Hospital Licensing Reform Steering Committee
September 10, 2007
Maine Hospital Association Conference Room

Minutes

Committee Members Present: Ali Hilt-Lash, Denise Osgood, Maureen Parkin, Denise Gay, Dianne Bubar, Lynne Gagnon, Ruth Lyons (by phone), Linda Abernathy, Annette Adams, Bill Zubar, Cindy Leavitt, Sandra Parker, Julie Marston, Sherry Rogers, Sharon King, Katherine Bonney, Susan Boisvert, Gerald Cayer

Muskie School: Sue Ebersten, Maureen Booth, Barbara Shaw, Eileen Griffin

Absent: Laura Benson, Sally Lewin, Melissa Gallant, Missy Marter, Catherine Cobb, Catherine Valcourt, Martie Moore, Mary Finnegan, Judy Street, Patty Roy, Anne Flanagan, Carol Kennelly, Deb Nickerson, Stacy Doten, Beth Dodge

Item	Discussion	Decision/Action	Who's Responsible	Date Due
Welcome and Introductions	Denise Osgood asked those in attendance to introduce themselves and the organization they represent.	NA	NA	NA
Review Meeting Minutes	Members reviewed meeting minutes. Sandy Parker requested a change to the way her comments from the previous meeting were characterized.	Revise Meeting Minutes	Eileen Griffin	November 5
Action Statement Review	Denise explained that, based on members' feedback from the previous meeting, she believed the best use of members' time would be to finalize their recommendations during this meeting. The goal will be to review the status of each of the action statements the Steering Committee had identified a year ago, finalize recommendations around any unfinished items, and document the Steering Committee's recommendations in a draft final report that would be distributed to Steering Committee members for review and comment. Denise explained that Sue would be leading the review of each of the Action Statements. Sue explained the proposed process: Eileen will capture the discussion and recommendations for meeting minutes and the final report; the report would be drafted and sent out to members for their review. Sue confirmed with members that this process was acceptable.	NA	NA	NA
Action Statement 1	*Reform of Survey Process*. Maureen reported out on behalf of the Data Work Group. This work group was formed to identify what information should be routinely available in advance of a survey. The group agreed that the following types of data should be available: • 26 quality indicators already posted on CMS' website	NA	NA	NA

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	• Complaint data • Specific volume data (top 15 DRGs for inpatient services, top 20 CPTs for outpatient services, 6 indicators for low volume and high risk procedures). All of these data are publicly available but subject to interpretation. The Work Group agrees that these data are used appropriately. The Work Group could not reach consensus on whether or not the Joint Commission's full report should be available when the Department is reviewing accredited hospitals. Some members believe that, once deemed, it is not necessary to second guess the Joint Commission's findings. Others believed that reviewing the full report was due diligence for the State. (Denise noted that under the new legislation, if a hospital is accredited, the Department conducts no onsite survey and has no information on hospital performance.) Maureen reported that the Work Group also recommended that the State try to negotiate access to some of the Joint Commission's tools (*e.g.*, root cause analysis or medication reconciliation work sheets), or tools developed by other accrediting bodies, so that these and other best practice tools can be made available to non-accredited hospitals. The Work Group also recommended that revisions be made to the licensing application so that the information can be more useful for surveyors. The Work Group will continue work in this area. Maureen noted the Work Group's caution to the Department: that, when interpreting data, it needed to take advantage of the education and expertise available to it (*e.g.*, the Maine Quality Forum). Members of the Steering Committee asked a number of questions. Julie Marston asked how the Department will weigh complaint data. In particular, larger hospitals are more likely to have more complaints than smaller hospitals, given the disparity in volume of patients. Denise replied that the Department would adjust for volume. She noted that the Department is likely to take note if a hospital has multiple complaints in the same area. Denise noted that the she does not anticipate any additional reporting requirements for hospitals; also that the Department recognized the need to tap expertise for interpreting data. Lynne Gagnon noted that the Work Group had recommended that the			

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	complaint data used for surveys would be limited to substantiated complaints. The group discussed the tracer methodology. Ali discussed the fact that Maine currently uses a much more interactive survey process than it has in the past, with surveyors spending much more time on the floor interacting with patients and staff, and less time reviewing policies and records. She believes this is an improvement in the way surveys are done but is not a true tracer methodology. The State anticipates that the federal government will be moving more toward a tracer approach going forward. The Steering Committee also discussed the State's plan to enter into a relationship with the Joint Commission. Denise hopes that this relationship will include an educational piece for providers and an educational piece for the survey team. The Steering Committee did not have additional comments on or changes to the Work Group's recommendations.			
Action Statement 2	*Regulatory Framework.* Sue reviewed the Steering Committee's earlier discussion of the regulatory framework. The Steering Committee considered alternative approaches to organizing licensing standards, (i.e., the "table of contents" for a licensing regulations) including that of the Joint Commission, the Medicare Conditions of Participation, the existing organization of Maine licensing standards, and the approaches used by other states. Because all Maine hospitals are required to comply with the Conditions of Participation, and compliance with the Joint Commission is voluntary, Steering Committee members agreed that the Conditions of Participation were the logical organizational framework for hospital regulation. Originally, the Steering Committee planned to align federal, state and accrediting standards to eliminate inconsistency and minimize unnecessarily duplicative standards. In particular, the Department asked Steering Committee members to identify where state licensing requirements could "add value" to the standards under the Conditions of Participation. The hospitals participating on the Steering Committee see additional state licensing requirements as precluded under the new deeming legislation passed this past legislative session. Steering Committee members agreed with this status update for this Action Statement. Members requested a clarification of the process. The Steering Committee's	NA	NA	NA

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	recommendations will go to the Hospital Licensing Review Board for their review. In addition, as the Department proceeds with revisions to its licensing regulations, it will be soliciting input from a number of other stakeholders. The Department will also be recommending additional standards, in addition to Conditions of Participation. The Department expects the new rules to be proposed by the spring, with an effective date of July 2008.			
Action Statement 3	*Enforcement Tools.* Sue reminded the group that one of its action statements was to "Create a range of enforcement tools that permit the State greater flexibility in addressing issues of noncompliance." She noted that the group had not previously discussed this action item. Eileen presented some background information on enforcement tools, putting them in the context of "responsive regulation" with tools for facilitating compliance being the most common and most effective approach and tools for compelling compliance available when there is a known violation. Denise began the discussion by noting that the Department currently brings in technical support to get a facility on track so that a conditional license can be removed. She noted that CMS does not support the State's providing technical assistance. In particular, state surveyors are required to cite a hospital for deficiencies, even when a hospital is able to correct a problem while the surveyor is onsite. Denise also discussed the fact that hospitals tend to find the conditional license to be a serious penalty to be avoided whenever possible. The conditional license is a tool used to enforce state licensing regulations. From the Department's perspective, a conditional license can be useful since it provides an opportunity to provide ongoing technical assistance to get the hospital in compliance and help it to sustain compliance. By way of contrast, under federal law, a hospital has 45 days to bring the hospital into compliance. After that 45 day inspection, there is no further review to ensure that compliance is sustained into the future. Denise noted that for other providers licensed by the Department, a "Directed Plan of Correction" provided a useful enforcement tool. A directed plan of correction is a plan of correction prescribed by the Department. As part of the plan, the Department provides ongoing technical assistance to get the hospital in compliance and help it to sustain compliance, just as it would for a conditional license. However, unlike the conditional license, there is no impact on the status of a hospital's license. Under this	Define standards for triggering a directed plan of corrections and conditional license Draft flow chart for enforcement processes	Denise Osgood & Ali Hilt-Lash	November 5

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	mechanism, the Department can do unannounced visits when necessary. Denise invited Steering Committee members to give their thoughts on: • The directed plan of correction as an intermediate step for the conditional license • The role of the Department in providing technical assistance • The conditional license as an enforcement tool. Members reported that they appreciated the technical assistance that the Department provides; that it is helpful to work through the interpretation of what a hospital is doing and what the surveyor is looking for. It is helpful if there is continuity in hospital survey staff over time, since the surveyor is familiar with what the hospital is doing. Members seemed to agree that the conditional license casts a "pall" over the hospital and the community it serves, and is very hard for a hospital to rebuild a positive image in its community. One member asked whether the Department already had authority to impose a directed plan of correction. Currently the Department can require a hospital to submit a plan of correction, which must be approved by the Department. However, the Department does not have authority to prescribe what's in the plan of correction. One member asked if having an intermediate enforcement tool like the directed plan of correction would mean the Department would impose corrective action plans more frequently than it would impose a conditional license on a hospital. Denise clarified that the directed plan of correction would only be used to enforce state regulation; if hospitals were more likely to receive a directed plan of correction than were currently likely to receive a conditional license, it would not be a major difference. Denise said it would be a helpful mechanism for letting hospitals know: "This is the line. You've crossed it. This is what you need to do to get back on track." before a conditional license would be imposed. Sandy asked if the Department could identify the "breadth and depth" of a violation(s) that would trigger a conditional license or a directed plan of correction. Members agreed they needed more information prior to making a final recommendation about an intermediate enforcement mechanism.. They thought it would be helpful to understand more about the trigger for a			

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	directed plan of correction as well has how the enforcement processes worked for federal or state enforcement, particularly in light of the recent deeming legislation. Denise said she would clarify with the Attorney General's Office her understanding that the Department had authority to cite hospitals for violating the Conditions of Participation as if they are state licensing standards, and whether the Department can cite at the "standard level" rather than the "conditional level" applied by the federal government. One member also mentioned that the Joint Commission's scoring mechanism and appeal process as a potential model for an enforcement strategy.			
Action Statement 4	*Communications.* Sue reviewed earlier Steering Committee discussions related to communications, noting that the Steering Committee has already identified its stakeholders and strategies for including them in their process; and strategies for ongoing communication, including the Department's website and a distribution list. The Steering Committee's recommendations relating to communications have been documented in previous meeting minutes.	NA	NA	NA
Action Statement 5	*Professional Development.* Sue reviewed the Steering Committee's action statement for professional development and noted that the group has not yet developed recommendations for this action statement. The Steering Committee was asked their opinion on the desired credential for surveyors, including the preferred discipline. Kathy Bonney expressed her belief that nurses make good surveyors, preferring masters level, with a bachelors as a minimum. Denise agreed that an acute care background, critical thinking, good writing, and the ability to work independently are desirable characteristics for surveyors. Julie Marston thought that a bachelor level Medical Technologists would also be a good addition to a team of nurses, adding analytical, data and writing skills. Professionals Certified in Healthcare Quality were also suggested. One member suggested that prior experience monitoring compliance should be preferred experience for potential surveyors. Currently surveyors must be RN (level not specified), with 3 years of progressive responsibility. Supervisory experience is not required. Expert consultants hired to assist with surveys often have conflicting relationships with some of the hospitals. One member suggested that the Department seek references from the chief	NA	NA	NA

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	of service for physicians applying to be consultants to the Department. Ali noted that she typically does seek such a reference check. Also, the members suggested that there should be some training to help clinicians transition from clinical practices to surveying: "How to be a Surveyor 101." The Steering Committee was also invited to make recommendations about training and staying current with best practices. Sandy said she thought the most important element of ongoing training was internal training on the consistent application of standards. She thought this training was best provided by Denise and Ali. One member mentioned that the Joint Commission has designed some of its standards to encourage consistency across surveyors. Members also referenced the Joint Commission as a good resource on best practices. Sue asked members if they thought that joint trainings with hospital and licensing staff would be a good mechanism. Jerry said he thought that opening up hospital trainings to survey staff was a good mechanism for constructive relationship building. Sandy thought that joint training should take back seat to training on consistency. Hospital training focuses on best clinical practices, which should be secondary. Denise and Ali explained that the State currently does not have any incentives for pursuing an advanced degree or maintaining current credentials. People who want to pursue their education must use vacation time. They noted that state policy does not allow part time for surveyor staff.			
Action Statement 6	*Complaints*. The Complaint Work Group made a series of recommendations falling into the following categories: 1. *Changes in law and regulation*: a) The Department should have the discretion to make unannounced complaint investigation surveys but, as a matter of course, should disclose a complaint investigation to the hospital so the hospital can help address; b) There should be a one-year statute-of-limitations for complaints. It is hard to do a credible job investigating a complaint when it is more than a year old. This change would be more consistent with federal requirements. 2. *Department changes in complaint process*: The Department's initial triage of complaints should encourage people to submit their complaints to the hospital for resolution. The move should be toward more self-	Develop implementation plan for addressing complaints	Denise Osgood & Ali Hilt-Lash	November 5

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	regulation on the part of the hospital, for medium and low priority complaints. This shift will require work by the Department to make sure the self-regulatory process is working properly. The triage or intake process should also be revised so that the Department does not take "ownership" of the complaint without first asking that the person talk to the hospital. If a hospital does a good job with self-regulation, or addressing complaints internally, the Department can be satisfied. If not, the Department has the authority to go on site. The group also discussed the challenges of getting complaint data given that the ASPEN software (which is federally mandated) does not include information that would be helpful for hospitals. The ASPEN software needs to interface with other software in order to track trends, etc. 3. *Hospitals' self-regulation of certain categories of complaints:* Because the Department is delegating complaint investigation to the hospital for self-investigation, the Work Group recommended that the Department develop a template of questions that need to be answered as part of a hospital's internal complaint investigation. Because some hospitals already have a complaint template this process will require collaboration to make sure the Department is not creating an extra layer. However, the goal is to develop a consistent process across the State. One member asked about anonymous complaints. Because a person has a right to file an anonymous complaint, it will not always be possible to push the complaint back to the hospital level. However, people that file anonymous complaints should be made aware of the fact that it is harder to resolve or address anonymous complaints. 4. *Public education efforts.* Public education is a major component of transforming the complaint process. The Work Group recognizes that the Department's website is not accessible to everyone; the Department needs other communication strategies for educating the public about complaints. The group discussed that substantiated complaint data should be available publicly. 5. *Resource needs.* Barbara discussed the Department's resource needs for addressing complaints. The Work Group believes that complaint surveys will become all the more important with the new deeming law. Ifr the proposed process is not enacted, the Department needs more staff to support complaint surveys. The Work Group also recommends that survey staff have electronic access so that they can work offsite.			

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	The Work Group recommended that the Department should work with patients and hospitals (including people who hand complaints) to develop self-regulatory strategies, etc.			
Next Steps	Members identified the following steps as necessary for finalizing their recommendations and report: • Review flow chart for enforcement processes under federal requirements and state licensing requirements • Define standards for triggering a directed plan of corrections and conditional license • Review proposed implementation plan for addressing recommendations from Complaints Work Group The Department will distribute a draft report to Steering Committee members for their review and comment. If the Steering Committee cannot finalize their work electronically, members will return for a November 5 meeting to finalize their recommendations.	Draft and distribute Steering Committee report for member feedback	Muskie School	November 5
Patient Safety Conference	Denise reported that the Department and Maine Medical Center would be working together to develop a patient safety conference to be held next fall. The target audience would include CEOs and board members. Denise invited Steering Committee members to provide feedback on what these and other audiences would want from a patient safety conference. The Department and the Maine Hospital Association are working on developing a "needs assessment" to gather more information about how to tailor the conference to hospital needs.	Provide feedback on potential topics and format for patient safety conference	Steering Committee members	NA
Next Meeting	If necessary, a final Steering Committee meeting was tentatively scheduled for **November 5**, 1:00 at the Maine Hospital Association.	NA	NA	NA