Nursing Home Stakeholder Workgroup
Meeting │ Conference Room 4th Floor LARA │ 611 Ottawa, Lansing
Wednesday, August 1, 2012 │ 3:00 PM – 5:00 PM

MEETING MINUTES – August 6, 2012 (Updated)

Participants	**Attended:**
Office of Senator Goeff Hansen	Senator Goeff Hansen Peter Wills Anna Staperfenne
Office of Governor Rick Snyder	Darin Ackerman
Health Care Association of Michigan (HCAM)	Melissa Samuel Beth Bacon
Aging Services of Michigan	Deanna L. Mitchell
MI County Medical Care Facilities Council	Renee Beniak Ruth MacAlpine
MI Medical Directors Association	Dr. Mark Jackson (phone conference)
MI Board of Nursing Home Administrators	Pam Ditri Pegi Chatti (Burcham Hills) Mina Breuker
MI Peer Review Organization (MPRO)	Diane Smith
MI Long-Term Care Ombudsman	Brad Geller
Bureau of Health Systems (BHS)	Howard Schaefer
Licensing & Regulatory Affairs (LARA)	Mike Zimmer (introduction) Kim Gaedeke

I. Introductions:

Chief Deputy Director Mike Zimmer – Started the meeting talked briefly about the BHS Reinvention and noted that the department and administration has made this a top priority. Introduced Kim Gaedeke as the Project Manager.

Kim Gaedeke – Asked meeting participants to introduce themselves and what group or organization each person was representing.

II. Overview:

A. Call to action to bring everyone together – moving forward
B. Purpose of the Workgroup
C. Objectives (take away) from first meeting
   1. Understanding desired outcomes and goals to achieve as a result of these Workgroup meetings
   2. An agreement by the participants to work together to achieve overall goals
   3. Commitment to complete any assigned tasks by the next scheduled meeting

Kim Gaedeke – Shared with the group that while SB 884 may have been the genesis for bringing all of us together to establish this stakeholder workgroup, the department would

have pulled stakeholders together regardless. It has been the desire of the department (LARA) to work with BHS and the industry as BHS goes through its Reinvention process. As we move forward this stakeholder workgroup is tasked with identifying issues where we can develop reasonable solutions that can be implemented both short-term and long-term.

The purpose of the stakeholder workgroup is to do the following:

- Examine best practices within the industry
- Review of state/federal regulatory and process impediments preventing the application of best practices
- Consider different ideas in terms of what is working and what is not working both from the industry's perspective and BHS perspective.
- Define inefficiencies and areas for improvement
- Develop solutions based on value and metrics.

It is the department and administration's desire that we all work toward a common objective and develop a common understanding of how we achieve each goal or objective(s).

We all have diverse interests and backgrounds and there will be times we will not all agree, but it is important to remain focused and not lose sight of what we are doing.

Additionally, it is important that each of us on this workgroup commits to this process and complete any project assignments prior to the next meeting so we can be prepared to discuss the topic(s) on the agenda and possibly reduce the length of time and frequency of our meetings.

III. Administration's Vision & Expectations:

A. Value Add – What is the value for doing this?
B. Metrics/Data Driven – What is the metric by which we are measuring this?

Kim Gaedeke – As Chief Deputy Mike Zimmer noted BHS is undergoing a Reinvention process. Again, this is something that the department would have done regardless of SB 884. LARA has been going through this process with its Bureaus and Agencies.

The BHS Reinvention process includes:

- **Process mapping review:** Internal review of BHS. LARA is examining survey re-visit process, work flow, and identifying opportunities for efficiencies and reductions in the process time.
- **National best practice review:** Michigan Public Health Institute (MPHI) will review the survey and inspection protocols in other states and make recommendations for change in Michigan.

NOTE: There is interest from the group that MPHI expand their analysis to include a comparison of how other states (agency's similar to Michigan's BHS) performing with executing surveys and re-visits, what are best practices for regulators?

- **State best practice review:** LARA is looking at and reviewing other state agency enforcement process such as MIOSHA's quality program and Ag's MAEAP voluntary quality program for farmers. Have already set-up a meeting with the MIOSHA team to discuss their program and see if we can model ideas for BHS.
- **Stakeholder review:** Examine best practices; review state/federal regulatory and process impediments to utilizing best practices.

Peter Wills – Asked if the department would have done this process earlier versus now?

Kim Gaedeke – Yes. BHS and BHP were transferred to LARA a year ago and ideally it was the department's intent to have BHS go through its reinvention process earlier, but it would not have occurred much earlier than right now. Having started a little over a month ago primary role is to coordinate activities with BHS and serve as the Project Manager for this specific reinvention project.

As we reinvent BHS and identify issues and possible solutions, one of the key elements to keep in mind is answering:

- What is the **VALUE** for program X, Y, Z?
- What is our ROI?

The Governor is data driven and he is big on having dashboards for transparency so developing **metrics** and how we measure our outcomes will be important to also consider.

Customer service is something that the department has been focusing on because we serve both the industry and consumers.

As we continue to meet, there is an expectation by the administration that we serve Michiganders with their interests in mind. We all know that there are bad actors in every industry and the Governor is one who values and appreciates good actors but has less tolerance for the bad actors.

When talking about ideas, please consider VALUE, METRICS and CUSTOMER SERVICE. We need to tie it back to these items.
NOTE: A question was asked about who the customers are. ***Sen. Hansen/Kim Gaedeke*** *responded by saying everyone, all taxpayers.*

IV. Review of SB 884

A. Stakeholder comments and explanation for recommended changes

Kim Gaedeke – Acknowledged and thanked Senator Hansen, his staff and in particular Pete Wills for working with each of the participants on the stakeholder workgroup as well as others in drafting SB 884. Expressed appreciation for their time and everyone's time involved with this issue and in particular the efforts made to try and address the issues that we will be discussing. We appreciate the Senator and his staff for making the continued commitment to join us today and be a part of this stakeholder workgroup.

Senator Hansen – Talked briefly about the history of his involvement starting when he was serving in the House and a constituent involved with West Michigan Alliance raised concerns about issues with the state not doing certain things according to state law. Researched the issues and went over the Senate and the same issues kept developing. Crafted SB 884 to address the concerns within BHS and the issues that the nursing homes want addressed. Have had positive experience with local nursing home and feels that providers do an excellent job, we should expect the highest level of service and quality. Those that don't meet that standard and have severe issues should not exist.

Would like the group to focus on what changes BHS will make. One of the big problems is that BHS takes such a straight or rigid view of the CMS/federal guidelines when there are parameters to live within for flexibility. Michigan has fined providers over $9 million in CMPs and that Michigan is number one in the region and nationally ranked at the top in imposition of DPNA resulting in not conducting timely revisits, or timely reports. Appreciated that the department is looking at MIOSHA, met with them and is very impressed with the changes that they've made to improve customer service and how they operate as an agency.

Have been working on the bill for over 18 months have made nearly 50 amendments at the request of the department. Hopes that individuals involved form the department, Howard and/or Kim, have the ability to make decisions. Feels original bill was really good but understands the give and take through the process and he will be around for a long time so this issue will not end until he's out of office and determined to resolve them prior to being termed-out.

Peter Wills – SB 884 is a roadmap to lead us to the needed changes. Again, there have been 48 amendments at the request of the department, have made the changes requested and the issues that will be discussed are addressed in 884.

Melissa Samuel – HCAM worked with then Rep. Green on his bill, had worked with past two administrations to get BHS change proposals, saw an opportunity with the Snyder

administration given that he was pushing to change state government to run more like a business (efficiently). Liked the first draft of 884, but are also supportive of the changes and the current version of 884 (H-3). Would like to see this passed and signed into law. Believes it helps address concerns with the survey process and provides other good changes.

Pam Ditri – MBNHA, should look at the quality initiatives of other industries for ideas about change. Appreciates being a part of this process and thinks this is an opportunity to make good changes.

Mina Breuker – MBNHA supports bill. All she hears from the bureau are excuses as to why things are not getting done due to lack of staff or no resources available. We all have had to work more with less staff and become more efficient and productive. While at the same time the expectation is to maintain higher quality at less cost.

Could there be guidelines for visits? There is no consistency in the survey process (e.g. too many surveyors on one survey, not enough on another, process needs to be improved). Home care is changing and it would be good for the Bureau to also change how things are done, is there a new way of looking at this? Would like updates on the BHS internal review process and feels that if we have to extend this workgroup into September so the group receives the final results of the internal review would appreciate the consideration. Pleased to be a part of these discussions.
*NOTE: **Howard Schaefer** asked if Mina could explain the survey inconsistency problem further. **Mina** noted that it was a concern over taxpayer dollars. **Beth Bacon** added by saying it is an issue of "resource allocation" to conduct re-visits in timely manner in accordance to Section 2567 within the required 10 days. It matters because surveyors could be free to do other assignments.*

Deanna Mitchell – ASM was neutral on 884. Organization has issue with the fact that the bill was trying to legislate department behavior, which is not good policy. A lot of the problems being discussed are driven by or come from CMS with lack of clarity in policy for the regulations. We are seeing symptoms of CMS problems, should focus on CMS and as for the state look at areas where we can make improvements.

Reneé Beniak - MCMCFC members are increasingly frustrated over the survey process. There is no ability to get feedback to the surveyors or about the process. We want a joint relationship where we can talk. Surveyors are inconsistent and unprofessional in their behavior. Need a joint understanding of what is reportable. Would like surveyors to be less adversarial.
*NOTE: **Howard Schaefer** asked is surveyor behavior has changed over time, was it better, worse or had behavior stayed the same. **Reneé** was not sure, had not measured it.*

Brad Gellar – LTC Ombudsman would like better system of complainant appeals for unsubstantiated complaints so an administrative law judge can substantiate a complaint and not just order a reinvestigation. Also, would like to see the two VA facilities (not licensed) transferred under BHS. Currently under the US Dept of Military Affairs, Michigan Veterans living there have no complaint rights and other state protections.

Dr. Mark Jackson – MMDA, New to the process, some are supportive and some less supportive within the association. Look forward to learning and see how everything develops.

Kim Gaedeke – Noted that 10-12 years ago had worked for a legislator handling long term care issues and toured a number of nursing homes and assisted living facilities around the state. Many of the issues and concerns expressed today are similar and the same as what was shared then. There is a desire to make changes and believe that we all want the same things or have similar objectives it's a question of how or which path we take to get there.

V. <u>BHS Business Process:</u>

A. Current process for in-take, surveys, re-visits
B. Key issues with current process

Howard Schaefer – Asked the group to provide more specific details and/or examples of the issues so that he could work with the providers to better address them. Anytime received calls from the industry have been responsive.

Beth Bacon - Stated that Howard has been terrific to work with and would like to prevent issues from escalating to his level for resolution. Trying to create relationship so that issues with surveyors or with the Bureau can be prevented, want BHS to be more proactive.

Senator Hansen – Gave an example where a facility wanted to send reports electronically, but the surveyor demanded the facility to print all 500 plus pages. The administrator offered to provide the reports and information on a DVD or flash drive for the surveyor to take, but the surveyor refused the files had to be printed.

Kim Gaedeke – Raised the issue of technology and having recently learned that the bureau still uses pagers. Howard just recently received a cell phone for use. As for the in-take process, BHS still receives paper files, which then have to be manually entered in the computer/system with the paper file being passed on to the analyst. Scheduling a meeting with DTMB to discuss ideas on how to better utilize existing software or programs to have everything electronic.

VI. <u>Defining core issues/concerns within the industry and within BHS:</u>
Technology: Electronic records.

Senator Hansen – Noted that technology should not be an issue since the legislature appropriated $47 million for DTMB to provide software upgrades for bureaus and agencies.
NOTE: Kim or Howard were not aware of this, Kim will look into it.

There was a consensus that BHS needs to use some type of electronic record program similar to what the nursing homes use or at least update the bureau's software to allow them to do more electronically.

Survey Process: Inconsistency; What to Report

Discussion occurred about the inconsistency of the survey process and questions around what exactly is reportable.

Deanna Mitchell – Noted that the problems in interpretation are provoked by CMS inconsistency or lack of guidance on defining what is reportable. Number of complaint inconsistency of CMS application of regulations.

Howard Schaefer – Working with colleague, Roxanne Perry, and CMS to help clarify what is reportable and creating an easier to use decision-making flow chart. Document is in draft form but would check to see if this can be distributed to the group for comments. There is confusion nationally on what is reportable and not reportable.

Mina Breuker – Thought that low level FRIs did not all need investigations onsite.
*NOTE: **Howard Schaefer** indicated that BHS was working on criteria for administrative review of some FRIs based on information in the 362 and 363 submissions. This will be discussed in detail at the Joint Provider Surveyor Training in September.*

Ruth MacAlpine – Currently are required to report everything. Does Michigan have a policy besides relying solely on CMS?

VII. <u>Begin discussion of ideas and possible solutions;</u>
There was discussion about having on the department's website or a place for the providers to go to and type questions online regarding the issue of "what to report" whereby an immediate response would be provided.

Would like to implement Quality Improvement Programs but believe BHS should allocate federal funds in the form of funding grants for providers who have such quality programs.

Would like to be rewarded and recognized for providing quality care to residents/patients.

Beth Bacon - Require nursing homes to take corrective action once cited within 40 days, require the department to automatically schedule a re-visit on the 41st day. The re-visit should be pre-scheduled and better coordinated by BHS.
NOTE: **Howard Schaefer** *expressed concerned about locking the industry to implement corrective action within 40 days because depending on the severity or issue, sometimes it takes nursing homes longer to fully implement its plan of action. Sometimes it takes less time. The flexibility for the department to work with the industry would be eliminated with this type of requirement.*

There should be a separate team of IJ surveyors ready to handle these issues so that other survey events underway could be handled without any delay or disruption in the process. To help with survey inconsistency assign surveyors to specific nursing homes as a way to improve the relationship between the two.

Also, suggested that when a survey is completed, the surveyor leaves a post survey experience questionnaire that would allow the provider to give feedback to the department on how the survey process went (i.e. ask "how did I do while conducting this survey; was surveyor professional, courteous, etc?").

Internal quality improvement process used to be in place, and should now be in place. Providers did not know how BHS or if BHS uses the MPRO's comments on IDRs and IIDRs for training purposes. BHS should codify the information and share it with the providers.

Kim Gaedeke – Recognized the provision in SB 884 regarding nursing homes signing an affidavit, attesting that the lower level citations are handled and do not need an on-site survey. The department once receiving the affidavit would file it away versus doing an on-site survey. This would help the department focus on larger scale issues, it would help create some efficiencies.

To help clarify the definitions of the different levels, working on a matrix that would help incorporate Michigan's policy on what is reportable that is consistent with CMS regulations. This might help provide some clarification.

We may want to strengthen this section regarding the affidavit requirement.

Also mentioned implementing Webinars for JPST.

Asked the question about whether the industry would be willing to produce a dashboard. With the Governor being big on having dashboards to allow for greater transparency and determine how we are doing in serving our consumers, having a dashboard for the nursing home industry might not be a bad idea. It would also help for data as well.
*NOTE: **Mina Breuker** indicated that she was working on a dashboard for a hospital where the nursing home had worked out a referral agreement and transferring of records would be handled electronically as a way to make the transition of patients smoother. Felt that it would be helpful if the state had a system that allowed the providers to compare from state to state and see how Michigan measures up with other states in terms of survey protocols, number of citations, how the surveyors are rated/doing, etc.*

***Beth Bacon** noted that there is a lot of data that exists, LTC is a trend tracker and compares performance where the benchmark for performance is defined by CMS. 5 Star programs also indicates how well nursing homes are doing both by state and nationally.*

VIII. Delegation of Assignments:

Kim Gaedeke – Asked the group to do the following:

- Look at the issues defined during today's discussion and provide thoughts on these issues as well as share or expand on these:
  a. Survey process and length of time for re-visits
  b. IT/Technology
  c. Clarification of what to report
  d. Surveyor consistency

- Ask colleagues and peers on what is working in their respective nursing homes, what are the best practices

- What are suggestions and recommendations to address the issues outlined above

- Again, please keep in mind the Value, Metrics and Customer Service with each suggestion or idea

- Email and provide these comments, recommendations to Kim prior to the next scheduled meeting in time for the information to be compiled and re-sent to the entire group for further discussion

IX. Next Meeting (Subject to Change):

~~Wednesday, August 8 from 3:00 – 5:00 p.m.~~
Wednesday, August 15 from 8:00 – 10:00 a.m.
Wednesday, August 22 from 3:00 – 5:00 p.m.
Wednesday, August 29 from 10:00 a.m. – 12:00 p.m.

Location: Executive Conference Room, 4th Floor LARA, 611 Ottawa Street, Lansing

Kim Gaedeke – Understanding that Senator Hansen and his staff as well as everyone involved with this stakeholder workgroup are busy, these dates were provided by the Senator's office. Also, understanding that things come up on the Senator's schedule, his staff may fill in on his behalf but that he and his office are very committed to this issue.

Mina Breuker – Asked if meeting could be scheduled in 2 weeks since there is a lot of work that the providers need to prepare prior to the next meeting, it will take time to ask nursing homes best practices, etc.
NOTE: Kim Gaedeke asked the group that if they preferred meeting in 2 weeks that would be fine, but also asked Peter if he and Senator Hansen would be okay with this and he was okay with moving the meeting.

Next meeting is set for Wednesday, August 15 from 8:00 am – 10:00 am at same location (4th Floor LARA, Conference Room). Individuals who cannot attend may also dial in by phone conference.

X. **Adjournment:**
Meeting adjourned at 5:00 p.m.