

## **Meeting summary for OHCA Assisted living member call (10/23/2024)**

### **Quick recap**

Debbie discussed ongoing legal battles involving the Federal Trade Commission and the National Labor Relations Board, as well as concerns about voting accessibility in Ohio. Pete provided updates on the inclusion of assisted living facilities in the net quality navigator, the progress of a demo related to assisted living facilities, and the main goal of the assisted living waiver. The team also discussed the implementation of Senate Bill 144, the need for a more comprehensive and detailed approach to their project, and the changing stance of Odh regarding life-sustaining treatment for residents in assisted living facilities.

### **Next steps**

- Assisted living providers to review and update admission paperwork to remove statements about not providing CPR.
- Assisted living providers with licensed nurses to document CPR competency for those nurses.
- Assisted living providers to review financial practices to avoid potential citations for financial neglect.
- Assisted living providers to consider submitting entries for OHCA's photo contest by November 19th.
- Assisted living providers to review new QUARK infection prevention guidelines for potential incorporation into their infection control programs.

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### **Summary**

#### **FTC Ban, NLRB Stance, and Overtime Rule**

Debbie discussed the ongoing legal battles involving the Federal Trade Commission's (FTC) ban on non-compete clauses and the National Labor Relations Board's (NLRB) stance on the issue. She mentioned that the FTC had appealed the judge's ruling against their final rule, and the outcome of this appeal would be closely monitored. Debbie also noted that the NLRB's authority to enforce their stance on non-compete clauses was still uncertain. Furthermore, she provided an update on the Department of Labor's overtime rule litigation, stating that a decision was expected before the January 1st deadline. Lastly, Debbie addressed concerns about voting accessibility in Ohio, particularly for individuals with disabilities, and clarified that only the voter themselves could use the dropbox for returning absentee ballots.

#### **Assisted Living Facilities in Navigator**

Pete discusses technical issues and provides an update on the inclusion of assisted living facilities in the net quality navigator. He mentions that a survey was sent out to providers, but many chose not to complete it. The Ohio Department of Health received an 82% response rate for the survey, which was not specific to assisted living facilities. Pete pushes back against the suggestion that failure to complete the survey could impact license renewals, stating it is a voluntary survey. He notes that the penalty for not completing the survey is that the provider's information will not be included in the navigator. Pete also mentions that a revised version of the navigator that includes assisted living facilities was shown during the meeting.

### **Assisted Living Demo Progress and Challenges**

Pete discussed the progress of a demo related to assisted living facilities and the challenges faced due to the lack of MDS-based measures. He mentioned that the demo was close to completion and would be monitored. Pete also talked about the inclusion of a quiz or questionnaire in the system, despite objections from the team. He expressed concerns about the quiz's effectiveness and suggested focusing more on describing the differences among different levels of care. Lastly, Pete mentioned the team's ongoing work on the next budget for assisted living members and their recent meeting with the Department of Aging to present their proposal.

### **Assisted Living Waiver Rate Increases**

Pete discussed the main goal of the assisted living waiver, which is to prevent any further negative changes and to maintain the current level of access to affordable assisted living services. He mentioned that the significant increases in waiver rates in the last budget have allowed providers to increase their involvement with the waiver and serve more consumers. Pete's goal is to ensure that assisted living waiver rates continue to rise on a regular basis, and he proposed a mechanism for this, involving percentage increases and a simplified data set to show year-over-year costs.

### **Ohio Assisted Living Task Force**

Pete discussed the concept of maintaining workforce and access to services for waiver consumers in Ohio. He mentioned that the director was receptive to the idea but wanted a broader vision for affordable assisted living and expanding access. Pete proposed the formation of a task force similar to the skilled nursing task force for assisted living, which the director agreed to. However, Pete expressed frustration about the lack of information regarding the budget and the timeline for the director's decision. He also mentioned a secondary budget proposal focused on workforce and reimbursement for providers who want to train their team members as medication aids.

### **Senate Bill 144 and Medication Aids**

Pete discussed the implementation of Senate Bill 144, which aims to make it easier to deliver a medication aid training program. He mentioned that the Board of Nursing is working on draft rules, but these have not progressed further. Pete also noted that the

Board of Nursing would apply the statute if someone applied to be a new training program for medication aids, allowing them to take advantage of a 30-hour curriculum instead of the usual 120 hours. He emphasized the importance of training and documentation for medication aids to ensure they are competent to exercise their expanded scope of practice. Pete also mentioned that the Department of Health is not giving its surveyors specific direction to be hard on medication aids, but individual surveyors may still scrutinize the competency of medication aids.

### **Improving Project Structure and Communication**

The team discussed the need for a more comprehensive and detailed approach to their project, with a focus on the importance of understanding the customer's needs and pain points. They agreed on the necessity of a more structured and organized process, with clear roles and responsibilities assigned to each team member. The team also emphasized the importance of effective communication and collaboration to ensure the project's success. They ended the conversation with a commitment to work on these aspects and reconvene to review progress.

### **Medicaid Access Rule and Demonstrations**

Pete and Debbie discussed the documentation of demonstrations and the determination process. Debbie also talked about the Medicaid access rule, specifically the payment adequacy provision, which requires certain Medicaid services to spend 80% of their Medicaid reimbursement on direct care compensation. She mentioned that CMS has been holding regular webinars to explain various components of the Medicaid access rule, and they are working on determining the quality measures. Debbie also mentioned that the final recommendations for the quality measures are expected to be approved by March 2025. She assured that they will share any new data reporting requirements for providers as they learn more.

### **Assisted Living Waiver Certification Challenges**

Debbie concluded her presentation and opened the floor for questions. Pete then discussed a program by Erin on how to get certified for the assisted living waiver, which he shared in the chat. He also mentioned the challenges of getting an assisted living facility certified for the waiver, especially if it's co-located with a skilled nursing facility. Mandy then discussed the real and present dangers for assisted living in the first quarter of 2024, highlighting the increase in incidents and the need for awareness. She also mentioned the focus on elopements due to their potential negative outcomes and the need to assess if a resident is suitable for the assisted living environment.

### **Odh's Stance on Life-Sustaining Treatment**

Mandy discussed the changing stance of Odh regarding life-sustaining treatment for residents in assisted living facilities. She clarified that licensed nurses with a relationship with the residents are required to provide treatment, but this does not apply to direct care staff. Mandy also mentioned that the Odh's stance has shifted due to real and

present danger citations and fines. She advised that licensed nurses should show competency in CPR, and that admission paperwork should no longer state that CPR will not be provided. Mandy also warned about financial neglect, such as not paying staff or vendors, which could lead to negative outcomes for residents.

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