

**ALABAMA DEPARTMENT OF PUBLIC HEALTH  
DIVISION OF HEALTH CARE FACILITIES  
MEDICAL DIRECTORS' ADVISORY COMMITTEE**

**DATE:** Saturday, July 28, 2007 7:30 a.m.

**PLACE:** San Destin Golf and Beach Resort  
San Destin, Florida

**Board of Directors:** Robert Webb, MD, Board Chairman  
Michael Hanna, MD, CMD, President  
Jimmy Davis, MD, CMD, President Elect  
Michael Reeves, MD, CMD, Secretary/Treasurer

**ATTENDEES:** Richard Esham, MD, Medical Director, DHCF  
Katrina G. Magdon, Alabama Nursing Home Association  
Robert Webb, MD, Board Chairman  
Michael Hannah, MD, President  
Jimmy Davis, MD, President Elect  
Michael Reeves, MD, Secretary/Treasurer  
David McRae, MD  
Jim Yates, MD  
Malcolm Brown, MD  
Dick Owens, MD  
Tom Geary, MD  
Jerry Harrison, MD  
Thomas Stevens, MD  
Kevin Jackson, MD  
Billy August, MD  
David Barthold, MD  
Charles Nevels, MD  
John Wagner, MD  
Mia Sadler, R.N., DHCF  
Lisa Pezent, R.N., DHCF  
Diane Mann, DHCF

Dr. Richard Esham welcomed attendees to the advisory meeting and thanked them for attending. This year is the tenth anniversary of this group meeting. Dr. Webb, ALMDA President, was unable to attend due to a family emergency. The minutes of the last meeting were circulated. The minutes from the February meeting were accepted and approved. Dr. Esham welcomed Katrina Magdon who represented the Alabama Nursing Home Association in Louis Cottrell, Executive Director's absence. Dr. Esham thanked her for participating in this meeting.

Dr. Esham began the meeting by opening up a discussion about wound vacs. Dr. Brown said he went to a presentation on wound vacs, and had seen wound vacs used in hospitals and nursing homes. He says that used on the right patient, it's fantastic; it promotes healing. They are not as effective on residents who are malnourished with poor circulation and decreased albumin. Plastic surgeons use wound vacs on car accident victims. The down side is that it is labor intensive and expensive. The wound vac company will come out to the facility to teach procedures to staff. It's a lot of work.

Dr. McRae commented that was a tremendous tool. He uses it extensively. He did not agree about it being labor intensive, because the wound had to be dressed every two-three days anyway. To him the down side was that it decreased ambulation.

Dr. Barthold stated that HMO covers payment at his nursing home. He considers it a great tool, the healing times is 60 days vs. 100 days. Nurses say they like it because it helps patients get up and move quicker. The end product may not be expensive considering the family attitude toward its helpfulness.

Katrina Magdon, Nursing Home Association, stated that in a survey situation, considering quality assurance, the wound vac cuts down on pressure ulcers. CMS has recognized that Alabama rates low on pressure ulcer cites. The Nursing Home Association went to Medicaid to request reimbursement for wound vacs as a specialty medical group category. Medicaid asked where was the data, the research coming from. NHA said that they would gather current information and submit it to Medicaid for consideration. NHA talked to various insurance companies, gathered peer articles, Dr. Webb's article, and articles that QID gave them and submitted this to the Medicaid Commissioner. The Commissioner didn't grant or deny the request. The Commissioner told Katrina that the Medicaid medical director had retired and that a new medical director would be coming in September. She asked the nursing home association to hold steady, sit tight until she has time to acclimate Dr. Mooney, the new medical director, to the Medicaid agency.

Ms. Magdon asked for support in the form of letters from the doctors. Dr. Harrison and Dr. Reeves responded that ANHA's biggest ally is the Medical Directors Association. Dr. Harrison responded that the Alabama Nursing Home Association needs to embrace this group as an ally since this group has rapport, not only with the survey agency, but also with the Medicaid Commissioner. Instead of letters of support, Dr. Harrison suggested that this group attend meetings with ANHA, DHCF and Medicaid to make a difference in the outcome. Dr. Reeves suggested that the medical directors be invited to attend ANHA board meetings when there are medical issues. Dr. Harrison suggested that the NHA invite one of the medical directors to be an ex officio member of the NHA Board. Ms. Magdon agreed to take the suggestion back to the NHA. She stated that the next ANHA meeting would be in August. It was pointed out that Dr. Hannah would be the next president.

Dr. Reeves responded that survey teams are doing a great job but the focus is on areas that are costing facilities a substantial amount of money and take away from important issues like wound care. For a facility who had an elopement, in response to the surveyors, the facility hired babysitters for every door 24 hours a day, 7 days a week. This is an expensive answer. Another

example involved residents smoking on the porch. A resident dropped a cigarette on his foot. As a result, the facility had to utilize a staff member to supervise residents smoking. The point is the response costs money.

Dr. Barthold stated that KCI will fly you to their location in Texas and will teach you about their system.

Dr. Davis expressed that he is concerned about potential abuse of these devices. It was further discussed that it has to be used for the right resident.

Dr. Esham stated that this is a serious issue and will be carried forward to the February meeting. Ms. Magdon again stated that some of the medical directors will be included with ANHA in future discussions with Medicaid. Dr. Esham reiterated the importance of AMDA interacting with both Medicaid and ANHA. It has been the intent of this committee to include regulators, Medicaid and ANHA in discussions, problem solving and resolutions. Dr. Reeves added that many of the members of the committee interact nationally, have a wealth of knowledge, and can impact change.

Dr. Esham opened discussions about the next agenda item: quality assurance in long term care. Many of the committee members have expressed concerns about the department not reviewing and changing when indicated deficiencies and severity and scope. These concerns were brought to the department by ANHA and also by CMS. Dr. Williamson assessed these concerns. As a result the department has developed a comprehensive quality assurance program. We are now completing prospective and retrospective reviews. The program also includes reviews of all substandard quality of care, immediate jeopardies, and double G's. These deficiencies have several levels of review including: a supervisor, a QA long term care reviewer, and Dr. Williamson is also committed to hiring a compliance officer as a third reviewer. The compliance officer is not in place at this time; however, Dr. Williamson is fulfilling this role. The compliance officer will report directly to Dr. Williamson's staff assistant, Cathy Vincent. The compliance officer will make the final decision about deficiencies. Ms. Sadler stated that she believes the group will be pleased about the new QA process. In addition to the QA process the department has made some personnel changes. Ms. Lisa Pezent who has extensive experience in long term care is now the Director of Long Term Care. Previously she served the department as a nurse surveyor, Complaint Unit Supervisor, and Training Unit Supervisor. Ms. Pezent will oversee all aspects of long term care including the Complaint Unit, the Training Unit, the Enforcement Unit, and the Survey Unit. The department is very pleased to have Ms. Pezent in this role. Dr. Barthold asked about the time frames involved in jeopardy. Ms. Sadler responded that if it's an unrelieved jeopardy, the deficiencies have to be processed very quickly. The department is committed to having these deficiencies reviewed and completed before any notices are sent to CMS. If it is a relieved jeopardy or substandard quality of care that is not an unrelieved jeopardy, the time frame is 10 working days. If the facility has additional information, it should be provided within 2 days. For example, if the survey ends on Friday, the information should be provided by Monday. This type of additional information will go directly to the compliance officer. There are specific time frames that must be met for CMS and notice dates that must be met. The department has to notify CMS when there is an immediate jeopardy within a certain time frame. If it is an unrelieved jeopardy, CMS has to be notified within 2 calendar

days. One of those days has to be a working day. If the exit occurs on Friday, CMS has to be notified by the department on Monday. The deficiencies would be reviewed before the notification date. Mr. Harris, as Bureau Director, was managing everything in the Bureau, which included long term care, assisted living, provider services, and Medicare other (hospice, hospitals, home health) and it became overwhelming to manage this many departments. The long term care unit is the largest unit, has the largest number of people, and the most activity, including enforcement action, due to CMS involvement. Previously in the 90's, there was one person overseeing long term care which was Becky Hall. We believe that it works better if one person is dedicated to the long term care unit who oversees all the different parts of the process and can pull it together. This includes monitoring, managing and wisely utilizing our resources. This change in organizational structure also helps improve consistency. A question was asked if the department is fully staffed. Ms. Sadler responded that 14 surveyors have just graduated from the department's training class. With these surveyors passing the SMQT, there will be a total of 17 in long term care. If this number of surveyors can be maintained, the department should be able to be in every nursing home for a full survey within the next year. As you are aware, the department is behind in conducting surveys. Ms. Sadler stated that applicants for the position of surveyor have been interviewed. Offers will be made to twenty applicants. If these potential surveyors accept, they will begin on August 15 and will graduate within 6 months. These surveyors will staff both the long term care unit and the complaint unit which is short staffed. With additional surveyors, the department should be able to conduct timely surveys prior to the 15<sup>th</sup> month and maintain a 12 month average. Teams may be larger due to the large number of trainees. This is the most trainees the department has ever had at one time. It is a challenge to get each new surveyor trained as the learning curve is high and requires time. This job requires extensive knowledge and experience before proficiency is achieved. Usual team sizes will decrease based on performance standards from CMS. The department has very rigid guidelines for teams to utilize about team sizes. Team sizes may appear elevated based on the additional number of trainees participating on surveys. A question was asked about mock surveys. Ms Sadler responded that a nursing home in Montgomery allowed the department to utilize its facility to train surveyors for two to three days. This gave the trainees an opportunity to observe the nursing home environment and different departments: nursing, dietary, administration, activities and social services. During these training events, the surveyor trainees did not interact with medical directors. These training events were specifically developed between the department and the nursing home. Involving interactions between medical directors and surveyors could be included in these training events. A question was asked about the regional survey teams. Ms. Sadler responded that the Baldwin county office will be moved to the Mobile county office due to space problems. This office has a team coordinator and there will be two teams. It has been difficult staffing these offices due to hiring people who are based in that area. The obvious reason for establishing regional offices was to decrease surveyor travel, place surveyors closer to their homes and encourage retention. Ms. Pezent stated that in the Shelby county office, there are two teams composed of four surveyors per team. Ms. Sadler stated that since most nursing homes are located in the central and northern parts of the state, if regional offices grow in size, it would be the Shelby and Montgomery county offices. Ms. Sadler commented that the surveyor's job is stressful but also rewarding. The department has addressed the stress of the job and has offered different training events that focus on stress and burn-out. This job is actually more suited for older people who don't have young children and who are more able to be away from home two to three to four nights a week. A question was asked about

complaint investigations. Ms. Sadler responded that CMS mandates the department to accept all complaints from any source who contacts the agency. The source could be a previous employee, current employee, family member, ombudsman, DHR, etc. If there is an allegation of noncompliance with any regulatory requirement, the department is required to accept the complaint and investigate. If the department received frivolous complaints from employees who are disgruntled about their work schedules, these would not be accepted and investigated. If a complaint is about staff shortage, the department would want additional information about the impact to residents. What resident services are not being provided and how the residents' needs are not being met? A question was asked about advisory staff. Ms. Sadler advised the group to contact the department if there are questions or concerns especially prior to a survey or prior to something happening in a facility. The department does not have specific advisory personnel. Ms. Sadler recommended that the group contact Ms. Pezent. Dr. Esham stated that an inquiry does not trigger a complaint survey and there is not reason to be fearful. Ms. Magdon stated that many times facilities do not want to contact the department and contact ANHA with their questions or concerns. She then directs the concerns or questions to the department or Dr. Esham for a response. Ms. Magdon stated she encourages facilities to contact surveyors, Dr. Esham, and department staff directly when possible. Dr. Esham stated that he hoped we had moved beyond the fear of retaliation. Ms. Sadler stated that unfortunately, this is a common belief. Dr. Harrison stated that it is not like it was 15 years ago. Dr. Geary stated that the CMS approach is more punitive. He would hope that the goal would be to work together as colleagues.

Dr. Esham introduced the next topic of discussion that was not an agenda item.

The California delegation to AMA's House of Delegates presented a number of important resolutions at the association's annual meeting in Chicago on June 23-27, 2007.

**Electronic Advance Health Care Directives:** The AMA delegates adopted a California resolution calling on AMA to advocate for national implementation of secure electronic advance health care directives.

Dr. Esham read a portion of the resolution and distributed copies. **Note: Do you have a copy of this to include in the report?**

In this resolution, CMS was requested to create and provide for all new Medicare beneficiaries a national advance directive/power of attorney for healthcare and to be accepted and honored by all healthcare facilities that accept federal funds. The national advance directive durable power of attorney for healthcare shall be accepted in the absence of a state's existing advance directive durable power of attorney in healthcare. We have previously had discussions about creating a form for advance directives that would be acceptable across facilities. Dr. Esham expressed his concerns about this issue. Dr. Webb discussed the Allow Natural Death (AND concept). Lauderdale county is heading an AND project. DNR is a negative term when you are discussing end of life issues with families. He explains to families the concept of allowing death to occur naturally as opposed to compressing a chest and breaking ribs. Families think allowing natural death is a wonderful concept. It is much easier for families to understand. ECM Hospital and Hospice of the Shoals have come together on a project to provide advance directives on an electronic format this fall. We want to educate everyone about AND and write it into the current Alabama state form. It would state: no CPR, AND. The current form does not provide for AND. Hospital attorneys stated it would be too difficult to change the state form. People are

encouraged to write it in under directives. This would be put on the hospital format, electronically. The goal is for 50% of all adults in Lauderdale County to have an advance directive, including AND. Dr. Webb will provide information about this and will update the group of the status.

Dr. Harrison stated that he has been working with the Medicaid Transformation Grant through CMS. He is on the technical committee and steering committee and has been advocating and pushing for the electronic clinical support tool. This tool would support AND/DNR form and would be stored in a repository. This may be a requirement that the steering committee will elect to include in the electronic support tool.

There was a discussion as to how this help transition to nursing home patients. Dr. Harrison stated that if the patient is receiving Medicaid, you can log on the internet and print the patient's individual form. If the internet is not available, when eligibility is checked, there is a designated FAX number that goes with that person. The form will then be sent to the provider to include emergency room, hospital, nursing home, or independent provider. Access would be statewide and most facilities have access to the internet and have FAX machines.

Dr. Esham stated that he wanted to bring this resolution to the group for discussion and suggested that the group may want to support California or others to draft a cleaner resolution. In debating this resolution, people got side tracked and started discussing state's rights. This should be about the creation of a national form so that people can go from state to state, from an Alabama hospital to a Mississippi nursing home. It should be across state lines and across facility types. It should be treated like a will.

Dr. Harrison stated that a resolution was passed at MASA two years ago and will be addressed again in a more open format.

Dr. Esham again stated that this is an important issue that needs resolution and action taken. Universal forms were discussed by many different associations and professionals five or six years ago. Dr. Harrison stated it was when the Alabama Natural Death Act was passed. This issue will continue to be discussed.

Dr. Esham thanked everyone for their attendance and participation and adjourned the meeting.

The next meeting will be held on Saturday, February 16, 2008, Sheraton-Birmingham Hotel, Medical Forum 2<sup>nd</sup> Floor, 2102 Richard Arrington BLVD., North, Birmingham, Alabama.