

**ADPH HEALTH PROVIDER STANDARDS
ALABAMA MEDICAL DIRECTORS'
ADVISORY COMMITTEE MEETING**

**JANUARY 30, 2016
7:30 A.M.**

**The Wynfrey Hotel
Avon Room
Hoover, AL**

Attendees:

Kendra Sheppard, M.D., M.S.P.H., C.M.D. - President
J. Grier Stewart, M.D.- President-elect
Steve Furr, M.D., C.M.D. - Secretary/Treasurer
Walter T. Geary, M.D., Medical Director, ADPH/HPS
Mia Sadler, State Program Director, ADPH/HPS
James Yates, M.D., C.M.D.
David Rhyne, M.D.
Charles Nevels, M.D.
Clare Hays, M.D., C.M.D.
Greg Hill, M.D., C.M.D.
Henry Beeler, M.D.
Michael Reeves, M.D.
Charlotte Wynn, CRNP
Sally Ebaugh, M.D., C.M.D.
Donald Marshall, M.D., C.M.D.
Diane Mann, Liaison, ADPH/HPS/ALMDA
Angie Cameron-Smith, JD, Alabama Nursing Home Association

Dr. Geary welcomed everyone to the meeting. The minutes were read and approved.
Dr. Geary acknowledged the attendance of Mia Sadler, State Program Director, ADPH and Angie Cameron, JD, Alabama Nursing Home Association.

Dr. Geary referenced the last meeting at which Mr. Mike Horsley, prior President of the Hospital Association attended and discussed the discharge process. Dr. Geary asked if anyone had seen any improvement in the discharge process. He asked if anyone had attended any of the regional meetings of the Hospital Association or if anyone had heard any news about discharge cooperation. He then reported that he had attended the second organizational meeting of the Care Coalition in Montgomery to talk about these transitions in care. Therefore, there is some movement being made. Dr. Hays added that she went to the one in Birmingham where Brookwood, St. Vincent's, UAB and other organizations were in attendance. She further discussed that in that meeting, everybody agreed to use the Interact Hospital to Nursing Home Transfer List and the Nursing Home to Hospital Transfer List. However, Dr. Hays stated that the implementation of that has not occurred and it's really just

getting started. Dr. Geary indicated that we do have an opportunity for some effect, more so because Dr. Williamson is now the President of the Hospital Association.

Dr. Geary mentioned that this organization was going to have the Head of the Board of Pharmacy attend and speak, but she had to cancel at the last minute. He would like to see the Board continue the discussion and invite her to the meeting in Sandestin, possibly next July, to continue the discussion of medication prescribing at discharge, getting the right control drugs and prescriptions that are necessary to see people through the first few days of admission into the nursing home.

Dr. Geary then shifted the meeting to discuss the first item on the agenda, survey problems. He then asked Dr. Hays to speak about the concerns of the survey process. Dr. Hays stated that her facility had a horrible survey which is very distressing. Part of the concern is that the stakes are very high. Reimbursement will be in part based on the CMS Star Rating system. She explained that there are multiple requisites for a facility to be rated 3-star or above. For example, the new payment model is coming to Alabama in 2016. This will be a part of the CMS project to reduce unnecessary hospital admissions and they can only look at facilities with a 3-star or above rating to participate in that payment model. She stated that money has always been a consideration, but the Star Rating has become very important. A poor survey can damage your Star Rating for three years and it is very hard to turn that around. Dr. Hays also mentioned that she is trying to get the administrator and the corporate people to agree to allow physicians to talk to staff at the Department. Dr. Hays has traveled throughout the state and has seen that people are petrified of any survey. Dr. Hays doesn't feel that your survey rating or the number of tags a facility receives should depend on which team conducts the survey. She feels there should be a better way to make the survey process more consistent. She gave an example of how in their survey, they got a F329 for unnecessary drugs for a 97-year old patient who was on a very low dose of Seroquel. The doctor who had beautifully documented that the daughter was fully aware of all the risks and that this drug was used to improve the residents' quality of life. The doctor told the surveyor that the daughter said to him that if the resident died of a heart attack or stroke it would be a blessing. Dr. Hays stated that the problem was not unnecessary drugs, it was because the nurses didn't document the very specific behavior that the drug was being used for and the doctor's comments were not considered acceptable. The surveyor really wanted the nurses' documentation. Dr. Hays stated that to get a F329 for that scenario was absurd. She further went on to state that a month later a different surveyor came in to check the Plan of Correction and the surveyor stated that she didn't understand why the facility got the F329 and that it didn't make any sense to her. Dr. Hays felt this is an example of how more consistency is needed with the survey process, because in this case, you have two different surveyors giving different information.

Dr. Hays asked Dr. Kendra Sheppard to provide another example because she had a patient that was in that same survey with a ridiculous situation. Dr. Sheppard discussed the 2567 that the facility received. After reading the 2567, she found that it all came down to the nursing staff failing to document properly. She stated that they had been communicating with the family and everyone was aware of what was going on, including the nurse. However, there was a discrepancy because the nurse did not document what happened when the patient returned from the hospital. She came back with a wound, weight loss, declining health and

needed to go to Hospice. The facility was tagged four or five different ways including a “G” for care related to a pressure ulcer.

Dr. Sheppard felt that she had done a thorough job, but it still came down to the documentation. However, she stated that she felt the “G” was a narrow view, it was right, but it did not actually reflect what was going on. Dr. Hays went on to say that in a lot of other nursing homes, we really see poor care and they get beautiful surveys. She truly feels that both of these patients received good care and getting the “G” is frustrating, as well as the differing opinions of surveyors.

Ms. Mia Sadler stated that we have surveyors who function on different levels. Furthermore, the bureau is constantly hiring new employees, but has a problem with retention because of the nature of the work and the amount of travel. The Bureau of Health Provider Standards has changed their training program. Team coordinators and supervisors are more involved in teaching the new surveyors so that everyone will perform at the same level. It is a constant struggle.

Dr. Hays wanted to talk about another issue pertaining to the survey. She stated that when it was evident that the survey was not going well, the surveyors came and said to the DON “Well, we came in here looking for an IJ and we couldn’t find it.” Dr. Hays stated at that point she thought to call Dr. Geary. She stated that the Administrator and Corporate were upset that she had made the call because everybody fears retaliation. Ms. Sadler agreed that the comment was totally inappropriate. Dr. Hays then stated that she is trying to get her Administrator and DON to talk to Ms. Sadler about the survey. Dr. Hays pointed out that Ms. Sadler had said that the only way you can improve the survey process is if somebody will give you specific names and descriptions of what was done because one of the people in that survey was extremely unprofessional. This is something that Ms. Sadler needs to know, but the DON and the administrator are afraid to tell her because perhaps that surveyor can walk into the building for their next survey.

Ms. Sadler stated that we are on a State-Merit System and it is difficult to take actions against employees, but they have done it. Surveyors have been terminated for a variety of reasons, but one must have adequate documentation and evidence of what they did. Dr. Geary added that the Department has terminated surveyors for inappropriate and unprofessional behavior, but there must be evidence. Ms. Sadler went on to say that if a facility has a complaint about inappropriate behavior, this must be submitted in writing to the Bureau. An investigation will be done including interviews with all witnesses to the alleged inappropriate behavior. She stated that she understands that facilities fear retribution, but we would not tolerate such inappropriate behavior. Dr. Geary then asked how many other administrators refuse to allow calls or to send in additional information and not deal with the agency. Dr. Hill then added that it is very common. Dr. Hill went on to say that he has to get permission over the course of weeks and months to be able to speak about a survey that they had and he was basically warned not to discuss certain things. Dr. Geary reiterated that if the surveyors are saying things that are inappropriate and unprofessional, we need to know about that. A lot of these surveyors are relatively young, are getting on social media, texting, facebooking, talking about their own lives in a lot of detail. We have recently revised our Professional Conduct

Policy to address these issues. The revised policy includes social media, the interactions with people during the survey and telephone conversations which might not be appropriate immediately following the survey. The new policy is beyond some things that were a big deal in the 1990's. We really want to get the survey process as consistent as possible, but that is difficult to do when you have such a diverse people. You have nurses, social workers, dieticians and recreational therapists, so they're all looking at this process with different backgrounds and they also have to interact and work as a team.

Ms. Sadler added that we have a new Deputy Director, Dennis Blair, who has years of management experience, and has addressed the staff as a whole about professional conduct. Mr. Blair is talking to surveyors, team coordinators and supervisors right now to see what is actually going on in the field. She continued to state that if anyone has any ideas on something else that can be done, such as allowing bureau management to talk to the corporate people directly to alleviate some of the fears, please let her know. If there should be any concern about possible retaliation, the Bureau wants to know and it will be taken seriously.

Dr. Rhyne then asked Ms. Sadler if she ever placed someone in the facility to watch the surveyor without them knowing it. Ms. Sadler stated that we have not. She went on to say that we do have supervisors that go out with our teams on occasion.

Dr. Reeves discussed how the Medical Director's Association has improved and increased the quality of medical directors' in facilities. He feels it would be beneficial for surveyors to communicate with Medical Directors when they first enter a facility. He explained how he would like to see the Medical Directors more involved with the survey process so they can help resolve issues and concerns.

Dr. Hays interjected that she tried to communicate with the surveyor, but they did not want to discuss the issues. She stated they did not want to hear anything that she had to say. Ms. Sadler stated that, that may be a different issue from what we are talking about when we're discussing surveyor behavior and unprofessionalism. That may be on a different slant. Ms. Sadler noted that when surveyors are investigating issues, they are trying to make observations, look through records and interview appropriate staff. They are trying to get as much information as possible before speaking to you as the Medical Director or to the administrator. She pointed out that they do that for a number of reasons. Dr. Hays replied that she gets that, but she never got her chance to speak with the surveyor during either one of the surveys. Ms. Sadler agreed that is a problem. Dr. Sheppard then interjected and reiterated that when they interviewed her, she tried to relay information to the surveyor; they were not listening to her. They stated that the nurse did not document the information. Dr. Hays went on to explain that although she understands about the nursing documentation, why would they get a "G"? Ms. Sadler said that it is important to think about what the surveyor was observing, and to determine avoidable versus unavoidable wounds. She went on to say that they are looking at: when the resident was admitted; if there was an assessment by the nurse; what the description of it was; was an individualized care plan developed; was the care plan implemented and followed 24/7 and were there changes made as needed. If there is a lack of assessment, that is a problem. Ms. Sadler stated that she thought that was part of the reason the facility received a G level deficiency. Dr. Geary then stated that every clinical issue starts

with the assessment. He stated that the assessment is the foundation and it is not limited to the MDS (Minimum Data Set) or any of the other internal documents. It can be outside information that comes in, but that is the foundation for everything that the SNF personnel do. If the assessment is going one way and the treatment is going a totally different way, then that is a discrepancy and that has to be addressed. Surveyors are taught to look at that; to work back to that assessment from whatever outcome that they see on the day of the survey. If the assessment is not appropriate then they are obligated to cite the facility. Ms. Charlotte Wynn then asked if Dr. Sheppard's assessment had been done on the day of admission or the nurse practitioner's on the day of admission, would that have covered it? Dr. Geary answered that it would have helped a lot if, on the day of admissions, a large pressure ulcer was noted; immediate action was taken; they immediately call the nurse practitioner or the physician; they immediately got treatment started; they immediately notified everybody including the family letting everyone know what is going on; and provided an immediate description of the ulcer such as discharge, odor, etc. That would have helped a lot. Dr. Hays then asked: "What is the obligation to notify family members when there is like fifteen of them?" She noted that this large family was part of the issue with this one as well. She went on to say that the sponsor was notified, but the person who made the complaint was the nephew in Chicago and he wasn't even on the face sheet. She added one of the things the surveyor said was that they hadn't informed the nephew in Chicago. Ms. Sadler then stated that you do have to notify the sponsor if there is a significant change. Dr. Hays replied that the sponsor was involved. Ms. Sadler concluded stating there are different scope levels; isolated, pattern and widespread. You may be doing well caring for four residents, but if we have that one on our sample where we find problems, then that one resident will justify the deficiency. Dr. Geary then added that the system is not ideal. It is the same system that was put in place back in 1992. CMS has not changed the approach at all since 1992.

Dr. David Rhyne spoke about the data spilling over, how there is inconsistency in what is being explained during the surveys and what the corporate nurses are recording in the files. He stated that you get all kinds of different data from what they perceive the surveyor is telling them. One person says you can't do something and the other says that it is okay to do it. Corporate nurse practitioners are changing patient's information, so what he has seen happen is: people that have dementia and are 80 years old have suddenly become schizophrenic. It was also mentioned that three patient's diagnosis were changed from dementia to schizophrenia based on what a corporate nurse told a nurse practitioner. Dr. Hays stated that she is seeing a lot of psychotic disorders that are clear cut dementias and surveyors won't say anything about these patients.

The discussion continued on the inconsistencies of information being shared by consultants, surveyors, and CMS. Dr. Geary stated that the department can work toward the surveyors' inconsistency. The requirement is that the facility must do what the federal regulations require. You do have to meet the requirements in the State Operations Manual (the federal regulations). Ms. Sadler added that facility staff has to acknowledge that they review the consultant's notes or the pharmacist's report. She also stated that she and Dr. Geary are always available by phone for any questions on the federal regulations. Ms. Cameron asked how to address the fear with facilities about calling into the department. Dr. Geary responded

that all we can tell anyone is that facilities, medical directors, and corporate should feel free to call the department with questions without fear of retaliation.

Dr. Geary lead into a discussion about guidelines for nursing home staff and how some facilities do not have policies available for staff to follow; for example regarding head injuries. Staff needs to know how to manage and monitor residents and document what they are doing. This will be beneficial when survey staff is trying to figure out if a situation was avoidable or unavoidable. Dr. Geary emphasized how important it is to document what you are doing. Dr. Steve Furr then asked how to educate providers on this subject. He suggested a newsletter so that a variety of information along with different viewpoints from the industry could be shared. Ms. Cameron said they could incorporate an article of this nature in a section of the ANHA Newsletter. Dr. Reeves interjected that he felt the Medical Directors have been overlooked in regards to articles in the ANHA newsletter. He also added that he felt there was a lack of appreciation for medical directors. Ms. Cameron stated she would share this with ANHA. Ms. Sadler added Katrina Magdon is always receptive to all views. Dr. Furr reiterated that a newsletter would be good. Dr. Sheppard agreed that we were all working on the same conclusion and it would be nice to attend ANHA meetings. Ms. Cameron assured everyone that she would share this information with Ms. Magdon.

The next topic Dr. Geary touched on was the DNR (Do Not Resuscitate) amendment to the Alabama Natural Death Act that is transferable from one facility to another and even to an unlicensed facility. It has been introduced into the legislature this session. This is further than we have been in 18 years when trying to get Senate and House support. Dr. Jerry Harrison is the one that has spear-headed in getting this to the legislature. There is also a statewide group that has been involved with this project which is headed by Mary Ann Crowe from St. Vincent Hospital in Birmingham.

Dr. Geary distributed a handout on the CMS Region IV Quality Improvement Initiative. This program is funded by a CMP grant and provides free resources for LTC direct care and professional staff. There are six participating states: Alabama, Georgia, Florida, Kentucky, Mississippi and South Carolina. The purpose of the initiative is to improve the quality of care to residents and decrease the need for hospitalizations by identifying changes in resident conditions, effectively communicating resident changes, and providing cost-effective staff training. The initiative will provide the AMDA Clinical Practice Guidelines through web access to certified nursing homes and CME/CEs for physicians, nursing, social work and nutritionist/dieticians - all for free.

Dr. Geary thanked everyone for their feedback and ideas. He asked if there were any other issues that anyone needed to discuss before the close of the meeting. No one had any further comments and the meeting was adjourned. The next Advisory Committee meeting will be held at the Sandestin Golf and Beach Resort, July 29, 2016, 7:30 a.m.