

B O A R D M I N U T E S
WISCONSIN DEPARTMENT OF VETERANS AFFAIRS
Telephone Conference of November 26, 2008

Board Members Present

Marvin Freedman, Chair
Rodney Moen, Vice Chair
Jackie Guthrie
Marcia Anderson
Dan Naylor
Peter Moran

WDVA Present

Ken Black, Acting Secretary
Anthony Hardie, Executive Assistant
Jimmy Stewart, Chief Legal Counsel
Ken Abrahamsen, Budget Director
Colleen Holtan, Budget Office
Seth Perelman, Division Administrator
Tony Cappozzo, Division Administrator
Tom Rhatican, Division Administrator
Bill Crowley, Commandant
Pat Shaughnessy, Deputy Commandant
Steve Stead, Finance at King
Clyde Allen, Finance at Union Grove
Andy Schuster, Public Relations
Julie Van Metre, Executive Staff Assistant

1. Call to Order and Roll Call

The teleconference was called to order by Chairman Freedman at 2:05 p.m. on Wednesday, November 26, 2008. A quorum was present.

2. Certification of Notice of Meeting

Advance notice of the meeting occurred.

3. Election of Board Secretary

Bill Andersen tendered his resignation to the Governor and to the Board. He indicated that he was going to make it effective immediately and not take advantage of the Board rule that allows him to serve until his replacement is nominated by the Governor. With his resignation the position of Board Secretary becomes vacant. The Chair accepted nominations for the position of Board Secretary. Pete Moran nominated Jackie Guthrie. The nomination was seconded by Rod Moen. There being no other nominations, it was moved by Mr. Moran, seconded by Mr. Moen and carried on a voice vote to elect Jackie Guthrie as Secretary of the Wisconsin Board of Veterans Affairs. Ms. Guthrie abstained from voting.

4. Board Committee Appointments

Marv Freedman explained that the position of the Chair of the Financial Committee is open due to the resignation of Mr. Andersen. Mr. Freedman made the following appointments: Financial Committee Chair—Pete Moran; Legislative and Program Review Committee Chair—Marcia Anderson. Other officer positions on the Board and its Committees will remain the same.

5. Briefing, Discussion and Action on Wisconsin Veterans Home at Union Grove Proposed Rate Increases

Mr. Black said that upon becoming Acting Secretary, he heard many briefings, one being on the rates at Union Grove. It became clear at the time he became Acting Secretary that there would be a large increase in rates charged at the Union Grove Home. After looking at the numbers, he knew that this would have a major impact on our Homes and different options were explored. At the last Board meeting Mr. Black indicated to Board Chair Freedman that there could potentially be a substantial increase in the rates at Union Grove and it would be prudent to bring this issue to the Board. The rates for assisted living at Union Grove could increase 58% and the rates for the skilled nursing facility could increase about 25%.

Rod Moen finds it troubling that things happen on such a short time frame for the rest of the Board. As partners with the Department and among the Board members,

he as Chair of the Long Term Care Committee would have liked to have more information sooner.

Mr. Moen asked how the Home's rates reflect what the rates are in the private sector in the Racine area. Pat Shaughnessy said that overall the Union Grove rates for skilled care are close to \$50 to \$70 a day less than its closest competitors. The comparison for assisted living was more challenging because of the two types of care at Union Grove, RCAC and CBRF. Rates at Union Grove are anywhere from 20% to 50% below market value. The current daily rate in Boland Hall is \$260.00 and for those who have per diem, that cost is reduced to about \$188.00 per day. Comparable skilled care among the competition in the Racine area is about \$325.00 per day. The Board members requested from the Department a copy of the assessment of competitive rates.

Marvin Freedman said that since Ken Black assumed his duties as Acting Secretary, he has made a concerted effort to ensure that the rates that are put in place for this coming year are in compliance with the Administrative Code. Mr. Freedman noted that Mr. Black is working with the realities of what the costs are in each category, coupled with the fact that there is no leeway permitted under the current Administrative Code on setting rates. Mr. Freedman said that the first time he became aware of what the scope of the rate increases would be and some of the details about how we got to where we are, was in a meeting a week ago today with Mr. Black, Mr. Stewart, Mr. Rhatican, Mr. Abrahamsen and Ms. Holtan. If this issue had presented itself about eight weeks ago as indicated by Mr. Black, then Board members felt that the Board should have been brought into the loop well before last week.

Mr. Moran asked for comparative data on the memory care activity at Union Grove with respect to the local competition. Mr. Shaughnessy said the average rent at Fairchild Hall (the memory care assisted living unit) is approximately \$3,240 per month. The local competition charges approximately \$3,600 and \$3,700 a month. The Union Grove Home provides different levels of services or value added items which are less tangible but are included in the base rent.

Mr. Naylor asked how these numbers compare generally with King for similar services. Mr. Shaughnessy said that King does not have assisted living and the rates for skilled nursing are the same. Mr. Naylor asked what the projected impact on the members is. Mr. Freedman asked the Department to explain what the impact would be if the rates are adjusted based on actual cost. He acknowledged that we will not know today what percentage of that increase will in fact fall upon the individual member resident. What is the actual impact in each of the categories if the full rate increase based on actual cost is passed on in its entirety to the members?

Clyde Allen said that a 25% skilled nursing facility increase would have no impact immediately on the members, other than private pay individuals who will pay a higher rate. If they do not have the capacity to pay the higher rate, they will file/apply and get Title 19 Medicaid Benefits. Tom Rhatican said that about half the members in the skilled nursing facility are MA eligible right now and half are private pay. The average period of time for a private pay member to pay down is somewhere between eight and eleven months.

The detail with respect to assisted living—69 members are self pay; 19 are on the Aid to Indigent Veteran (AIV) Program. With the rate increase, the current members who are partial pay and have AIV help will use \$386,000 of the AIV Program dollars annually. The current budget available is \$400,000. Any self pay member who is not able to sustain this increase will then have to apply for the AIV Program to get help. Those who are private pay, if they are in memory care would then have to absorb a 28% increase and if they are non-memory care, assisted living it would be 58%.

Mr. Freedman asked that the above report on skilled nursing and assisted living rate increases be provided to the Board members in writing.

Mr. Moen asked how we will get the money from the state for an increase—will it be placed all on private pay or will there be a differential between private pay and the Title 19 people. Clyde Allen responded that our current rate of reimbursement for all Title 19 members is \$226.89 per day and on top of that, for veterans, we receive the federal per diem per day of approximately \$70.00 per day. If the private pay rates go up, we are not going to get any more MA dollars, it is a fixed dollar amount. The draw down rate will accelerate for the private pay people. Mr. Moen asked what the differential is between the private pay person and a Title 19 person. Clyde Allen said that an increase of 25% for the private pay person in the SNF level of care would raise their rate after the per diem to \$236.06 per day. For Title 19, the Home receives the \$226.90, so there is less than a \$10.00 delta between the two. There is no add-on to the self pay member to cover that delta.

Mr. Freedman added that there will be an increase on demand on the Aid to Indigent Veteran Program to some of the residents who are in assisted living. Considering the challenges we had in getting current appropriation for the Aid to Indigent Veterans to cover an increased number of veteran members of Union Grove during the last budget process, how much is that appropriation going to have to increase for the upcoming biennium and has that already been factored into our request for funding. Ken Abrahamsen said that the increased demand on AIV at Union Grove has not been factored in our current budget request to the Governor and DOA.

Mr. Naylor asked that if we go with the initial rate increase recommendations would there be individuals, for any number of reasons, who would decide not to stay at the Home. Mr. Shaughnessy said it is logical to assume that any rent increase is not going to be well accepted by our members since everyone is on a fixed income. Jimmy Stewart said that the skilled nursing facility and the assisted living facility are both covered by state and federal law which outlines patient's rights. Among those is the right not to be outplaced from a facility once admitted unless or until certain conditions are met. In the case of a non-payment, the Department would be obligated and could not put the individual outside the facility until another equitable placement for that individual was found.

Mr. Freedman asked if the real potential negative effect on our census at Union Grove is the fact that new potential clients might not come to Union Grove because of this increase in rate. Mr. Stewart said that any facility decreases their optimal case for any potential resident when their rates go up. People look for bargains. The normal camaraderie that veterans share among themselves in an intangible that could overcome modest price increases. And, even with these not so modest increases we're competitive and we offer other intangible amenities and a broad spectrum of services.

Tom Rhatican explained that for the welfare of current members and for the welfare of new members, the Home is going to do a complete scrub of the current members on their eligibility for three things: Aid and Attendance federal program of which a rate increase would cause more people to be eligible; Aid to Indigent Veterans, the state program, will be maximized; and Family Care in Racine County.

Mr. Freedman added that the Board will still need information as to how the rate increase came about and under what circumstances. Rate increases is a specific provision of the Administrative Code, VA 6.01(16). This board has the ability to modify the mandates of VA 6.01(16) if it chooses to do so by emergency rule or permanent rule making. The challenge created by this code mandate is that it does not contain within it the ability or flexibility for the Department to factor in fairness and equity considerations on a rate increase that is extraordinary in nature.

Mr. Freedman read a motion for the Board's consideration. After discussion, an amendment to the 4th and 7th paragraphs of the motion was made by Mr. Moen. The 4th paragraph needs the word "and" added at the end of the paragraph; and the 7th paragraph strikes the words coming after "to increase the rates for the Union Grove Home" that say "by no more than 50% of the proposed rate for skilled nursing care,

50% of the proposed rate for the assisted living mental health care, and 50% of the proposed rate for the assisted living care other than mental health care.” Mr. Moen explained that he doesn’t know what the correct percentage should be and the Board does not have the ability to tell the Department they can or cannot raise the rates. He did not want it to appear that the Board is proposing a 50% increase. It was moved by Mr. Moen to amend the motion by adding a word to the 4th paragraph and striking the words after “Union Grove Home” and ending the sentence with “beginning January 2009” as noted above in the 7th paragraph. The motion to amend was seconded by Ms. Guthrie and passed unanimously on a roll call vote.

Mr. Moran wanted it known that the Board, working with Department, are making every effort to keep this increase this year to an absolute minimum. Over the past year, the Department has been preparing the members for the possibility of a rate increase. Mr. Shaughnessy said there are monthly member council meetings in the assisted living and in the nursing home with a topic being rent increases. Many members know that January is the time where things increase. Their biggest concern is affordability and if they have to leave if they cannot afford the increase. The staff has been very upfront about the member not being turned out and that we will work with them through Aid and Attendance, Aid to Indigent Veterans as well as Family Care. The Home’s population is a very proud group; they’ve paid their bills on time and followed the rules, so these are difficult changes for them to accept. Social workers in all the buildings work closely with the members and are there to assist with any anxiety shown by the member. Mr. Freedman said the Board could discuss an option or options to consider that would effect what the actual rate of increase is by modifications to the existing rule or contemplation of new sections. The contracts WDVA has with residents require that the resident be notified by January 1st and July 1st of any proposed rate increases. If Board discussions and actions at its December meeting results in the percentage of increase being decreased for calendar year 2009, Union Grove residents will know that ahead of time and will have a chance to see how the Board addresses this issue.

The amended motion, which is attached to these minutes, was approved unanimously on a roll call vote on a motion made by Mr. Moen and a second by Mr. Moran.

6. Discussion and Action on 2009 Board Meeting Dates

The proposed meeting dates are:

February 19 and 20; April 16 and 17; June 18 and 19; August 20 and 21; October 15 and 16; December 10 and 11. It was moved by Pete Moran, seconded by Dan Naylor and carried unanimously on a voice vote to approve the above meeting dates for 2009.

7. Adjournment.

It was moved by Mr. Moen, seconded by Mr. Moran, and carried on a voice vote to adjourn the teleconference; the time was 3:35 p.m.

Marvin Freedman
Chair



STATE OF WISCONSIN, BOARD OF VETERANS AFFAIRS

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Jim Doyle, Governor

MOTION

2008-2009 BOARD OFFICERS

Chair Marvin J. Freedman
Middleton
Vice Chair Rodney C. Moen
Whitehall
Secretary Jackie Guthrie
Sun Prairie

BOARD MEMBERS

2003-2009 Peter J. Moran
Superior
2007-2013 Marcia Anderson
Verona
2007-2013 Daniel Naylor
Waupaca

2009 Union Grove Rate Increases and Emergency Rule Options Directive to Ensure Fairness and Equity in 2009 Rates

WHEREAS, the Board of Veterans Affairs has been advised of proposed rates for the Veterans Home in Union Grove which will substantially increase the financial burden on members in both the skilled nursing and assisted living facilities, and

WHEREAS, the methodology of calculating the costs under Chapter VA 6.01(16) for Union Grove has been revised for the proposed 2009 rates from the previous methodology utilized by the department for proposing rates, and

WHEREAS, the Board is greatly concerned about the magnitude of the proposed rates and has not had sufficient time to review and comment on the revised methodology or to determine whether cost allocation determinations made under Chapter VA 6.01(16) are appropriate, fair and equitable to the Union Grove residents, and

WHEREAS, the Board of Veterans Affairs believes the proposed rates could adversely affect the ability of members at Union Grove to remain members of that Home, as well as discouraging some potential new members from becoming members, if those rates are fully imposed as of January 2009, and

WHEREAS, the Board believes, based on a liberal application of the law as provided for in s.45.03(14), Wis. Stats. and VA 1.01, Wis. Admin. Code, that the department may implement a portion of the increase in rates now and implement the remainder of the calculated costs and any necessary adjustments in July 2009, and

WHEREAS, the Board believes that it should fully consider all its available options to potentially modify the provisions and requirements of Chapter VA 6.01(16) by exercising its emergency rulemaking and/or general rulemaking authority, now

THEREFORE, the Board of Veterans Affairs hereby urges the Acting Secretary to utilize his discretion, in accordance with a liberal interpretation of the appropriate laws as provided for in s.45.03(14), Wis. Stats. and VA 1.01, Wis. Admin. Code, to increase the rates for the Union Grove Home beginning January 2009. The Board requests that the Acting Secretary recalculate the costs associated with the operation of the Union Grove facility and provide the Board, prior to May 15, 2009, what the amount of the proposed increase will be for July 1, 2009. The Board directs the Acting Secretary to provide the Board with the historical data compiled to determine the cost at the Union Grove Home for rate setting prior to this proposed change in methodology, as well as the data used to compute the proposed rates for January 2009 no later than December 31, 2008, and

FURTHER, the Board of Veterans Affairs directs the Acting Secretary to have emergency rule options drafted for the Board's consideration at its next regular Board meeting on December 12, 2008 in Union Grove to enable the Board to address the issues of fairness and equity presented by the proposed Union Grove rate increases, and that those drafted options be submitted to the Board no later than Monday, December 8, 2008.

*Adopted unanimously by the Board of Veterans Affairs
on November 26, 2008 in Madison, Wisconsin*