



Summer 2019

Mental Health Care In A Nursing Home?

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West Virginia's State Long-term Care Ombudsman



West Virginia's nursing home residents have a variety of health care related needs. Some people are there for short term care after a fall or surgery. Still others are there for longer term needs. Many of these needs are obvious to the untrained observer. None of that is news. However, nursing home residents have another entire group of needs that can be more difficult to identify --- mental health care needs. The report *Mental Health, United States, 2010*, a comprehensive resource for mental health statistics, published by the Substance Abuse and Mental Health Services Administration (SAMHSA), notes that 49.2% --- almost half --- of nursing home residents had some type of a mental health diagnosis. In the nearly ten years that have passed since that statistic was reported, the number is most certainly higher. At a minimum, *every other resident* you encounter in a nursing home has some type of mental health need. This article provides a very brief overview of the expectations placed on nursing homes caring for these residents.

Since 1987, every person seeking care in a certified nursing home must be screened for a primary diagnosis of a mental health disorder or an intellectual developmental disability (IDD). If this initial screen is positive, then the person must also be screened to determine whether she needs specialized services to treat the mental health disorder or IDD. In West Virginia, these screens are part of our Pre-Admission Screen (PAS-2000), levels I and II respectively. If the Level II screen determines that specialized services are required, the individual cannot be admitted to a nursing home, but instead will receive special-

ized services for a mental health disorder in an acute psychiatric facility or specialized services for an IDD in an intermediate care facility. If no specialized services are needed, and she is otherwise eligible, she can be admitted to a nursing home. While some individuals are identified as needing specialized services, a great many more are not. That means there are many people with one or more mental health disorders who live in West Virginia nursing homes.

In 2016, the federal government took note of this fact and heightened the requirements for behavioral health services in every nursing home that participates in the Medicare or Medicaid programs.

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Under the revised conditions of participation, nursing homes are required to provide necessary behavioral health care and services to their residents with mental and psychosocial needs, including non-pharmacological interventions; in accordance with their comprehensive assessments and plans of care. Specifically, *“each resident must receive and the facility must provide the necessary behavioral health care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being, in accordance with the comprehensive assessment and plan of care. Behavioral health encompasses a resident’s whole emotional and mental well-being, which includes, but is not limited to, the prevention and treatment of mental and substance use disorders.”* The nursing home must also have enough competent staff with knowledge of *“caring for residents with mental and psychosocial disorders, as*

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well as residents with a history of trauma and/or post-traumatic stress disorder and . . . implementing nonpharmacological interventions.” 42 CFR 483.40 CMS expects that all facility staff members, including non-nurse aide staff, assisting residents living with behavioral health needs, will be competent in all care areas. Starting November 28, 2019, *“behavioral health, formalized training programs must be completed and documented for all staff that support and provide care for residents that have behavioral health needs.”* CMS’ Guidance to Surveyors. State Operations Manual Appendix PP. *“The facility must [also] ensure that residents who are trauma survivors receive culturally competent, trauma-informed care in accordance with professional standards of practice and accounting for residents’ experiences and preferences in order to eliminate or mitigate triggers that may cause re-traumatization of the resident.”* 42 CFR 483.25(m). Nursing homes that do not comply with these requirements risk citations, fines and other enforcement actions.

The federal nursing home regulations set admittedly high expectations for nursing homes caring for residents with mental health disorders to assure that

these residents attain or maintain the highest practicable physical, mental, and psychosocial well-being. In order to fulfill these requirements, nursing homes must look beyond physical medicine resources and reach out to community mental health providers and other mental health experts to assure that their staff achieve the competencies contemplated by the federal regulations. Additionally, the nursing home must be careful not to overlook one of the best sources of information --- the resident herself. Indeed, the regulations require the nursing home to employ person-centered planning in both its assessment of all resident needs and the development and implementation of the care plan to meet those needs. Direct communication with the resident can provide invaluable information. Additionally, the resident may suggest other individuals or sources with additional information.

One such additional source may be a mental health or psychiatric advance directive (MHAD). An

MHAD is an advance directive that specifically addresses mental health care. It allows an individual with a mental health disorder to specify preferences about treatment, medications, and often provides the option to name a person to make decisions about mental health care when the individual is unable to make them for herself. Although West Virginia does not currently have a statutory form for MHADs, the current Health Care Decisions Act permits their use. See W. Va. Code 16-30-4(h). MHADs can provide nursing homes with detailed information to allow them to effectively meet the resident’s needs in the way that she prefers. Recently, a task force facilitated by the West Virginia Network of Ethics Committees (WVNEC) and funded by the Albert Schenk III & Kathleen H. Schenk Charitable Trust Foundation of Wheeling, WV, developed a draft statutory MHAD form with the goal of approaching the legislature to amend the West Virginia Health Care Decisions Act in 2020 to specifically address MHADs and provide a statutory form. To learn more about the current use of MHADs in West Virginia nursing homes, contact the State Long-term Care Ombudsman (1-304-816-3151). For more information about the draft MHAD or how to help with the legislative effort, contact the WVNEC office at 304-293-7618.

The 32nd Annual WVNEC Spring Symposium: Your Feedback and Ideas for the Future

Valerie B. Satkoske, MSW, PhD

Executive Director, West Virginia Network of Ethics Committees



The focus of the May 2019 WVNEC Symposium was ethical issues in the treatment of patients with mental health disorders. The topic was one that WVNEC membership has requested over the past few years, and which provided an opportunity to explore the potential benefits of Mental Health Advance Directives. As Suzanne Messenger mentioned in her article, and Dr. Alvin Moss detailed in the last edition of the newsletter, a multidisciplinary taskforce of West Virginia health providers and advocates, have been working for the past year to; revise West Virginia's Mental Health Advance Directive, have those changes reflected in the law, and to map out a plan to educate providers and patients alike on Mental Health Advance Directives. We were very fortunate to have Pulitzer Prize winner Pam Belluck, of the New York Times, as our keynote speaker. Ms. Belluck wrote an article detailing interviews she did with multiple persons with mental illness and explored how Mental Health Advance Directives provide an opportunity for people experiencing a mental health crisis to direct their mental healthcare and to receive treatment which is consistent with their values, goals, and preference. Belluck also played compelling audio clips from her interviews that allowed symposium participants to hear first person narratives of what it is like to live with mental illness and to navigate the mental health system. A link to Belluck's original New York Times piece can be found at the end of this article, as can excerpts from the WV Mental Health Advance Directive draft.

The symposium was highly rated with an overall score of 4.77 out of a possible 5 points. The speaker evaluations were excellent and, without exception, participants reported receiving information they did not previously have on the topics presented and/or an increased confidence in knowledge they previously

had but was explored in more depth at the symposium. Additionally, participants provided suggestions for future symposiums that included topics such as: more mental health related topics, how to develop empathy, compassion fatigue, support and services for the families and caregivers of people with mental health diagnoses, Adult Protective Services ethical issues, and a follow up workshop exploring how to best guide clients during the process of completing a Mental Health Advance Directive.

Thank you to all who participated in the symposium and for the invaluable feedback you provided. Please feel free to contact us with additional suggestions, questions, and/or concerns.

Link to Belluck's New York Times piece: <https://www.nytimes.com/2018/12/03/health/psychiatric-advanced-directives.html> and draft language of the mental health advance directive below.

**STATE OF WEST VIRGINIA
MENTAL HEALTH ADVANCE DIRECTIVE**

The Types of Treatment I Do and Do Not Want and The Person I Want to Make
Mental Health Treatment Decisions for Me When I Can't Make Them for Myself

Dated: _____, 20__

I am giving the following DIRECTIVES (instructions) about treatment that I do and do not want (NOTE: the below are suggestions of things about which you might want to give directives; you may give directives about other types of treatment in addition to or instead of those below):

- **the medications I consent to (types and dosage),**
- **the medications to which I do not give consent (allergies or side effects),**
- **instructions about short-term inpatient treatment,**
- **a physician or mental health therapist whom I would like to treat me,**
- **a facility where I would like to receive treatment,**
- **instructions about transport to a provider or facility,**
- **instructions about electroconvulsive treatment (ECT) shock therapy,**
- **persons to be notified of my mental health treatment,**
- **persons to be allowed to visit me, and**
- **instructions about alternative outpatient treatments I would like.**

My failure to provide directives does not mean that I want or refuse certain treatments.

WVNEC Election for Four At-Large Representatives to the Advisory Committee Is Underway!

The WVNEC Advisory Committee directs the operations of WVNEC. There are four members representing hospitals, nursing homes, home health care agencies, and hospice respectively who are elected in even years and four at-large members who are elected in odd years. The election this year will be for four at-large representatives. Individuals who work in any of these health care environments who are members (or their institutions are members) of the WVNEC or individual members may run for election to the Advisory Committee. Each nominee submits a 250-word statement describing their present position, reason for their interest in ethics, past level of activity in the Network, and their vision for WVNEC. There are five individuals running this year and their profiles are listed below as they appear on the ballot. The order of the candidates was chosen by a lottery to avoid giving an unfair advantage to any one candidate. The deadline for ballot submission is September 1, 2019. New members to the advisory committee will take office on October 1 and announced in the Fall Edition of the WVNEC Newsletter.

Stefanie Compton, RN, NHA Princeton Health Care Center

I present myself, Stefanie Compton, Chief Executive Officer and Administrator of Princeton Health Care Center, for nomination to the West Virginia Network of Ethics Advisory Committee.

As Administrator of a 120-bed skilled nursing facility, I am responsible for the care and maintenance of all our residents both physically and emotionally. Having served in long-term care for over 20 years as a Registered Nurse and as a Licensed Nursing Home Administrator, I have seen the affects and need for guidance in assisting residents, patients, providers and families in making tough ethical decisions.

While only becoming involved with WVNEC through Princeton Health Care Center, I have seen the positive effects and guidance that WVNEC has had upon the staff, and hope to continue to enhance and grow the mission of WVNEC. I feel that my experience related to providing direct nursing care, Quality Improvement Processes, Corporate Compliance and Risk Management would be beneficial to the committee and its members.

In the challenging and ever-changing health care industry, I understand and value resources such as the West Virginia Network of Ethics Committee. My hope is that I will be considered as a committee member.

Danny Franke, PhD Mountain Hospice

I am a Professor of Philosophy and Religion at Alderson Broaddus University. This position includes teaching medical ethics to students in the Nursing Program. In addition, I am working as a part-time Chaplain with Mountain Hospice in Belington. I am the Chair of the Medical Ethics Committees for Davis Medical Center and Mountain Hospice, as well as serving on the Board for Broaddus Hospital, Davis Medical Center and previously on the North Central West Virginia Red Cross Board.

Ethics has been of interest to me for a number of years. My Master of Theology degree from Princeton Seminary is in Christian Ethics and my Ph.D. from the University of Tennessee is in Philosophy with a concentration in Medical Ethics including Clinical Ethics. Medical ethics is exciting because it applies the theory of moral action and justice to the practical everyday world of health care.

My involvement in the Network includes attending the Annual Symposium, working with Dr. Satkoske as a small group facilitator at WVU and writing a column for the Newsletter.

The future for the WVNEC is bright and my vision would be to explore ways to expand the work of ethics committees and education to promote ethically

sound decision making for physical therapists, dietitians, pharmacists, and administrators as well as the traditional physician and nursing fields. My personal interests include end of life care, credentialing medical ethicists, population health, and third world health care.

Michael C. Cardi, JD

Mon Health Medical Center

As I approach retirement in a few years, I wish to put forth a nominee that I feel will benefit WVNEC. As we have been hearing over the past few years – and as we learned during the 30th Annual Symposium in May, there is a national movement toward professionalization, certification, and/or licensure for ethics consultants. It is with this in mind that I nominate Michael C. Cardi, JD.

Michael is a member of the Ethics Council at Mon Health Medical Center in Morgantown. He is a team player who values an interdisciplinary approach to consultation. He is a native West Virginian who received his BA in Philosophy from WVU in 2008, where he was exposed to his first Medical Ethics course and became a member of the Ethics Debate Team. He attended the WVU College of Law from 2009 to 2011. During that time period, he served as a Kellogg Legal Fellow with the NAACP in Baltimore. In 2013, he graduated from Wake Forest University in Winston-Salem, NC with his JD and an MA in Bioethics. His thesis: “Understanding Disagreement: The Need for Moral Psychology in Bioethics.”

Because of his academic background, interdisciplinary focus, and interest in bioethics, I believe that Michael is well-positioned to help lead WVNEC into this new era espoused by the American Society for Bioethics and Humanities. As a secondary consideration, Michael is also an attorney – another skill set that could possibly be of benefit to WVNEC.

Respectfully submitted for your consideration by Ed Horvat, MA, BCC

Kenneth C. Wright, MD

Charleston Area Medical Center

I have served on the Charleston Area Medical Center Medical Ethics Advisory Group since 1999 and have been chair since 2003. My interest in ethics started as an undergraduate philosophy major at Dartmouth College where I studied ethics under Bernard Gert. I participated in a medical ethics seminar taught by Ronald Green in the religion department as well. I have completed a medical ethics course at the University of Virginia. During my years serving on the CAMC MEAG I have participated most years at the yearly WVNEC conference and have lectured twice. I have written several articles for the WVNEC newsletter. I have served as a member of the WVNEC board for four years and am currently President. Membership in the WVNEC has been a valuable resource for our ethics group, one which I wish to continue to support. I want to help WVNEC provide quality education for West Virginia health care institutions and professionals, raise the quality of ethics consultation throughout the state, and promote state legislation which will advance ethical health care practices. In this time of financial challenges, a strong statewide healthcare ethics organization is more important than ever.

Maggie Phillips, RN, BSN, MHA, ACM-RN

Thomas Health

Greetings to the West Virginia Network of Ethics Committee (WVNEC),

To introduce myself, my name is Maggie Phillips, RN and I am the director of Care Management at Thomas Health and member at large for the West Virginia Chapter of American Case Management Association. At Thomas Health the care management department, under my direction, has implemented bi-weekly high-risk length of stay meetings within our healthcare system to ensure our leadership can intervene informally to resolve emerging problems.

See Election on page 6

Prehospital Healthcare Ethics ECHO

Valerie B. Satkoske, MSW, PhD

Executive Director, WVNEC

The Rural Emergency Trauma Institute of West Virginia (RETI) is announcing a new interactive online educational opportunity for emergency medical services (EMS) providers—Prehospital Healthcare Ethics ECHO. In an attempt to address a knowledge gap identified through face-to-face interviews with EMS providers throughout the state, RETI will be offering monthly ethics education and interactive case discussions tailored to meet the self-identified needs of West Virginia's prehospital medical professionals. RETI will be utilizing a guided practice model called Project ECHO (Extension for Community Healthcare Outcomes) that they have successfully been using for the past two years to provide clinical ethics education for healthcare providers and patient advocates throughout the state.

Through the generous support of The Claude Worthington Benedum Foundation, RETI and a multidisciplinary ethics faculty have been able to provide an hour of education, consisting of a 15 minute teaching session and a 40 minute ethics case discussion, at no cost to the participants. Additionally, participants who complete the post-session survey are eligible for continuing education credits at no charge. Thus far, the participant evaluations for the Healthcare Ethics ECHO have been very positive, and all involved are hoping that the Prehospital Ethics ECHO is equally successful and well received. Follow this link to view the brochure for the Prehospital ECHO, and please share with anyone you think might be interested in participating.

For more information on the Prehospital Healthcare Ethics ECHO you can click on this link <https://con-ta.cc/31oi8HX> or contact Cayla Long at 304-765-4502 or cayla.long@wvreti.org.

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This also allows identification of potential and real ethical situations and action plan resolution with patient rights leading the decision making and best possible outcomes. This is challenging; however, it presents great opportunities.

In regards to the past involvement with WVNEC, I have been fortunate to attend educational webinar and have gained valuable insight through the case studies presented during those webinars. Continued education and valued correspondence with WVNEC have been very appreciated during the complex ethical situations that are presented during healthcare delivery.

The vision that I have for WVNEC is one of engagement. Personal visitation and outreach with a liaison to grow the organization and mobilization of the tool kit to the healthcare community at not only the institutional level, but also the provider level. A multidisciplinary approach to include behavioral health education could be of value in assisting this vulnerable healthcare sector.

RETI, SET — ECHO!

Prehospital Healthcare Professionals



Calendar of Events

SAVE THE DATE!

33rd Annual May Symposium: - May 6, 2020 - Stonewall Resort in Roanoke, WV - Additional information will be provided as it becomes available.

Mental Health Advance Directive Training - WVNEC is in the planning phase for a face-to-face train-the-trainer workshop on completing mental health advance directives. Please keep a look out for additional information in the near future.

WVNEC Noon Webinars - We are in the process of organizing two webinars. Tentative dates are in December 2019 and February 2020. Stay tuned for additional announcements about these two webinars in the near future.

Visit our website at www.wvnec.org for the latest information on these and other future programs.



Mission Statement: The West Virginia Network of Ethics Committees assists hospitals, nursing homes, hospices, and home health care agencies to strengthen ethics committees; provides education regarding ethical and legal issues in health care to promote ethically sound decision-making; and helps patients and families to make their end-of-life wishes known.

This is a quarterly publication of the Center for Health Ethics and Law, Robert C. Byrd Health Sciences Center of WVU, for the West Virginia Network of Ethics Committees. Questions, comments, and ideas should be submitted to:

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CALLING ALL WRITERS!

We are always looking for interesting ethics topics, cases, and perspectives to share with our WVNEC Newsletter readers. If you would like to contribute by sharing your difficult cases, suggesting an idea for an article, or WRITING an article, please consider doing so. Anyone in a health related field, or who has interacted with the healthcare community, can submit ideas or article to be considered for inclusion in the newsletter. Also, we would like to provide students with an opportunity to have their voices heard in the “Student Corner” section of the newsletter. If you know of, or work with, a student(s) who may be interested in ethics and would like to write for the newsletter, please encourage them to reach out to us. We’d be delighted to give the future of healthcare a vehicle to share their perspectives. To inquire about any of these opportunities please contact Linda McMillen at 304-293-7618 or lmcmillen@hsc.wvu.edu.

For more information on these and other future programs, please take a look at “Upcoming Conferences” on our website, www.wvnec.org, or call Linda at 1-877-209-8086.