AMENDED

Minutes of the BHPS/AL Medical Directors Association
Advisory Board Meeting
February 16, 2013

Attendees: Clare I. Hays, MD, CMD, Board Chairman
James Yates, MD, CMD , President
Regina Harrell, MD, CMD, President Elect
Jerry Harrison, MD, CMD, Secretary/Treasurer
Katrina Magdon, Nursing Home Association
Bill O'Connor, Director, Nursing Home Association
Grier Stewart, MD
Frank Dozier, MD
Joe Downs, MD
Harold Simon, MD
Steve Furr, MD, CMD
Michael Reeves, MD, CMD
Dick Owens, MD
Kendra Sheppard, MD
Jim Sullivan, MD
Malcolm Brown, MD
David Barthold, MD
Diane Mann, Training Director, Bureau of Health Provider Standards, Alabama Department of Public Health
W. T. Geary, MD, Director, Bureau of Health Provider Standards, Alabama Department of Public Health

Dr. Geary welcomed everyone to the meeting. The July 2012 minutes were discussed and approved.

Dr. Geary asked Dr. Harrison to comment on the Physicians' Assistant (PA) bill. He reported that the bill will probably be dropped this week. The bill is being opposed by the Alabama Board of Nursing (ABN) and the National Practitioners Alliance of America, not the state chapter. The ABN is opposing it because the qualified controlled substance certificate will be under the auspices of the Board of Medical Examiners, just like for PAs. Nurse practitioners will be able to write controlled substances in FDA class 3-5. The down side is that the Drug Enforcement Administration (DEA) had a hearing a few weeks ago about nurse practitioners and

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writing controlled substances. The DEA committee recommended that Nurse Practitioners and Physician Assistants not be allowed to write controlled substances. After the Alabama Medical Directors Association (ALMDA) has fought to have these rights for NPs and PAs, it looks now like it will be superseded by the federal government. The Nurse Practitioners Alliance of Alabama sent out a survey in January 2012, on a Sunday, requesting feedback by Tuesday of the same week. This was coordinated with ABN. ABN wanted to get the nurse practitioners to oppose the Board of Medical Examiners. The survey came back with 80% in favor of the Board of Medical Examiners. It becomes effective five months after the date it is signed by the Governor. States can be more restrictive than the federal government, but not less.

Dr. Reeves commented that in nursing facilities there are frequent requests for pain medications, and asked how ALMDA would respond to that in support of the medical directors. Dr. Harrison responded by saying he is on a committee that will meet with DEA to discuss this, but the situation has gone nationwide.

F329-Unnecessary Drugs

Dr. Geary commented that the committee has discussed F329 with respect to psychotropic medications in the past. There was a national phone conference recently. Information from CMS given during this phone conference suggests that the psychotropic medications are the first ones that will be looked at closely. Eventually, this will expand to all other drugs. In response, the state surveyors will be charged to look at these drugs, dosages, uses, and the length of time medication is used. There must be appropriate documentation in the charts to justify these drugs; otherwise it will be considered inappropriate use. There is no new written guidance from CMS at this time. As soon as the new guidance for F329 is made available there will be a joint training session involving the Nursing Home Association, surveyors, and industry to review all survey aspects of looking at antipsychotic drugs.

Dr. Harrison asked if antidepressants will be included. Dr. Geary replied that they would. He further stated that the surveyors will be looking at the indications and response to such drugs. Surveyors would be concerned if they see residents on antidepressant drugs and who are still depressed; but the surveyor would look for documentation in the chart that supports the use of that particular drug for that resident; and that the physician is on top of the situation. CMS is pushing state agencies to cite F329 more frequently. Florida cites it 29% of their surveys; North Carolina-14%; the percentage for other states in our region, including Alabama, averages 4%. CMS does not consider this to be enough. The State Survey Agency is required to give evidence-based reasons for our citations, and physicians must have rational documentation in the record to explain the reason for using these drugs.

Dr. Downs questioned how long a resident could be on a drug before a doctor is required to do dose reduction. Dr. Geary referred him to the State Operations Manual

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(SOM) to seek its guidance on what it says about F329 and gradual dose reduction. Dr. Geary explained that way you can follow the guidance, attempt it, and see what happens. Five percent once a week is a dose reduction. If the resident does not do well with the reduction over a three-month period, document the reasons why. Dr. Harrison brought up the issue of being questioned about not doing labs in a three -month period. Dr. Geary said to document that the resident is stable on the current orders. Katrina Magdon, Nursing Home Association, asked if this "push" is coming from Atlanta or Baltimore. Dr. Geary stated it is coming from Baltimore. Dr. Harrison requested that when any information is received on additional guidance on F329, please forward it to Lee Ann Cole, Executive Director, ALMDA, so that the committee could review it. Dr. Hays wanted to know if the 15% reduction had been met by the nation. Dr. Geary said we would not know until March. Ms. Magdon said she attended a meeting where it was discussed and that the result would be very close to the 15%.

Informational items

Dr. Geary wanted to make the committee aware of the set of rules for free-standing emergency rooms. Certificates of Need (CONs) have been given to two hospitals in Birmingham for these ERs. No rules have been established yet. They are in the works. He advised that if any members were interested in contributing their comments to contact the Hospital Association.

In addition, Hospice rules are being amended to address respite care for residents in a SNF. There is a draft set of rules to be presented to the Licensure Advisory Board in April. Hopefully, this will ensure that hospices and nursing homes will work together for the good of the resident. Ms. Magdon requested that the Nursing Home Association see the draft rules before the April meeting.

Dr. Harrison asked if the State Agency was aware of a palliative care service being operated by nurse practitioners. Dr. Geary responded that he was unaware of any such operation. Palliative Care Team practice might be appropriate for continuity of care in following a resident from hospital, hospice, nursing home, etc.

Dr. Geary wanted to share an article that was in JAMA last week. Tuscaloosa's Druid City Hospital has a 7% reduction in readmission of elderly patients. AQAF has a $15 million grant and has sub-contracted with The University of Alabama School of Pharmacy.* Dr. Hays is the Medical Director. Dr. Hays wanted to ask if the State Agency would include the nurse coaches employed by AQAF involved on this project/study as part of the survey process. Dr. Geary said they are not nursing home employees; they are consultants. Dr. Hays said they are resource nurses, educators. Ms. Magdon said involvement of these nurses in the survey process concerns her. She

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would not want to see nursing homes get bogged down by this project. Dr. Geary said this project is to be used as part of Quality Assurance. Survey staff only wants to see the final product. Dr. Hays added that she is not aware of any regulation pertaining to hospital readmission. Dr. Geary stated that if a decision is made on readmission and the coach was involved in the decision, the coach may have to be interviewed if there is a bad outcome and there is a complaint. Dr. Hays stated that the coach's job is to follow the clear, written guidance in Interact 3. Dr. Geary explained how important it is to gather information from all involved parties during a complaint survey so that the agency is able to respond to the complainant, especially when no deficiency is cited.

IV Fluids and Medications in Assisted Living Facilities (ALFs)

The present ALF rules do not allow IV fluids to be administered in assisted living facilities. In the past, in some situations like a norovirus outbreak, it probably is not a bad idea to have physicians and registered nurses working together to keep residents out of the hospital. The Board of Nursing rules prohibit a nurse from delegating a skilled task to non-professional staff in a health care facility. Another concern is that assisted living facilities do not have any emergency resuscitative equipment. The guidelines for administering the first dose of antibiotics clearly state that it should be given in a safe and controlled environment. However, there is no rule or law that says this has to be done this way. Dr. Harrison said it would be a lot easier to do the IVs in ALFs when hospitals are already maxed out with patients. Dr. Regina Harrell stated that she had done IV fluids in an assisted living facility because a 96-year old resident had dehydrated; it was a holiday; the hospital was full; and the community was short one nursing home because of a tornado. This assisted living facility is a three-bed facility. Dr. Geary pointed out that the facility is owned and operated by a RN but did not have a RN on duty 24/7 or even a licensed practical nurse as back-up to the RN owner.

Dr. Geary stated that the agency understands the difficulty associated with transporting residents; going to an emergency room where the atmosphere is chaotic can be traumatic and even exposing residents to resistant organisms where they could catch something and further complicate their condition. Also, there is the dilemma that you occasionally have to deal with uneducated staff in assisted living facilities. Assisted living facilities can be viewed as glorified boarding homes. There are other states that have no problem with doing IVs. They treat the situation like doing hospital level care at home. Here in Alabama regulations require everyone to make sure there are trained, competent people performing skilled tasks. Since we don't have that in our assisted living facilities, you have to move to the next higher level of care. Therefore, the licensed facilities have strict responsibilities. Boarding homes are not responsible for health care. It becomes a social model versus a medical model. A major concern with this model, as opposed to the medical model for assisted living in Alabama is fire and safety; many of these facilities are not sprinkled. Dr. Reeves expressed his

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concerns about adding more and more regulatory requirements and expecting things to be done with less money. Dr. Barthold asked if the ADPH ALF-Survey section has less and less money, would that mean fewer surveys. Dr. Geary stated that the Department is doing fewer surveys; 15% of surveys for the past year resulted in license revocation action. Of course, if more money was available, surveys would happen more often, which could possibly mean fewer problems cited. Dr. Reeves suggested using mid-level providers more to help oversee the problems in facilities; that you could use this as an educational model. Dr. Geary pointed out that many facilities have closed due to lack of money which has forced some residents to move back home, go to a nursing home, or end up in an unlicensed facility.

The meeting was adjourned by Dr. Geary. The next meeting will be held July 26, 2013, 7:30 a.m., at the Sandestin Resort in Destin, Florida.

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