion of Mr. Rotella, seconded by Mr. DiCenso, the minutes as corrected were approved unanimously.**

### **IV. Chairman's Report**

**1. Chairman Fogarty noted that the final Legislative Tracker for 2005 was available on the Long Term Care Council website if anyone was interested in noting the final status of legislation recommended and/or monitored by the Council during the past session. He also thanked everyone for their work in advocating for such significant reforms during the 2005 General Assembly session.**

**2. Chairman Fogarty thanked Kathleen Connell, AARP State Director and Council member, for the wonderful job that AARP did in organizing "Booming Into The Future III" which was held on September 19th. He was pleased that the LTCCC was able to be a co-sponsor once again for the forum and noted that over 400 persons had been in attendance. He acknowledged the inspirational work of the keynote speaker, Dr. Bill Thomas, in transforming nursing home care and said he looked forward to working with the AARP on future forums. Ms. Connell congratulated Lt. Governor Fogarty for being**

awarded with this year's AARP special recognition award for his work in nursing home reform.

3. Chairman Fogarty also congratulated the Department of Human Services for the very successful conference, "Community Opportunities for All", that they held on September 26th and 27th. Mr. Young reported that there were about 240 persons in attendance at the conference, which was most successful.

#### 4. Emergency Preparedness for Vulnerable Populations

Chairman Fogarty indicated that following Hurricane Katrina, various persons had inquired about the status of planning to deal with vulnerable populations such as the elderly and persons with disabilities during emergencies and that he had just been at a hurricane preparedness meeting at EMA in which the issue had been discussed. He noted that information on the 911 Disability Registration Program was being distributed during the meeting as well as a Consumer Checklist put out by the National Citizen's Coalition for Nursing Home Reform (Attachment #3). Ms. Maigret reported that she had been doing an environmental scan of the various rules and regulations covering emergency preparedness for licensed facilities and had also been contacted by staff from the URI Rhodes to Independence Program regarding their plan to do an environmental scan. She will be attending a meeting on October 21st facilitated by the URI Rhodes to Independence staff to continue work on the environmental scan. She will report on any follow-up activities needed as a result of this meeting at the next LTCCC meeting. Ms. Maigret also thanked the many individuals and agencies who had

responded to her request for information, including Roberta Hawkins from the Alliance for Better Long Term Care, the Departments of Elderly Affairs and HEALTH, and provider agencies. She also noted that the Governor and the EMA had had a briefing for nursing home providers to discuss emergency/evacuation planning and that Silver Creek Nursing Home had been cited as a nursing home with a "best practice" in terms of emergency planning. Mr. Rotella noted that there is a need for repeated training of personnel and backup systems in dealing with emergency preparedness at nursing facilities. Ms. Hawkins also noted the need to work with families. She suggested that the National Guard be available to transport nursing home staff during severe snowstorms and other inclement weather just as they do for hospital staff. She also noted that clients of the Meals on Wheels program should be identified as a vulnerable population and that planning to meet their needs should be another priority.

5. The Chairman reported that he had sent a letter to the DEA Director requesting a public hearing on the proposed revisions to the DEA Home and Community Care Regulations and that others had also made the request. He asked if Director Russo would keep them apprised of the date to be set for said hearing.

6. Chairman Fogarty noted that the Rhode Island Foundation had issued its report on oral health for nursing home residents. This report synthesized much of the work that had been done to date in looking at the issue and made recommendations for moving forward to address the problem. Ms. Hawkins stated that in her opinion lack of access to oral health/dental care for nursing homes constituted

abuse. Ms. Barros brought out an example of a home care client with her agency who has been hospitalized in the past, at great expense to the system, due to dental pain as a result of lack of access to dental care. Ms. Sweet noted that in Massachusetts a court case had been settled that dealt with the issue of dental care and Medicaid in which the Court decided in favor of the plaintiffs. She noted that this case may have some bearing on the RI situation. Mr. Santos said that he has been working on this issue for four years and expects to have some resolution before January 2006 that may include a program with Delta Dental.

#### **IV. Department Reports**

„h HEALTH ;V Dr. David Gifford

1. Assisted Living Issues - Follow-up to questions and issues raised at June 8th meeting regarding incident at Beechwood Assisted Living. Dr. Gifford said that his department had researched the questions raised by Ms. Maigret for Chairman Fogarty at the June 8th meeting and discussed the responses generally. The department found that the owner of the Beechwood Assisted Living Center had been aware of Mr. Leddy's background and that Mr. Leddy had been on probation. However the administrator at Beechwood and the residence had been out of compliance with Department of Health's regulations. He noted that today the Providence Journal reported on new notice requirements that Director of Corrections Wall had recently developed. Previously, there had been no general

requirement regarding provider notification by the Department of Corrections when persons on probation or parole were placed in assisted living residences. Dr. Gifford then deferred to Ms. Hayward, Director of the Office of Health and Human Services to report on her investigation.

Ms. Maigret noted that she would attach to the minutes a copy of the standard operating protocol notification that had been prepared and put into effect by the Department of Corrections following the request by Chairman Fogarty at the June 8th meeting.

Ms. Hayward reported that her initial impression was that we really have two systems of assisted living. One serves primarily the private paying and senior populations and one which predominantly serves the subsidized under 65 year-old population, many of whom have behavioral problems. Persons with criminal backgrounds tend to be clustered in smaller types of assisted living. She visited a number of these smaller assisted living facilities during the summer and noted that many of them are doing an exceptional job in working with community agencies to address resident needs. She reported 19 persons were found to have criminal backgrounds, but only seven actually had been retained at the ACI. The majority had been placed on probation and had actually not served prison time. Ms. Hayward noted that RI was not the only state dealing with issues relating to assisted living for younger persons with disabilities. She reported that there may be opportunities via the Medicaid program to change the financing system for assisted living and also noted the need for a single evaluation form. She also said that traditionally, assisted living

has been licensed as more of a social model and not a health care facility and that is something that needs to be discussed. The issue is how can we make this setting safer for everyone. Ms. Hawkins raised the issue of whether we needed to have separate settings for those persons who needed assisted living but who had violent criminal backgrounds.

Dr. Gifford next provided a report on the status of assisted living surveys conducted for the first quarter of FY 2006 (see Attachment # 4)

Dr. Gifford noted that there are now 68 licensed assisted living residences and that 65 of them had been inspected at least once over the last three month period. He noted that there had been a total of 124 deficiencies found and that the top five deficiencies included: medication administration, safety requirements, management of services, residents' rights, and resident assessments and service plans.

### **Implementation of 2005 Nursing Home Reform Legislation**

Dr. Gifford referred to Don Williams to provide information on the implementation efforts regarding the 2005 Nursing Home Reform legislation. Mr. Williams reported that this is one of the most comprehensive nursing home reforms ever enacted. The department's goal is to have regulations in place by January 1st. They hope to have the first community review for the proposed regulations in November. He noted this is a very ambitious target date

and they would make every effort to meet the targeted timeline.

### **Long Term Care Monthly Survey Report**

Dr. Gifford noted that in the absence of Mr. Rusin, Mr. Williams would give the monthly survey report. Mr. Williams provided copies for the August and September monthly survey reports (See Attachments # 5 & 6). Mr. Williams noted that there had been considerable staff turnover in the Office of Facilities Regulations and that it takes six months to train new staff in order for them to become certified and able to conduct surveys independently.

Ms. Maigret noted that the LTCCC had been reviewing these monthly reports for one full year now and that the issues related to substandard care primarily involved pressure ulcers. She noted that this is an area that continues to demand great attention and that Quality Partners of Rhode Island in its eighth Scope of Work would be working with nursing homes to address the pressure ulcer issue. Dr. Gifford also noted that the Department of Health had received a grant from CMS to do work in this area as well.

„h DHS - John Young, Associate Director

### **1. Implementation of Medicaid Managed Care Waiver for Adults with Disabilities (H5734A jV Public Law 394)**

Mr. Young distributed copies of information regarding the Medicaid Managed Care for Adults with Disabilities project (Attachment #7). This is a result of passage of Public Law 2005 Chapter 394. He noted that it would be a voluntary managed care program for persons with disabilities that would consist of three components:

#### **1. A comprehensive health care model**

**2. A nurse case management option**

**3. An option looking at other services such as home care that are not typically included in a comprehensive model.**

**He indicated that the targeted date to begin enrollment was July 1, 2006. Ms. Maigret questioned whether or not a waiver would be necessary to implement the program. Mr. Young said that it was the department's position at this time that a waiver is not needed but the program could be accomplished through a state plan amendment (SPA).**

**1. Status of Consultant Study Required Under S1138Aaa and H6552A**

**Mr. Young reported that the department had commissioned a survey of New England states that would look at both reimbursement rates and methodologies being used across the New England states to set rates for home and community care providers.**

**„h DEA ¡V Medicare Part D Outreach and Information Campaign**

**1. Larry Grimaldi from DEA explained that the department would be embarking on a 30-day public education campaign blitz using federal funds provided to the department that would include radio and TV PSA's, billboards, bus shelter posters and scheduled community meetings to explain and educate persons on the new Medicare Part D program. The theme of the campaign is "Cut Your Bills ¡V Not Your Pills". Major enrollment events will take place around November 15th which will bring together consumers and representatives of various plans. The DEA website will have information on Medicare Part D and link to "THE POINT" website which will also contain information about the Medicare Part D program. DEA has a four-person team that**

has already done about three dozen presentations. Senior Health Insurance Program (SHIP) counselors have also done about three dozen presentations to date. DEA is also partnering with the Department of Health to provide educational opportunities for healthcare providers including the pharmacy community to become informed about the Medicare Part D program. Mr. Grimaldi reported that CMS had started mailing the Medicare and You 2006 booklet and it contains some specific information about what plans are available in the state. Chairman Fogarty noted that he appreciated the effort being made by DEA as it is a daunting task to educate consumers about this complicated new program.

2. Ms. Sweet raised the issue of Medicare Part D and the RIPAE program. She noted that she had heard that it was being presented at community meetings that those RIPAE enrollees who are mandated to participate in the low-income Part D Medicare program, as required by legislation enacted this year, would no longer be able to access RIPAE. She also noted that this had been stated in a DEA press release and she was very concerned about this. She noted that the DEA statute clearly does not require RIPAE recipients who enroll in a low-income Medicare Part D program to be dis-enrolled from RIPAE. Mr. Grimaldi stated that the department believed this had been the legislative intent and was seeking clarification on the matter. Ms. Sweet asked if the department was also seeking legislation to accomplish this and Director Russo said that this was correct. Chairman Fogarty stated that he would advise that they not seek such legislation as it would be taking something away from people and

would be contrary to what he had been trying to accomplish this year to enhance RIPAE coordination with Medicare Part D. He said that he would be opposed to such legislation at this time.

Ms. Sweet noted it was important to keep RIPAE as an option for these low income individuals. She asked the LTCCC to support this position and moved that the Department of Elderly Affairs RIPAE-enabling legislation not be changed in such a manner. The motion was seconded by Mr. DiCenso and Ms. Barros. The motion was discussed by several members including Dr. Gifford who questioned if Medicare Part D rules allowed such coordination with state programs. Ms. Sweet noted that the federal law encouraged state wrap around with Medicare Part D and that RIPAE should be there in cases when Medicare Part D would not cover a drug. Ms. Maigret noted that it was important to keep RIPAE because costs paid for by the state for co-payments for prescription drugs purchased by RIPAE enrollees could be counted as out-of-pocket costs for the consumer. These will be counted as expenditures to get them through the so-called "doughnut hole". Director Russo stated that low-income persons would be far better off with Medicare Part D but there was an issue in regards to what would happen if there were drugs not covered by Part D and this is what they were looking into. Mr. Grimaldi noted that if a medication were needed under Medicare Part D and not available through a particular plan that there was an appeal process that the consumer could use. Ms. Sweet noted that these cases should be infrequent and therefore be of minimal cost to

**RIPAE. Following the discussion, Chairman Fogarty called the question put forward by Ms. Sweet's motion: to maintain the RIPAE law as it currently stands regarding coordination with Medicare Part D and low-income beneficiaries. The motion passed on voice vote with all members present voting in the affirmative except Director Russo who voted "No".**

**„h Department of Attorney General**

**Chairman Fogarty noted that the report from the Department of Attorney General on the Elder Justice Protection Unit would be deferred to the next meeting.**

#### **IV. Other**

**Ms. Hawkins reported that Channel 12 Investigative Reporter, Jack White, had died unexpectedly this morning. She noted that Mr. White was noted for his professionalism and outstanding journalistic skills. He had been a friend to many over the years and will be sorely missed. Chairman Fogarty also noted that he was saddened by the news of Jack White's death and requested that the meeting be adjourned in memory of Mr. White.**

#### **V. Adjournment**

**The meeting adjourned at 12:10 PM in memory of Jack White.**