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Heather A. Bruemmer

**Board of Directors Meeting**
Board on Aging and Long Term Care
Conference Room 100
Madison, WI 53704
November 12, 2014

Chair James Surprise called the meeting to order at 9:00 am. It was noted that this meeting was properly noticed under the Open Meetings Notice law.

**Members Present:** James Surprise, Dr. Dale Taylor, Mike Brooks, Terry Lynch (by phone), Tanya Meyer (by phone)

**Members Excused:** Eva Arnold, Barbara Bechtel

**Staff Present:** Heather Bruemmer, Kellie Miller, Vicki Buchholz, Bill Donaldson, Kim Marheine, Matt Rohloff, Rachael Schweitzer, Nancy Studt, Vi Quang, Cheryl Zautcke, Mary Jane Ripp, Connie Gengle, Steven Shapiro, Sam Johnson, Hillary Schenk

**Guests Present:** Gina Frank, Administrator, Division of Regulation and Enforcement, Office of the Commissioner of Insurance
Cari Lee, Director, Bureau of Market Regulation, Office of the Commissioner of Insurance
Diane Dambach, Chief, Accident and Health Insurance Section, Bureau of Market Regulation, Office of the Commissioner of Insurance
Debbie Miller, Budget Analyst, Department of Administration

**Agenda:** Approval of agenda as amended to note Comments from a Board Member to be done by T. Lynch. M/S/C Taylor/Meyer

**Minutes:** Minutes of the August 6, 2014, board meeting were approved as presented. M/S/C Taylor/Meyer

**Remarks by a Board Member:** Mr. Terry Lynch
Mr. Lynch shared information about his experience with the Volunteer Ombudsman Program. Mr. Lynch assisted Ms. Miller and Hillary Schenk, Volunteer Ombudsman Program Coordinator in the Milwaukee area, in efforts aimed at recruiting new volunteers. Mr. Lynch noted having given some thought to noticing places where people come together for networking, information and even opportunities for community involvement. Discussed other opportunities for outreach and recruitment, how to disseminate the agency's information in settings that may not be

typical. Ms. Schenk expressed her appreciation for Mr. Lynch's assistance, and noted there were some referrals to the agency as a result.

**Presentation**: Office of the Commissioner of Insurance Agency Updates; Ms. Frank, Ms. Lee, Ms. Dambach

Ms. Bruemmer expressed her gratitude for the collaborative work of OCI, noting OCI to partially fund the Medigap Helpline Program. Ms. Frank spoke affirmatively to the mutual commitment of both agencies.

Ms. Frank explained briefly the work of OCI, noting the agency to be quite small. In the Division of Regulation and Enforcement OCI monitors, by statute, the business practices of domestic insurers, and notes that Wisconsin (WI) is known for having a strong reputation for preventing insolvencies and poor practices, noting there to be no insolvencies in WI for more than 30 years. OCI also does market conduct exams, works closely with companies about business practices, internal operations and the behavior of agents in the marketplace. Ms. Frank notes that WI typically ranks fifth or sixth in terms of the strength of insurance industry practices by state. She notes that WI is unusual in that there are a lot of small HMO's within a competitive health insurance marketplace; part of OCI's work now includes the monitoring of the provisions of the Affordable Care Act. In WI no additional staff were added to cover issues related to the ACA, unlike most other states. As of 11/13/14 there will be an interactive provider map posted to the OCI website, enabling consumers to see which companies offer which plans across the state, and with a link to the various company websites in order to make contact, obtain more information.

It was further noted that there are three unique funds that sit inside of OCI's management: the Local Government Property Insurance Fund (formed in the early 1900's); the Life Insurance Fund (established in the late 1800's); the Patient Compensation Fund (medical malpractice insurance). WI also has a security fund in the event of an insurance company liquidation, this being a pool of dollars that the insurance industry has paid into in order to cover claims.

OCI also has a role in the financial monitoring of MCO's, monitoring and examining them like any other insurer, and working closely with DHS in monitoring each MCO's financial condition.

Ms. Dambach and Ms. Lee shared information about some of the calls handled by the Accidental and Health Insurance Section, most of which are claims-related complaints, many coming from providers. Complaints related to Medicare are a bit fewer, and mostly related to claims denied by Medicare, thus also denied by insurance. Mandated benefits are another category of complaints, enabling some types of claims to actually be paid in WI even though denied by Medicare, but must still meet medical necessity criteria, and not typically covered under chronic (vs. acute or injury/sickness-related) disease processes. Ms. Dambach notes this to be a medical benefit, not a long term care benefit, between which many consumers are unable to distinguish. Observation stays in hospitals are also a frequent complaint, seen also by both the Medigap and Ombudsman programs at BOALTC. Ms. Dambach notes there to currently be several bills in Congress trying to address this situation. Medicare Supplement and Long Term Care policy premiums are the 2nd highest category of complaints. She also noted that older LTC policies do not cover the assisted living options that are available today, options that were not available when some original LTC policies were purchased.

When asked about the future, Ms. Dambach noted there was a recent federal hearing to examine requiring more cost-sharing between Medicare and Medicare Supplements, but the eventual bill was defeated. There is a Senior Issues Task Force that also had similar hearings in an attempt to develop a model rule that states could enact, but it was recommended to CMS that no such rule be drafted. With more baby boomers coming into the market and more accustomed to cost sharing, some of this may change. Types of available medical technology used for disease determination and who should be using it may also be an issue to watch, with many studies occurring about the disparities between dollars spent between children and the oldest of older adults, studying the amount of health care dollars dedicated to the last months of life. It is also expected that there will be fewer health policies available in retirement, noting most people would not be prepared to pay their health insurance costs in retirement, as may be necessary.

Ms. Lee noted that the goals of the Bureau of Market Regulation surround how to best help consumers. Newly implemented is a process for managing complaints that provides an opportunity for companies to see the complaints immediately, hopefully reducing the amount of time consumers have to wait for a resolution. Most frustrating to consumers and to OCI alike is the inability to resolve issues immediately, as well as not necessarily having the jurisdiction to make the decisions that consumers might expect. Ms. Lee noted that last year $4.6 million were recovered last year on behalf of WI consumers.

**Ombudsman Services Update**, Ms. Marheine, Ombudsman Services Supervisor
Ms. Marheine introduced regional ombudsmen, Matt Rohloff, Rachael Schweitzer and Nancy Studt. Each provided a brief synopsis of the trends noted in their respective areas.

Referencing her report, Ms. Marheine discussed the detail of ombudsman preparation for casework, sharing some specifics of new ombudsman orientation and the continuing education practices that enable ombudsmen to address the complexities of changing casework.

Ms. Marheine also shared changes in some MCO practices that ombudsmen are monitoring, as well as reviewed the rate of IJ cites since the last board meeting. Ms. Marheine noted ombudsmen staff to be very busy this time of year providing education to statewide provider and network conferences, regional meetings and for facilities trying to meet both their continuing education obligations as well as for corrective actions.

**Volunteer Services Update**, Ms. Miller, Volunteer Services Supervisor
Ms. Miller introduced Ms. Hillary Schenk, Volunteer Ombudsman Coordinator for the Milwaukee area, and again thanked Mr. Lynch for his assistance and support. Ms. Schenk shared that recruitment efforts are at the top of her goals, having lost several volunteers to retirement or sickness. Ms. Schenk discussed some of her recruitment efforts, and the relationships that she's made with various other agencies as a result. The Milwaukee Journal-Sentinel has interviewed Ms. Schenk, and is doing a story about a specific volunteer who has been with the program for quite some time.

Ms. Miller provided information about the Volunteer Ombudsman Inservices held throughout the month of October, with resident rights updates provided by regional ombudsmen. Additionally, Coordinators are out in their communities at Health and Wellness Fairs, providing information about the agency as a whole, as well as recruiting for new Volunteers.

Ms. Miller noted that there have been some changes to the Initial Training the new volunteers receive, many of which will be rolled out later this month. Changes put more emphasis on residents' rights, and address situations in which Volunteers might struggle to identify the boundaries of their work. Nominations for the Annual Louise Abrams Yaffe Volunteer Ombudsman Award will be taken until January 30, 2015. The nomination form is now available on the BOALTC website, on the Volunteer Ombudsman Program page.

Lastly, Ms. Miller noted that board member Dr. Dale Taylor will be speaking at the spring Volunteer Inservices on the benefits of Music Therapy and the Music & Memory Initiative.

**Legislative Updates**, Mr. Donaldson, Counsel to the Board
Mr. Donaldson distributed three pieces of interest. A recent Wheeler Report noted that WI is ranked as 4th lowest in nation for antipsychotic drug use in WI nursing homes. Also distributed was the current composition of the State Senate, as well as the composition of the State Assembly.

Mr. Donaldson referenced the two position papers presented at the last board meeting, and requests a vote by the board to accept both as official position papers of the Board. Both are used as basic principle arguments in case management; discussion ensued.

Regarding the Revocation and Execution of a Power of Attorney for Health Care Document, Mr. Donaldson noted that the position paper as presented relies on the language of the statute to enable a person to revoke a Power of Attorney for Health Care document "at any time." The position paper also addresses the presumed ability of the person to execute a new Power of Attorney for Health Care document. There being no legal definition for the phrase "of sound mind," it is noted that this is a judgment call on behalf of the person witnessing the new document. M/S/C/ Brooks/Meyer to accept position paper as written. Paper will be posted to the BOALTC website.

Regarding the position paper discussing the rights of persons under guardianship relative to involuntary medical treatment, Mr. Donaldson noted that all persons still have rights, even if under guardianship, and the guardian is obligated, by statute, to try to determine the wishes of the patient in receiving or refusing involuntary medical treatment. M/S/C Brooks/Taylor to accept position paper as written. Paper will be posted to the BOALTC website.

**Medigap Helpline Update,** Ms. Buchholz, Medigap Helpline Services Supervisor
Ms. Buchholz provided information about the seeming continuing trend of increasing calls to the Medigap Helpline, noting a 17% increase over the same time last year. She noted also that 10,290 persons were affected by the termination of their Medicare Advantage plans, resulting in packets being mailed to callers providing information about timelines and options. Ms. Buchholz noted are about halfway through the Open Enrollment Period, and calls are again this year at an extremely high rate, with counselors now not being able to get to all callers as immediately as they may prefer. At some point, as the end of the OEP approaches, persons may need to be directly referred to Medicare for processing of their enrollment information.

Similarly, both AT & T and GE terminated their retiree group health coverages, and Ms. Buchholz has been in touch with OCI about the manner in which these changes occurred.

Ms. Buchholz introduced the newest Medigap Counselor, Cheryl Zautcke, a prior Elder Benefit Specialist with Dodge County.

Regarding the Volunteer component for the Part D and Prescription Drug Helpline, Ms. Buchholz noted there are currently 16 volunteers from the UW-Madison School of Pharmacy enlisted to assist with Plan Finders, as well as other volunteers who will assist with assembling and mailing informational packets. A Sharepoint computer storage system has been established to better enable volunteers in remote locations to manage information from those sites.

Lastly, the Medigap Program recently began working with the new Harmony-supported database, and has almost completed the migration from the old Access-based system.

**Comments from the Public:** No comments from the public were received.

**Administrative Report:** Ms. Bruemmer, Executive Director
Ms. Bruemmer introduced Debbie Miller from the Budget Office, who was instrumental in the development of the next biennial budget. This agency has requested only increased computer bandwidth ($17,000 for the Biennium) for the Central Office, despite conversations with both the Budget Office and the Governor's Office about the agency's true needs for more positions. Ms. Bruemmer notes that the agency is on track for expenditures thus far; the biggest challenge is fringe, due to the longevity of so many of the agency's staff. Sequestration continues and the Ombudsman Program is greatly impacted by sequestration, potentially impacting staff education opportunities and travel in the future.

Ms. Bruemmer shared several status updates regarding her term on the Long Term Care Advisory Council, and noted the announcement of Lakeland Care District and Care WI having been named as the MCO's anticipated to serve the upcoming expansion of Family Care in the northeastern WI care district.

In November Ms. Bruemmer will be in Washington, DC for the Consumer Voice Conference and to make visits to legislators with other members of NASOP. She hopes to meet with the Health Committee and Appropriations Committee, talking about ombudsman funding and the Older Americans Act. Ms. Bruemmer is also mentoring a new Long Term Care State Ombudsman in North Dakota.

Ms. Bruemmer briefly discussed other activity, including Ombudsmen participation in the annual FOCUS Conference, an upcoming meeting with CMS, the revision of the Memorandum of Understanding with Disability Rights WI, upcoming meetings with freshman legislators, staff computer security training. The list of Immediate Jeopardy's from 2008 – 2014 was distributed.

Board approval was requested for attendance at the winter and spring NASOP meetings; M/S/C Taylor/Brooks.

Independence First has asked for an endorsement of its "Visitability" initiative. This initiative addresses issues on behalf of persons with disabilities not consistently having access to visiting within their communities. After discussion it was agreed that while this Board would potentially support legislation that may come forward, the Board would not provide formal endorsement at this time. Mr. Donaldson clarified that as a state agency we are prohibited from endorsing anything that could potentially produce a fiscal benefit for someone else. While there is likely no recognizable compensation to persons with disabilities, the same could potentially not be said for a contractor or some other commercial operation that could have potential financial benefit. M/S/C Brooks/Taylor to refrain from endorsing the request.

Finally, Ms. Bruemmer noted that the Board on Aging and Long Term Care sent a plaque honoring Stephanie Sue Stein, recognizing her for her 40 years in aging services and advocacy.

**New Business:** No new business was brought before the Board.

**Next Meeting Date:** February 4, 2015; Dr. Dale Taylor will provide Comments from a Board Member.

Other future meeting dates are:
May 6, 2015
August 5, 2015
November 4, 2015

**Adjournment:** Meeting adjourned at 2:45 pm; M/S/C Taylor/Brooks

Respectfully submitted,
Kim Marheine, Recorder