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REPORT OF
THE TASK FORCE ON REGISTRATION
OF IN-HOME PERSONAL CARE AND
SUPPORT WORKERS

January 15, 1998

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EXECUTIVE SUMMARY

Overview

The charge to the Task Force, taken from H.P. 769-L.D. 1046, Chapter 29, Resolve, was to study Registration for In-Home Personal Care and Support Workers. The duties of the Task Force include examining laws from other states relating to the registration of personal care and support workers; examining registration, recording and reporting systems for personal background information and criminal record checks of personal care and support workers; evaluation of the system's impact on consumer choice, cost to the individual, agency or state; and finally, to make recommendations together with implementing any necessary legislation on the subject of personal care and support workers providing services in homes, assisted living centers, residential care facilities and supported living facilities.

Narrative

The Task Force members formulated their recommendations after lengthy review of Unlicensed Assistive Personnel laws from other states, articles on Unlicensed Assistive Personnel, the current structure and process of both the Certified Nursing Assistant Registry and the State Bureau of Information, as well as informative presentations by various Task Force members on the role of Unlicensed Assistive Personnel. The Task Force recommendations, which are contained in the body of this report, encompass the following points:

- All business entities, licensed by the Division of Licensing and Certification, hiring Unlicensed Assistive Personnel must perform a criminal background check and develop and implement policies specific to hiring and maintaining Unlicensed Assistive Personnel with criminal backgrounds. That this language be added to all regulations of licensed business entities licensed by the Division of Licensing and Certification.
- That unlicensed business entities be required to register and to conduct a criminal background check on Unlicensed Assistive Personnel.
- That a Certified Nursing Assistant who is convicted of abuse, neglect or misappropriation of funds in a health care setting, the Certified Nursing Assistant shall be permanently prohibited from working for a Personal Care Agency on a permanent basis. This list should include any Certified Nursing Assistant who has substantiated complaints for abuse, neglect or misappropriation of funds in a health care setting.
- That by the year 2000, a Registry be established for Unlicensed Assistive Personnel to provide an efficient system to meet the private and public demand for criminal background information.
- That the consumer be provide the education necessary for them to be able to access the criminal background checks on Unlicensed Assistive Personnel so that they may make an informed choice.

Title: An Act Regarding the Employment of Unlicensed Assistive Personnel

Sec. 1. 22 MRSA §1717 and 1718 are enacted to read:

§1717. Registration of personal care agencies

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings:

A. “Activities of daily living” means tasks that are routinely performed by an individual to maintain bodily function, including but not limited to mobility, transfers in position between sitting, standing and prone positions, dressing, eating, toileting, bathing and personal hygiene.

B. “Unlicensed assistive personnel” means individuals employed to provide hands on assistance with activities of daily living to individuals in homes, assisted living centers, residential care facilities, hospitals and other health care settings. Unlicensed assistive personnel does not include certified nursing assistants employed in their capacity as certified nursing assistants.

C. “Personal care agency” means a business entity or subsidiary thereof not otherwise licensed by the Division of Licensing and Certification that hires and employs unlicensed assistive personnel to provide assistance with activities of daily living to individuals in the places in which they reside, either permanently or temporarily. An individual who hires and employs unlicensed assistive personnel to provide care for that individual is not a personal care agency.

D. “Hires and employs” means meeting any of the following criteria:

a. Defines the scope of the position, recruits, selects, trains, declares competent, schedules, directs, supervises and terminates individuals who provide personal care.

2. Registration of personal care agencies. Beginning July 1, 1998, a personal care agency not otherwise licensed by the department shall register with the department. The annual registration fee is \$25.

3. Prohibited employment and contracting. A personal care agency may not employ permanently or hire a long-term contract as unlicensed assistive personnel:

A. A person who has been convicted of abuse, neglect or misappropriation of funds in a health care setting; or

B. A person who has worked as a certified nursing assistant and has been the subject of a substantiated complaint, by a State Survey Agency, of abuse, neglect or misappropriation of funds in a health care setting.

4. Policies. Beginning July 1, 1998 a personal care agency shall adopt policies regarding the hiring and continued employment of unlicensed assistive personnel who have been convicted of crimes.

5. Penalty.

A. Any person who operates a personal care agency without registering with the department commits a civil violation for which a forfeiture may be adjudged of \$500 per day of operations.

B. Failure to conduct criminal background checks by either a registered personal care agency or an agency/business licensed by the Division of Licensing and Certification may be adjudged \$300 per omission.

§1718. Criminal record check required.

Beginning July 1, 1998 a personal care agency subject to Section 1717 and a business entity licensed by the Division of Licensing and Certification must request a criminal record check on all unlicensed assistive personnel who are hired on or after July 1, 1998, whether they are hired as employees or as independent contractors, within 14 days of the beginning of employment. Prior to hiring unlicensed assistive personnel, a personal care agency or business entity, licensed by the Division of Licensing and Certification, must provide written notice to the individual applicants that a criminal record check will be conducted. A personal care agency or business entity, licensed by the Division of Licensing and Certification, may request a criminal record check of unlicensed assistive personnel employed before July, 1998. If a criminal record check reveals a record of conviction, a personal care agency or business entity, licensed by the Division of Licensing and Certification, must inform the applicant of the finding.

Sec. 2. Report required. The Commissioner of Human Services shall report to the joint standing committee having jurisdiction over health and human services matters on or before January 1, 1999, on the feasibility of establishing a statewide system for checking the criminal history of unlicensed assistive personnel and a registry for maintaining records of criminal convictions and substantiated complaints of abuse, neglect or misappropriation of funds in a health care setting by the year 2000. The following characteristics should be considered; the system for checking for criminal convictions should be nationwide; the registry should be statewide; the cost should be reasonable; there should be a single point of access for the public; funding must be provided to the Department of Human Services and the Bureau of Identification; and the Department of Human Services shall adopt rules regarding the system and the registry.

Statement of Fact

Registration for Personal Care Agencies and business entities, licensed by the Division of Licensing and Certification, with corresponding penalties for failure to register or perform criminal background checks, as well as definitions of a Personal Care Agency, Unlicensed Assistive Personnel and Activities of Daily Living, are the major components included in the proposed bill under Title 22 MRSA, Section 1717.

In addition, Title 22 MRSA, Section 1718, requires criminal record checks for Unlicensed Assistive Personnel hired as of July 1, 1998. The Commissioner of Human Services shall report to the joint standing committee having jurisdiction over health and human services matters on or before January 1, 1999, on the feasibility of establishing a statewide system for checking the criminal history of Unlicensed Assistive Personnel and a registry for maintaining records of criminal convictions and substantiated complaints of abuse, neglect or misappropriation of funds in a health care setting by the year 2000.

REPORT

I. Introduction

In the spring of 1997, the Joint Standing Committee on Health and Human Services heard and considered H.P. 769-L.D. 1046, Registration for In-Home Personal Care and Support Workers.

The proposed legislation was introduced by the Home Care Alliance in response to the increased nation-wide concern for personal care and support workers providing services to individuals in their place of residence, with no formal system or repository for background information or criminal record checks. The Task Force emanated from the compelling concerns for the public safety, health and welfare of those individuals requiring the services of personal care and support workers.

II. Background

A. Meeting and Process

The Task Force was appointed in September, 1997, and began an ambitious weekly meeting schedule commencing on September 29, 1997 and ending on January 5, 1998. In order to provide Task Force members with the background and foundation for formulating their recommendations, the initial meeting consisted of presentations by various members. These presentations included an Overview and Function of the Maine Registry of Certified Nursing Assistant; An Overview of Assisted Living Facilities; Laws from Other States Relative to Registration of Personal Care and Support Workers Providing In-Home Services; Groups included as Unlicensed Personnel; Alpha One Consumer Training on Employing Personal Care Attendants; State Bureau of Information Operations; The Projected Cost of an Unlicensed Assistive Personnel Registry, as well as The Projected Cost of a State Bureau of Information Check. In addition to the aforementioned presentations, the Task Force also had a presentation by the Christian Science Committee on Publication for Maine.

At the initial Task Force meeting, Sandra Bethanis, R.N., Assistant Director, Division of Licensing and Certification, was elected Chairperson. In addition to the appointed Task Force membership, three (3) members of the Division of Licensing and Certification were included on the Task Force. The weekly meeting schedule was provided to each member and agendas were sent in advance of each meeting. The meetings were conducted at 35 Anthony Avenue in Augusta, Maine.

The Duties of the Task Force

The 118th Legislative Session established a Task Force to study registration for the In-Home Personal Care and Support Workers. A participant list is included in the report (Tab A).

The resolve, to study registration for in-home Personal Care and Support Workers (Tab B) required that the Task Force shall:

1. Examine laws from other states relating to the registration of personal care and support workers providing services in homes, assisted living centers, residential care facilities and supported living facilities;
2. Examine registration, recording and reporting systems for personal background information and criminal record checks of personal care and support workers working in homes, assisted living centers, residential care facilities and supported living facilities;
3. Evaluate different registration, recording and reporting systems, including, but not limited to, the impact on consumer choice and consideration of timeliness and cost for consumers, persons providing care, agencies or entities employing persons providing care and payors for care, including the State and the Medicaid program; and
4. Make recommendations, together with any necessary implementing legislation, on the subject of registration of personal care and support workers providing services in homes, assisted living centers, residential care facilities and supported living facilities.

III. Findings

There is little doubt that there is a significant interest in In-Home Personal Care and Support Workers in the delivery of home care services. The myriad of factors that have raised the interest level include, but are not limited to the following:

- the increasing numbers and obvious vulnerability of the population in need of home care services;
- the challenges the home care setting poses for worker supervision;
- the rapid expansion of the home care industry;
- the unrelenting demand for home care services in the wake of worker shortages;
- the low wages typically available to paraprofessional workers serving a largely elder population;
- the reports of abuses by home care workers with a criminal history.

Given the above, criminal background checks are an important component of ensuring consumer safety.

- **Examination of feasibility for criminal record checks.**

Since Maine is one of only a few states in the nation to require criminal record checks for Certified Nursing Assistants working in home health, hospitals, or nursing homes, a prototype is in place, should a Registry be established for Unlicensed Assistive Personnel. After careful, in-depth review of the current Maine Registry for Certified Nursing Assistants, the Task Force identified the following problems which would need to be sufficiently addressed before additional Registry functions can be added:

a) Appropriate funding for Staffing

The Registry for Certified Nursing Assistants is open only three days a week, for three hours each of those days to receive telephone inquiries. The current staffing level of the Registry is inadequate to meet the inquiry demand.

b) Appropriate computer technology with sufficient funding.

The Registry for Certified Nursing Assistants currently does not have the capacity to recertify Certified Nursing Assistants every two years or to fully automate the large volume of paperwork. The existing computer system does not support efficiency or timeliness.

c) Appropriate technical networking with the State Bureau of Investigation for a timely and updated file on criminal activities of the Certified Nursing Assistants.

The Registry for Certified Nursing Assistants is hindered in meeting the needs of health care providers due to the current back log of criminal background checks by the State Bureau of Information. Currently the State Bureau of Information is approximately 2,000 background checks behind for Certified Nursing Assistants. It is also noteworthy that currently the criminal background check is a one time occurrence, with no periodic updates and limited primarily to crimes prosecuted in the State of Maine.

Evaluation of Impact on Consumer Choice and Consideration.

After considerable analysis and discussion, the Task Force members determined that even though a Registry for Unlicensed Assistive Personnel was the best solution and would provide a level of consumer safety, the funding, technology and staffing was not available immediately to support the establishment of this Registry. The State Bureau of Information is just beginning to become automated and the process is not expected to be completed until late 1999. The current staffing levels at the Registry for Certified Nursing Assistants is not sufficient to meet the demand from the providers or that of the 30,000 Certified Nursing Assistants. Therefore, they could not take on the additional responsibility for a Registry for Unlicensed Assistive Personnel at this time (refer to Tab D for the Technical and Staff Requirements).

There is a compelling need for consumer education to heighten their awareness of safety as well as how to make informed choices in selecting Unlicensed Assistive Personnel for in-home care. This consumer education endeavor would provide the first step in achieving the final goal of a Registry for Unlicensed Assistive Personnel where consumers would be able to access information in an efficient, timely manner. The vulnerability of the aging population in need of in-home care and individuals who require the assistance of Unlicensed Assistive Personnel in their performing of activities of daily living demonstrate that health care has moved beyond the walls of institutions and into the community supporting the concepts of independence and quality continuum of care. Individual consumers and their families should be afforded the safety net of being able to obtain criminal background information on Unlicensed Assistive Personnel so that they may make informed choices in their care. It is to that end that a planned, coordinated consumer education program should be funded and provided to the public instructing them on how to obtain criminal background information prior to selecting or employing Unlicensed Assistive Personnel.

IV. Recommendations

The Task Force Recommends:

I. Criminal Background Laws for Personal Care Agencies

- A. That, in order to ensure an important component of consumer safety, a law be passed as of January 1, 1999, that all licensed business entities hiring Unlicensed Assistive Personnel perform a criminal background check and develop and implement policies specific to hiring and maintaining Unlicensed Assistive Personnel with criminal records. The law must include that all unlicensed business entities employing Unlicensed Assistive Personnel be required to register with the Division of Licensing and Certification, to conduct criminal background checks of Unlicensed Assistive Personnel, and implement policies specific to hiring and re-training Unlicensed Assistive Personnel with criminal records.

Definitions

Unlicensed Assistive Personnel are employed to provide assistance with activities of daily living to individuals residing in their homes or community based, home-like facilities, hospitals and residential care facilities. This definition, for this purpose, exempts Certified Nursing Assistants (CNAs).

Personal Care Agencies are entities which hire employees to provide assistance with activities of daily living to individuals residing in their homes or community based, home-like facilities, hospitals and residential care facilities.

Activities of Daily Living means tasks routinely performed by a person to maintain bodily function, including bed mobility, transfers, dressing, eating, toileting, bathing and personal hygiene.

Fees

\$25.00 annual registration fee for Unlicensed Personnel Care Agencies only.

Penalty

Any person(s) who operate a Personal Care Agency without registering, commits a civil violation for which a forfeiture of \$500.00 may be adjudged. Each day constitutes a separate violation. Failure to conduct criminal background checks by either a registered personal care agency or an agency/business licensed by the Division of Licensing and Certification may be adjudged \$300.00 per omission.

- B. That, in order to ensure an important component of consumer safety, a criminal background check be required on employees of Personal Care Agencies. The proposed law should include the following:
- Agencies should be permitted to hire workers on a temporary basis, pending results of a check. Personal Care Agencies must submit requests for criminal background checks to the appropriate State Agency within fourteen (14) days of hiring.
 - Agencies must inform applicants of intent to conduct a background check.
 - Background checks are to include contract workers and independent workers employed by the Personal Care Agency.
 - The proposed law should specify that if a CNA is convicted of abuse, neglect or misappropriation of funds in a health care setting, the Certified Nursing Assistant shall be prohibited from working for a Personal Care Agency. This list should include any CNA who has substantiated complaints, by a State Survey Agency, for abuse, neglect or misappropriation of funds in a health care setting.
 - For the protection of both parties, notification of the results of a positive criminal record history should be made to the applicant.

II Establish a Registry for all Unlicensed Assistive Personnel

- A. That the State of Maine establish a registry for findings of criminal histories for all Unlicensed Assistive Personnel by the year 2000, plus substantiated complaints of abuse, neglect, or misappropriation of funds.
- A system for criminal background checks should be developed, which is reasonable in cost and will provide up-to-date information by the year 2000.
 - Criminal background checks should be nation-wide, at a minimum state-wide. Fingerprint analysis provides the most promising approach.
 - There should be a central point of entry where consumers, providers and other interested parties can access in a one-stop information center. Maine Registry of Certified Nursing Assistants functions would be leveraged to handle the Unlicensed Assistive Personnel's Registry within the same framework.
 - The proposed legislation cannot be implemented until the State Bureau of Information has an on-line computerized capability to meet the needs of everyone involved in utilizing this information.
 - The fiscal note for upgrading the State Bureau of Information and the Department of Human Services must be approved for technology and staffing requirements (see Tab D).
 - The Department of Human Services would be required to promulgate new rules and regulations to administer a proposed registry for Unlicensed Assistive Personnel.
 - It must be made clear at this time, that no State Agency, other than law enforcement agencies, is investigating or tracking Unlicensed Assistive Personnel complaints for possible criminal convictions.

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Tab B - H.P. 769 - L.D. 1046, Chapter 29, Resolve

Tab C - Task Force Committee Meeting Minutes

Tab D - Projection of Technical and Staff Requirements

**TASK FORCE ON REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS**

MEMBERSHIP

NAME	REPRESENTING
Senator Betty Lou Mitchell P.O. Box 6 Etna, ME 04949	Health & Human Services Committee
Representative Christopher T. Muse 35 Mildred St. So. Portland, ME 04106	Criminal Justice Committee
Kim Wallace Alpha One 127 Main St. So. Portland, ME 04106	Service Providers
Lisa Harvey-McPherson President of Home Care Alliance 20 Middle St. Augusta, ME 04330	Facilities
Darlene Mooar-McBean 80 Main St. Farmington, ME 04938	Consumers
Brenda Gallant Long-Term Care Ombudsman Program P.O. Box 126 Augusta, ME 04332	Ombudsman Program
Leo Delicata P.O. Box 10480 Portland, ME 04101	Legal Services for the Elderly
Betty Forsythe Bureau of Elder & Adult Services 35 Anthony Ave., #11 SHS Augusta, ME 04333-011	Commissioner's Designee
Sandra Bethanis, R.N. Assistant Director Division of Licensing & Certification 35 Anthony Ave., #11 SHS Augusta, ME 04333-0011 TTY: 624-5512	Division of Licensing & Certification

Theresa Turgeon Dept. of Mental Health & Mental Retardation #40 SHS Augusta, ME 04333-0040	Commissioner's Designee
Dorothy Morang Department of Public Safety #42 SHS Augusta, ME 04333-0042	Commissioner's Designee

Staff: Department of Human Services
Division of Licensing and Certification

Sally Flesher, R.N., M.S., Nursing Education Consultant
Maine Registry of Certified Nursing Assistants

Robert Steinberg, Assistant Director
Residential Care Unit

Mary Durfort, R.N., Health Services Supervisor
Division of Licensing and Certification

APPROVED

CHAPTER

MAY 16 '97

29

BY GOVERNOR

RESOLVES

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-SEVEN

H.P. 769 - L.D. 1046

Resolve, to Study Registration for In-home Personal Care
and Support Workers

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, Maine citizens who require in-home personal care and support are living in a variety of settings and receiving that care from providers whose background information may be difficult to obtain; and

Whereas, without access to background information consumers can not make informed decisions in the hiring and employment of their personal care and support workers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Task force established. Resolved: That the Task Force on Registration of In-home Personal Care and Support Workers, referred to in this resolve as the "task force," is established to study the registration of personal care and support workers who work in homes, assisted living centers, residential care facilities and supported living arrangements; and be it further

Sec. 2. Task force membership. Resolved: That the task force consists of the following members:

1. The Commissioner of Human Services or the commissioner's designee and a member of the Division of Licensure and Certification of the Department of Human Services chosen by the commissioner;

2. The Commissioner of Public Safety or the commissioner's designee;

3. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services or the commissioner's designee;

4. The following members are jointly appointed by the President of the Senate and the Speaker of the House:

A. One member of the Joint Standing Committee on Health and Human Services and one member of the Joint Standing Committee on Criminal Justice, of whom one member must be from each major political party;

B. One representative of providers of in-home personal care and support;

C. One representative of an assisted living center, residential care facility or supported living facility;

D. One representative of consumers receiving consumer directed care;

E. One representative of the long-term care ombudsman program; and

F. One representative of the Legal Services for the Elderly, Inc.; and be it further

Sec. 3. Appointments; meetings. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. Within 15 days of the appointment of all members, the Chair of the Legislative Council shall call and convene the first meeting of the task force. The task force shall select a chair from among its members; and be it further

Sec. 4. Duties. Resolved: That the task force shall:

1. Examine laws from other states relating to the registration of personal care and support workers providing services in homes, assisted living centers, residential care facilities and supported living facilities;

2. Examine registration, recording and reporting systems for personal background information and criminal record checks of personal care and support workers working in homes, assisted living centers, residential care facilities and supported living facilities;

3. Evaluate different registration, recording and reporting systems, including, but not limited to, the impact on consumer choice and consideration of timeliness and cost for consumers, persons providing care, agencies or entities employing persons providing care and payors for care, including the State and the Medicaid program; and

4. Make recommendations, together with any necessary implementing legislation, on the subject of registration of personal care and support workers providing services in homes, assisted living centers, residential care facilities and supported living facilities; and be it further

Sec. 5. Staff assistance. Resolved: That the Department of Human Services shall provide staffing assistance; and be it further

Sec. 6. Voluntary service. Resolved: That the members of the task force shall serve without compensation or reimbursement of any type; and be it further

Sec. 7. Report. Resolved: That the task force shall submit its report, together with any necessary implementing legislation, to the Joint Standing Committee on Health and Human Services and the Second Regular Session of the 118th Legislature no later than January 1, 1998. If the task force requires an extension, it may apply to the Legislative Council, which may grant the extension.

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
September 29, 1997**

Attendance: Lisa Harvey-McPherson, Representative for the Home Care Alliance
Darlene Mooar-McBean, Representative for the Consumers
Brenda Gallant, Representative for the Long Term Care Ombudsman
Leo Delicata, Representative for Legal Services for the Elderly
Betty Forsythe, Representative for the Bureau of Elder & Adult Services
Sandra Bethanis, Representative for the Division of Licensing & Certification

Election of Chair: Sandra Bethanis, R.N., Assistant Director of the Division of Licensing & Certification was elected chairperson of the Task Force.

Schedule of Meetings to Accomplish Report Completion by January 1, 1998:

The Task Force will meet each Monday from 10:00 a.m. to 12:00 p.m. at 35 Anthony Avenue in Augusta, Maine. The meetings will be comprised of presentations and information relative to in-home personal care and support workers enabling the Task Force to make recommendations to the Legislature by January 1, 1998.

Discussion was held regarding the type of information/presentations which would be helpful in formulating the Task Force recommendations. The Task Force felt that the next meeting should include an overview of the Certified Nursing Assistant Registry, including the types of complaints received and an overview of the State Bureau of Investigation. In addition to the presentations scheduled for October 6, 1997, the following presentations were scheduled for the October 27, 1997 meeting:

- ◇ **Leo Delicata-** Laws from other states relative to registration of Personal Care and Support Workers providing in-home services, Assisted Living and Residential Care Facilities
- ◇ **Betty Forsythe-** Reporting systems for criminal background information and criminal record checks
- ◇ **Brenda Gallant-** New laws from other states relative to Personal Care Workers
- ◇ **Lisa Harvey-McPherson-** Definitions under the Board of Nursing which may be applicable to the Personal Care Worker

Agenda for Next Meeting:

- ◇ Overview of Certified Nursing Assistant Registry
- ◇ Overview of Assisted Living Facilities

Next Meeting: October 6, 1997, 10:00 a.m. to 12:00 p.m.
35 Anthony Ave.
Upstairs Conference Room
If unable to attend, please call 624-5443

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
October 6, 1997**

Attendance: Theresa Turgeon, Department of Mental Health & Mental Retardation
Lisa Harvey-McPherson, Representative for the Home Care Alliance
Darlene Mooar-McBean, Representative for the Consumers
Brenda Gallant, Representative for the Long Term Care Ombudsman
Betty Forsythe, Representative for the Bureau of Elder & Adult Services
Sandra Bethanis, Representative for the Div. of Licensing & Certification
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nursing Educator Consultant, CNA Registry
Bob Steinberg, Assistant Director, Residential Care Unit

1. Members of the Task Force introduced themselves and the areas they represented.
2. **CNA Registry Overview** - Presenter, Sally Flesher, R.N., M.S., Nursing Educator Consultant

On October 5, 1989, the CNA Registry came into existence as a result of the Omnibus Reconciliation Act of 1987. The Federal law mandated seventy-five (75) hours of training and competency testing. In the State of Maine there is one hundred-fifty (150) hours.

The Registry is presently looking at the testing being developed by the State, testing those from out of state, and those who have not been practicing for over twenty-four (24) months. Currently, there are 29,052 CNAs on the Registry. Informational packets were distributed to the Task Force members on the CNA Registry.

At this time, the State Bureau of Investigation (SBI) is not automated and therefore, they can only research a limited number of CNAs per month. Ms. Flesher explained how a CNA is annotated on the Registry and what being annotated means to the CNA and the employer. Ms. Flesher explained the new law referencing the D and E crimes and the ten (10) year time frame for impacting on employment. Currently, there are five (5) to (10) percent of the CNAs who are annotated on the Registry.

Discussion ensued regarding the annotation process. The impact of the unlicensed personnel on the Registry would be overwhelming due to the large volumes of unlicensed personnel currently in a variety of health care settings. The Registry is currently staffed by one (1) Professional, one (1) Clerk Typist III, and two (2) contract temporary clerical positions. Due to the staffing of the Registry, there are Federal mandated requirements which can not be met. Ms. Flesher will provide the Task Force members with a listing of Federal mandates that cannot be met. All other New England states, except Maine, license the CNA.

3. Task Force members discussed the purpose of the bill and the responsibilities that employers may have to check the background of their new hires. The criminal background check, however, would not include any of the annotations that the individual may have. Not all Personal Care Attendants (PCAs) are hired by the family or client. There are PCAs who are employed by a home health agency.

4. **Residential Care Overview**, - Presenter, Bob Steinberg, Assistant Director, Residential Care Unit

Mr. Steinberg explained what was contributing to the growth of Residential Care:

- Changes in Medicaid eligibility
- The closing of Pineland
- Changes in services

Handouts were distributed to Task Force members defining Residential Care Facilities, congregate services and the number of providers and beds. There are approximately 7,000 people served by Residential Care Programs. There are approximately 3,000 unlicensed personnel working in Residential Care Facilities.

Lisa Harvey-McPherson suggested that we also look at homemakers to be included in the unlicensed personnel. Discussion was held regarding the movements of CNAs and unlicensed personnel between different health care facilities. Mr. Steinberg stated that there are a number of CNA complaints in the Boarding Home and Residential Care Program.

It was suggested that since the CNAs and unlicensed personnel frequently move from one health care setting to another. There should be a coordinated tracking system.

What would be the impact of having a PCA Registry and an SBI check done on the Residential Care Facilities? Mr. Steinberg felt that this would have a positive impact on facilities and Ms. Mooar-McBean was in agreement.

Ms. Harvey-McPherson asked if a fee was associated with an unlicensed Registry, would it help with the cross-over from CNAs to PCAs? The Task Force members felt that this would be the case.

The Task Force members felt that the consumers should be informed of the PCA or home care workers with regards to the criminal background and if they chose to hire them, then it was the consumer's choice and an informed decision.

Next Meeting

October 20, 1997

Agenda

State Bureau of Investigation

Certified Nursing Assistants

Residential Care Facilities

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
October 20, 1997**

Attendance: Representative Christopher Muse
Brenda Gallant, Representative for the Long Term Care Ombudsman
Darlene Mooar-McBean, Representative for the Consumers
Susan Wygal, Representative for the Dept. of Mental Health and Mental Retardation
Betty Forsythe, Representative for the Bureau of Elder & Adult Services
Dorothy Morang, Representative for the Dept. of Public Safety
Kim Wallace, Representative for Alpha One
Leo Delicata, Representative for Legal Services for the Elderly
Sandra Bethanis, Representative for the Div. of Licensing & Certification
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nurse Education Consultant, CNA Registry

1. Members of the Task Force introduced themselves and the areas they represented.
2. Sandy Bethanis reviewed what had been accomplished in the last two (2) meetings and the objectives of the meetings.
3. Presentation on the State Bureau of Investigation

Dorothy Morang gave a presentation on the State Bureau of Investigation. Ms. Morang explained how the information, with regards to crimes, is abstracted and placed on an individual's record. The State Bureau of Investigation prepares a "rap sheet" which is a chronological listing of crimes. The system is primarily manual, and over 150,000 requests are processed each year. Currently, the manual system is alphabetized and because the individuals may have more than one name, this can be difficult and provide incomplete information. Once an inquiry is received they are run through the name system which is automated and the alphabet system which is not automated for cross reference purposes. For the most part, the inquiries are processed in one (1) day, except for those with criminal records which may take three (3) months. The State Bureau of Investigation has three (3) projects which will lead to automation of a central data base. They include the following:

- Make a clean index system-name, date of birth. A Federal grant has made this possible and it should be complete in two (2) years.
- Fingerprints-The system will allow electronic transfer of fingerprints.
- The criminal record itself-An RFP is in the process for the automation of a criminal record and allow for nationwide information.

Because of the three (3) projects which will automate the system, at this time it is difficult to take on additional work, but as the automation system is complete in approximately two (2) years, this will not be a problem.

The cost for an inquiry is presently seven dollars (\$7.00). The State Bureau of Investigation captures data on name and dates of birth. The CNA Registry is name and Social Security Number. Ms. Morang explained what information is available for the public and what is available to the criminal. Ms. Morang stated that at this time, unless there is additional staff, the State Bureau of Investigation could not handle new requests.

Currently, there are over 1,200 individuals being employed as Personal Care Attendants in service within the scope of Alpha One according to Kim Wallace. Mr. Wallace explained the function of Personal Care Attendants in the consumer driven model. There are Personal Care Attendants in other agencies and it will be necessary to obtain the approximate number. Betty Forsythe will bring the approximate number of Personal Care Attendants in agencies.

A national criminal check is fingerprint driven and requires specific language within the legislation to permit this check. Ms. Morang was asked how much funding would it take to completely computerize and have records accessible within a year. Ms. Morang responded that it would take twice as many people. Currently they have eight (8) people working on a two year (2) year project. Therefore, it would take sixteen (16) people, but it was not clear at this time what the total cost would be. Ms. Morang was asked to prepare a budget for the automation to be complete in one (1) year. There currently are five (5) states, including Maine, which do not have automated systems.

The question was asked who do we want to have criminal checks? Is it required for some and voluntary for others? The Task Force discussed at length whether both convictions and disposition information should be available.

Currently there are eleven (11) staff members in the State Bureau of Investigation and eight (8) people on the Federal grant working on the automation project.

Leo Delicata requested that Sally Flesher research and prepare the cost of allowing the consumer information regarding CNAs.

Next Meeting

Date: October 27, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

Presentations to be given by:

Betty Forsythe

Leo Delicata

Lisa Harvey-McPherson

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
October 27, 1997**

Attendance: Brenda Gallant, Representative for the Long Term Care Ombudsman
Darlene Mooar-McBean, Representative for the Consumers
Betty Forsythe, Representative for the Bureau of Elder & Adult Services
Dorothy Morang, Representative for the Dept. of Public Safety
Kim Wallace, Representative for Alpha One
Leo Delicata, Representative for Legal Services for the Elderly
Theresa Turgeon, Representative for the Dept. of Mental Health & Mental Retardation
Lisa Harvey-McPherson, Representative for Home Care Alliance
Sandra Bethanis, Representative for the Div. of Licensing & Certification
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nurse Education Consultant, CNA Registry
Bob Steinberg, Representative for the Div. of Residential Care

Guest: Ralph Barnes, Representative for the Christian Science Committee on Publication for Maine

1. Members of the Task Force introduced themselves and the areas they represented.
2. Ralph Barnes, of the Christian Science Committee on Publication for Maine, explained his concerns regarding the Christian Science nurses going into Christian Science home. Mr. Barnes further explained that these nurses are not registered nurses or licensed personnel. His primary concern was not to interfere with what his nurses could do, but he stated that he did not believe that a Registry would be a problem. Mr. Barnes will submit his concerns in writing.

3. **Presentations**

◆ States Regulating Unlicensed Personnel by Leo Delicata

Mr. Delicata distributed a handout on Unlicensed Assistive Personnel Legislation to all members of the Task Force. Mr. Delicata stated that most states who have legislation regarding Personal Care Attendants have these individuals on a Registry or they are certified if they came from an agency or they are under the direction of a registered nurse. There currently are no other states that have unlicensed personnel on a Registry without having them under the supervision of a registered nurse.

◆ Groups Included as Unlicensed Personnel by Lisa Harvey-McPherson

Ms. Harvey-McPherson reviewed the highlights of a report prepared by a Board of Nursing Task Force on unlicensed personnel. She also distributed a handout from the National Home Care Association on Criminal Background Checks for Home Care Workers. Ms. Harvey-McPherson reviewed these materials with members of the Task Force. States that had poor experience with Personal Care Attendants have put more stringent conditions on the Criminal Background Check than states that have not had experiences with Personal Care Attendants.

Ms. Harvey-McPherson stated that in some states, any training that the Personal Care Attendants received to become trained, prior to employment, was contingent on a Criminal Background Check. She further added that in the New Jersey model, a Criminal Background Check is done at the time of application for employment.

Kim Wallace stated that clients who hire Personal Care Attendants are informed about making informed choices prior to hiring. A lengthy discussion was held by Task Force members regarding clients making informed choices, a legal requirement for Criminal Background Check, and the CNA Registry process for Criminal Background checks.

4. **Future Direction of the Task Force**

◆ What other information do we need to make our recommendation?

Kim Wallace stated that there should be a choice with the consumer as to what to do with the information available and a choice whether or not an individual wishes to participate on a Registry. In the Consumer Driven Model, the consumer directs their care and it is not at the same level as a medical model of care and that is why there should be an option whether a Personal Care Attendant is on a Registry.

Leo Delicata addressed the requirements for registry and registration for other higher levels of care providers, (i.e., nurses, CNAs), and why not have some continuity between the highly regulated areas where backgrounds are checked, and in the home setting they are not.

Lisa Harvey-McPherson felt that there is a public trust that there would be a process in place for a Criminal Background Check and there would be a set of crimes which would not be acceptable for employment as a Personal Care Attendant. There could be a waiver process if the client, once informed, still wants to hire that particular Personal Care Attendant.

Mr. Delicata explained that Public Policy decisions are made to protect the general public. As the risk of harm accelerates, then regulation is to follow.

Betty Forsythe requested that the training manual for the Consumer Driven Model be available for the Task Force members to review.

Darlene Mooar-McBean asked if there was any way to track complaints or allegations where there is a Med-Waiver Program. Ms. Forsythe responded that in the aggregate this information is available, but not on an individual basis.

◆ Should it be part of Public Policy to mandate the requirements prior to a person going into the home to give care?

◆ What type of consumer education should be provided?

These are questions that the Task Force will continue to address.

Next Meeting

Date: November 3, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

- ☒ Summary of the Issues
- ☒ Development of Position Statements Regarding the Issues Identified

**IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT
(207) 624-5443. THANK YOU.**

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
November 3, 1997**

Attendance: Representative Christopher Muse
Darlene Moobar-McBean, Representative for the Consumers
Kim Wallace, Representative for Alpha One
Leo Delicata, Representative for Legal Services for the Elderly
Theresa Turgeon, Representative for the Dept. of Mental Health & Mental Retardation
Lisa Harvey-McPherson, Representative for Home Care Alliance
Sandra Bethanis, Representative for the Div. of Licensing & Certification
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nurse Education Consultant, CNA Registry

Guest: Ralph Barnes, Representative for the Christian Science Committee on Publication for Maine

1. Members of the Task Force introduced themselves and the areas they represented.

2. **Presentations**

◆ Alpha One Consumer Training on Employing PCAs by Kim Wallace

Alpha One is a Home Based Care Program for severely disabled adults, implemented in 1981 to allow consumers to employ their own Personal Care Attendants.

Alpha One provides many hours of skilled training to the consumer on how to manage their Personal Care Attendants, which includes hiring, training, managing and firing, if necessary. This training empowers the consumer to take advantage of not being "cared for", but allows the consumer to be self-determined in their own care.

A readily available State Bureau of Identification check on Personal Care Attendants would probably be utilized by the consumer, but having to wait for a check would be costly to the consumer in that it would slow down the process of hiring a Personal Care Attendant and not meet the immediate needs of the consumer. Some consumers would see this background check as an intrusion in their hiring process and support less regulation in determining whom they employ.

Lisa Harvey-McPherson stated that this Task Force opens a window of opportunity to provide to the consumer background checking on unlicensed personnel, and since information in empowerment, this should not be viewed as intrusive to the consumer.

3. Task Force members discussed at length the issue of a Personal Care Attendant Registry and/or a fee for a criminal check. The discussion focused around the following points:

- The system implemented needs to be as simple and user friendly as possible.
- Education of consumers regarding background checks.
- Should agencies employing Personal Care Attendants be required to pay the fee for a background check, while consumers employing Personal Care Attendants could obtain this service for free or for a nominal fee?

- Are we looking to regulate the Registry from sources that have only public (Federal or State) funding going into them, or do we want to be more global, and say that anyone caring for someone in the home must be on the Registry regardless of funding sources?
- The majority of the Task Force members felt that people employed by an agency be on some sort of Registry.
- Is the rationale for a Registry for Personal Care Attendants only to do criminal background checks?

Next Meeting

Date: November 10, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

☒ Letter from Ralph Barnes (enclosed)

☒ Draft of Recommendations

IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT (207) 624-5443. THANK YOU.

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
November 10, 1997**

Attendance: Darlene Mooar-McBean, Representative for the Consumers
Jane Hovorka, Representative for Alpha One
Leo Delicata, Representative for Legal Services for the Elderly
Theresa Turgeon, Representative for the Dept. of Mental Health & Mental Retardation
Lisa Harvey-McPherson, Representative for Home Care Alliance
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nurse Education Consultant, CNA Registry
Robert Steinberg, Assistant Director, Residential Care Unit

Guest: Ralph Barnes, Representative for the Christian Science Committee on Publication for Maine

1. Mr. Barnes explained the role of the Christian Science nurse and reviewed the Maine Revised Statutes, Title 32, §2103, Subsection 6. Mr. Barnes requests that unless the consumer requested a criminal background check on a Christian Science nurse, it would not be done. Mr. Barnes stated that there are no State or Federal funds used in this program.

Leo Delicata asked Mr. Barnes to describe the types of tasks a Christian Science nurse may perform for a patient. Mr. Barnes explained that a Christian Science nurse receives at least two (2) years of training prior to going into homes, and is able to assist with the activities of daily living, bathing, feeding, offers spiritual support and does not administer medications. The church does not supervise the nurses.

Mr. Delicata raised the issue of potential impact with other religions who may also request to be excluded from a registry or criminal background check. Mr. Barnes stated that the Christian Science program is spiritual based rather than being based on a medical model. Mr. Barnes went on to say that when an individual has received the required training and is approved by the church as a Christian Science nurse, they are listed in the monthly newsletter.

Lisa Harvey-McPherson suggested that if a religion could demonstrate adequate training, a screening process and a mechanism for corrective action, they could be waived.

Mr. Delicata requested that Mr. Barnes provide the Task Force with a description of the Christian Science nurse's scope of practice.

2. **Issues for Resolution**

◆ **Functions of an Unlicensed Personnel Registry**

Sally Flesher explained what information is currently collected by the Certified Nursing Assistant Registry.

Ms. Harvey-McPherson stated that a registry could provide the consumers with the ability to check on the unlicensed personnel. A lengthy discussion ensued regarding a registry.

The Task Force, by majority vote, agreed that anyone who employs unlicensed assistant personnel for a commercial entity (anyone who profits from the services) be placed on a registry in accordance with H.P. 769-L.D. 1046, Sec. 1.

Darlene Mooar-McBean discussed concerns regarding Certified Nursing Assistants who have had a substantiated complaint in a nursing home, but have worked well in other environments.

The Task Force discussed how often should a SBI check be valid and how often does the registry need to be checked. The availability of information may impede this process. The SBI needs to be up to date.

Registry needs were explored. Ms. Flesher was requested to provide the Task Force with the cost, needed positions and equipment to provide complete access of information between the SBI and the Registry. The request was also made to include the cost of having this available to the public through telecommunications. The cost of doing this in one (1) year, or in completing the project in two (2) years.

The Task Force requested that Dorothy Morang provide them with the cost, needed positions and equipment to provide complete access of information between the SBI and the Registry. The cost of doing this should be based on a one (1) year plan and a two (2) year plan.

The Task Force members requested a memo be sent to both Sally Flesher and Dorothy Morang requesting this information (see attached). The reports are to be presented to the Task Force at their November 24, 1997 meeting.

Next Meeting

Date: November 17, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

- ☒ Continue to Develop Recommendations

IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT (207) 624-5443. THANK YOU.



STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
BUREAU OF MEDICAL SERVICES

ANGUS S. KING, JR.
GOVERNOR

KEVIN W. CONCANNON
COMMISSIONER

November 12, 1997

TO: Major Jeffrey Harmon, Department of Public Safety

FROM: *Mary E. Duffort for*
Sandra Bethanis, R.N., Chair, Task Force on the Registration of In-Home Personal Care & Support Workers

SUBJECT: The Task Force on the Registration of In-Home Personal Care & Support Workers

On September 29, 1997, a Legislative Task Force was convened to study the registration of personal care and support workers who work in home, assisted living centers, residential care facilities and supported living arrangements. Identified as one of the duties of the Task Force was "to examine registration, recording and reporting systems for personal background information and criminal record checks of personal care and support workers working in home, assisted living centers, residential care facilities and supported living facilities".

At the Task Force's meeting on November 10, 1997, members requested that the State Bureau of Information's representative provide them with the projected costs, position requirements and equipment needs in order to provide complete access of criminal background information between the State Bureau of Information and the Certified Nursing Assistant Registry and/or the Registry for Unlicensed Assistive Personnel.

The Task Force has requested that this information be provided based on a one (1) year implementation plan and a two (2) year implementation plan. It would be appreciated if this information could be received for presentation at their November 24, 1997 Task Force meeting.

The meeting is scheduled for 10:00 a.m. at 35 Anthony Avenue, Augusta, Maine.
Thank you.

CC: Dorothy Morang, Department of Public Safety
Task Force Members



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ADDRESS REPLY TO: DIVISION OF LICENSING & CERTIFICATION
35 ANTHONY AVENUE, 11 STATE HOUSE STATION, AUGUSTA, MAINE 04333

ICE: (207) 624-5443

TTY: (207) 624-5512



FAX: (207) 624-5378

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
November 17, 1997**

Attendance: Darlene Mooar-McBean, Representative for the Consumers
Theresa Turgeon, Representative for the Dept. of Mental Health & Mental Retardation
Lisa Harvey-McPherson, Representative for Home Care Alliance
Kim Wallace, Representative for Alpha One
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nurse Education Consultant, CNA Registry
Robert Steinberg, Assistant Director, Residential Care Unit
Betty Forsythe, Representative for the Bureau of Elder & Adult Services,
Brenda Gallant, Representative for the Long Term Care Ombudsman
Dorothy Morang, Representative for the Dept. of Public Safety

1. **Issues for Resolution**

- Who should be on the Registry?

Lisa Harvey-McPherson suggested that the Task Force consider that if State and Federal dollars are involved, should these individuals be placed on the Registry?

The Task Force discussed at length whether agencies or programs who receive State or Federal dollars should be required to place the Unlicensed Assistive Personnel on a registry. Discussion included the information that the State Bureau of Information and the Registry currently have available.

Currently, the most stringent State laws that we have for Certified Nursing Assistants do not allow them to work in a health care setting if they have been convicted of abuse, neglect or misappropriations inside a health care setting.

Kim Wallace felt that this eliminated the consumer choice model as individuals would have a limited choice. Mr. Wallace wants the consumers of the Alpha One Program to have the option whether to access a registry or not.

Betty Forsythe briefly discussed the various new waiver programs being designed and said that it would be difficult to support a registry for these programs.

Brenda Gallant asked why we couldn't allow individuals to make a decision whether they want to access the information a registry.

2. **How should questions be presented on the Registry and should it include everyone?**

This will be the topic for the next meeting.

Next Meeting

Date: November 24, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

- ☒ **Presentation of Projected Cost of Unlicensed Assistive Personnel Registry**
- ☒ **Presentation on Projected Cost of SBI Check**

IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT (207) 624-5443. THANK YOU.

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
November 24, 1997**

Attendance: Theresa Turgeon, Representative for the Dept. of Mental Health & Mental Retardation
Lisa Harvey-McPherson, Representative for Home Care Alliance
Kim Wallace, Representative for Alpha One
Mary Dufort, Health Services Supervisor, Div. of Licensing & Certification
Robert Steinberg, Assistant Director, Residential Care Unit
Betty Forsythe, Representative for the Bureau of Elder & Adult Services,
Brenda Gallant, Representative for the Long Term Care Ombudsman
Dorothy Morang, Representative for the Dept. of Public Safety
Leo Delicata, Representative for Legal Services for the Elderly
Sandra Bethanis, R.N., Representative for the Div. of Licensing & Certification

Guests: Ralph Barnes, Christian Science Committee on Publication for Maine
Major Jeff Harmon, Maine State Police
Nancy Troop, Management Analyst I, Div. of Licensing & Certification

1. SBI Presentation by Major Jeff Harmon

Major Jeff Harmon of the Maine State Police presented the Criminal History Record Improvement Project. This project includes the Criminal Case History and Master Name Index.

Major Harmon reviewed and explained the projected budget which is for the automation of the Criminal Case History and Master Name Index. The proposed budget does not include the cost of personnel and equipment needed for the court records. Major Harmon stated that he would recommend that the automation process take longer than two (2) years because of the program development and implementation that is required.

The current system would need additional personnel to provide criminal background checks on unlicensed assistive personnel. The plan for automation for the Master Name Index is June, 1999.

Recommendation to the Task Force:

- That there be a fingerprint base system to include Maine & the FBI, that it be maintained on file and be cross-referenced for disqualifying activity;
- That four (4) additional personnel would be required to take on the additional requests for SBI checks;
- That as automation is achieved, this would be part of the automation.

2. Presentation on Background Checks through the Registry by Nancy Troop

Nancy Troop, Management Analyst for the Division of Licensing & Certification, presented what the current Registry would require to implement the SBI checks with implementation occurring in a projected one (1) year and two (2) year time frame.

The proposed budget is based on no fees being charged to the individual participant. The personnel required and the equipment cost for both the current Registry and the SBI is approximately \$500,000.00 over a two (2) year period.

The fingerprinting would include the Certified Nursing Assistants.

3. Ralph Barnes was present to answer any questions on the material he presented for the Task Force to review on the scope of practice and education preparation for the Christian Science Nurse. There were no further questions of Mr. Barnes and the Task Force thanked him for the information he provided.

Next Meeting

Date: December 1, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda



Define who is included in the Unlicensed Assistive Personnel Registry



Formulate Recommendations

IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT (207) 624-5443. THANK YOU.

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
December 1, 1997**

Attendance: Lisa Harvey-McPherson, Representative for Home Care Alliance
Kim Wallace, Representative for Alpha One
Robert Steinberg, Assistant Director, Residential Care Unit
Betty Forsythe, Representative for the Bureau of Elder & Adult Services,
Leo Delicata, Representative for Legal Services for the Elderly
Sandra Bethanis, R.N., Representative for the Div. of Licensing & Certification
Sally Flesher, R.N., M.S.N., Nursing Education Consultant, Representative for the
Maine Certified Nursing Assistant Registry

1. Lisa Harvey-McPherson introduced a draft definition of Unlicensed Assistive Personnel and a copy of Chapter 6, *Regulations Relating to Coordination and Oversight of Patient Care Services by Unlicensed Health Care Assistive Personnel*. Much discussion ensued regarding what should be included in the definition along the lines of what services the Unlicensed Assistive Personnel did provide.
2. Kim Wallace also provided a copy of a Personal Care Assistant Registry exemption for those Personal Care Assistants who were employed in a Consumer Directed Personal Attendant Services model.
3. Leo Delicata suggested that before we could move forward to the issue of who would be required to be on the Personal Care Assistant Registry, a definition of Unlicensed Assistive Personnel would be needed.
4. A suggestion of mandating Personal Care Assistant agencies to do SBI checks was discussed.
5. The issue of who would be required to be on the Personal Care Assistant Registry and who would absorb the cost of the Personal Care Assistant Registry was also discussed at great length. At the close of the meeting, the question of continuing to pursue the creation of a Personal Care Assistant Registry was the thought and question that the Task Force adjourned with.

Next Meeting

Date: December 8, 1997
Time: 10:00 a.m. to 12:00 p.m.
Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

- ☒ **Writing of Draft Recommendations to the Legislative Committee**

**IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT
(207) 624-5443. THANK YOU.**

**TASK FORCE ON THE REGISTRATION OF
IN-HOME PERSONAL CARE AND SUPPORT WORKERS MEETING
December 8, 1997**

Attendance: Lisa Harvey-McPherson, Representative for Home Care Alliance
Kim Wallace, Representative for Alpha One
Robert Steinberg, Assistant Director, Residential Care Unit
Betty Forsythe, Representative for the Bureau of Elder & Adult Services,
Leo Delicata, Representative for Legal Services for the Elderly
Brenda Gallant, Representative for the LTC Ombudsman Program
Darlene Mooar-McBean, Representative for the Consumers
Sandra Bethanis, R.N., Representative for the Div. of Licensing & Certification
Sally Flesher, R.N., M.S., Nursing Education Consultant, Representative for the
Maine Certified Nursing Assistant Registry

1. Review of Recommendations

Task Force members reviewed the recommendations, and after a lengthy discussion the following was decided:

- All licensed business entities hiring Unlicensed Assistive Personnel perform a criminal background check and develop and implement policies specific to hiring and maintaining Unlicensed Assistive Personnel with criminal backgrounds.
- That the above language be added to all regulations of licensed business entities hiring Unlicensed Assistive Personnel.
- That unlicensed business entities hiring Unlicensed Assistive Personnel be required to register and to conduct a criminal background check on Unlicensed Assistive Personnel.

Attached is the new draft recommendations for presentation on Monday, December 15, 1997.

Next Meeting

Date: December 15, 1997

Time: 10:00 a.m. to 12:00 p.m.

Place: 35 Anthony Ave., 2nd Floor Conference Room

Agenda

- ☒ **Re-Writing of Draft Recommendations to the Legislative Committee**

**IF YOU ARE UNABLE TO ATTEND, PLEASE CONTACT SANDRA BETHANIS AT
(207) 624-5443. THANK YOU.**

RECOMMENDATIONS

The Task Force Recommends:

- I. **Criminal Background Laws for Personal Care Agencies.**
 - A. That, in order to ensure an important component of consumer safety, a law be passed as of January 1, 1999, that all licensed business entities hiring Unlicensed Assistive Personnel perform a criminal background check and develop and implement policies specific to hiring Unlicensed Assistive Personnel with criminal records. The law must include all unlicensed business entities employing Unlicensed Assistive Personnel be required to conduct criminal background checks of Unlicensed Assistive Personnel and implement policies specific to hiring Unlicensed Assistive Personnel with criminal records.

Definitions.

Unlicensed Assistive Personnel are employed to provide assistance with activities of daily living to individuals residing in their homes or community based, home-like facilities, hospitals and residential care facilities.

Personal Care Agencies are entities which hire employees to provide assistance with activities of daily living to individuals residing in their homes or community based, home-like facilities, hospitals and residential care facilities.

Activities of Daily Living means tasks routinely performed by a person to maintain bodily function, including bed mobility, transfers, dressing, eating, toileting, bathing and personal hygiene.

Fees.

\$25.00 registration fee for Unlicensed Personal Care Agencies who do not possess any license.

Penalty.

Any person(s) who operate a Personal Care Agency without registering commits a civil violation for which a forfeiture of \$500.00 may be adjudged. Each day constitutes a separate violation.

- B. That, in order to ensure an important component of consumer safety, a criminal background check law be required on employees of Personal Care Agencies. The proposed law should include the following:
- Agencies should be permitted to hire Unlicensed Assistive Personnel workers on a temporary basis, pending results of a check. Personal Care Agencies must submit requests for criminal background checks, within fourteen (14) days of hiring, to the appropriate State Agency.
 - Agencies must inform applicants of intent to conduct a background check.
 - Background checks are to include contract workers and independent workers employed by the Personal Care Agency.
 - The proposed law should specify, if a CNA is convicted of abuse, neglect or misappropriation of property in a health care setting, he/she shall be prohibited from working for a Personal Care Agency on a permanent basis.
 - Notification of the results of a positive criminal record history should be made to the applicant for the protection of both parties.

II. Establish a Registry for all Unlicensed Assistive Personnel.

- A. That the State of Maine establish a registry for positive findings of criminal histories for all Unlicensed Assistive Personnel by the year 2000, including substantiated complaints of abuse, neglect or misappropriation of funds by the Department of Human Services.
- A system for criminal background checks should be developed, which is reasonable in cost and will provide up-to-date information by the year 2000.
 - Criminal background checks should be at national level, at a minimum state-wide. Fingerprint analysis provides the most promising approach.
 - There should be a central point where consumers, providers and other interested parties can access criminal histories at a one-stop information center. The existing Maine Registry of Certified Nursing Assistants' functions could be expanded to handle the additional requirements for the Unlicensed Assistive Personnel's program.

- The proposed legislation for a Registry of Unlicensed Assistive Personnel cannot be implemented until the State Bureau of Information has an on-line computerized capability.
- The fiscal note for upgrading the State Bureau of Information on-line computerized capabilities and additional technological and staffing requirements for Maine Registry of Certified Nursing Assistants must be approved. (See Page 4).
- The Department of Human Services would be required to promulgate new rules and regulations to administer a proposed registry for Unlicensed Assistive Personnel.
- It must be made clear at this time that no State Agency, other than law enforcement agencies, is investigating Personal Care Attendant for possible criminal felonies.
- Currently, Certified Nursing Assistant complaints are the only ones investigated by the Division of Licensing and Certification for this "at risk population" for abuse, neglect or misappropriation of property.

Registration of In-Home Personal Care & Support Workers
Position Requirements, Projected Costs & Equipment for Background Information

				IMPLEMENTATION					
Position Requirements: (Salary & Fringe Benefits)				One Year Plan		Two Year Plan			
					Year 1	Year 2			
1 Data Entry Specialist				\$33,145	\$16,573	\$34,471			
1 Clerk Typist II				\$32,609	\$16,305	\$33,913			
1 Clerk Typist III				\$35,423	\$17,712	\$36,840			
Position Costs				\$101,177	\$50,590	\$105,224			
Voice Response System				\$10,000	\$10,000				
Computer Consultant				\$35,000	\$35,000				
Office Equipment				\$4,820	\$4,820				
Operational Costs:				\$25,000	\$12,500	\$26,000			
TOTAL BY YEAR				\$175,997	\$112,910	\$131,224			
TOTAL BY IMPLEMENTATION				\$175,997	\$244,134				
PLUS ADDITIONAL COSTS TO THE STATE BUREAU OF INFORMATION									
Estimate is for twenty-four (24) months (Fingerprints)									
Validation		Imaging			Space				
Personnel	\$300,000		Equipment	\$75,000	Moving	\$5,000			
Equipment	\$50,000		Conversio	\$100,000	Rent	\$50,000			
	\$350,000			\$175,000		\$55,000	\$580,000	TOTAL	