

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF DIRECTOR**

ACTION REFERRAL

| | |
|-----------------------------------|--------------------------------|
| TO <i>Myers/Waldrop</i> | DATE <i>10-28-09</i> |
|-----------------------------------|--------------------------------|

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|---|--|-------------------------|--|
| DIRECTOR'S USE ONLY | | ACTION REQUESTED | |
| 1. LOG NUMBER <i>100193</i> | <input type="checkbox"/> Prepare reply for the Director's signature DATE DUE _____ | | |
| 2. DATE SIGNED BY DIRECTOR <i>C. Kost</i> <i>Cleared 10/28/09 e-mail</i> <i>response attached.</i> | <input checked="" type="checkbox"/> Prepare reply for appropriate signature DATE DUE <i>11-6-09</i> <input type="checkbox"/> FOIA DATE DUE _____ <input type="checkbox"/> Necessary Action | | |

| APPROVALS <small>(Only when prepared for director's signature)</small> | APPROVE | * DISAPPROVE <small>(Note reason for disapproval and return to preparer.)</small> | COMMENT |
|---|---------|--|---------|
| 1. | | | |
| 2. | | | |
| 3. | | | |
| 4. | | | |

From: Bryan Kost
To: Brenda James, Sam waldrep
Date: 10/28/2009 7:58 AM
Subject: Log Letter - Fw: question regarding freedom of information
Attachments: question regarding freedom of information

Brenda,
Please log this.

Sam - Is this Bethea? Rep. Erickson's issue maybe?

From: "nancy.day" <nancy.day@newdayprofessionals.com>
To: <kostbr@scdhs.gov>
Date: 10/28/2009 7:31 AM
Subject: question regarding freedom of information
Attachments: Letter to Kost for freedom of information question.doc

Brian,

Attached is the question that I discussed with you yesterday. Thank you for your assistance.

Nancy C. Day, RN, CRRN, CRCFA
Phone: 803-788-1903
Fax: 803-788-1854
Cell: 803-609-0543

Sent via the WebMail system at newdayprofessionals.com

Mr. Brian Kost
South Carolina Department of Health and Human Services
2600 Bull Street
Columbia, South Carolina 29223

Brian,

Thank you for taking the time to talk with me today. I am a Registered Nurse Consultant and have served the SC Nursing Homes since 1982.

I had an experience recently that really has bothered me and I need to have a better understanding of what is considered appropriate for "freedom of information"; I can best explain the question by explaining the scenario.

We had a resident at our facility that fell below the DHHS criteria for Skilled/Intermediate Care. We followed all the LOC guidelines and the family was very upset and we explained the process and told them how they could appeal which they decided to do.

The administrator of the facility called DHHS and spoke with a representative to get clarification on the process. A short while after the phone call, the family member told the Administrator that she knew he had called DHHS and gave the name of the person he talked with, the date of the phone call, and the content of the Administrator's and DHHS employee's conversation.

The Administrator asked me if DHHS shared information regarding phone calls made to them from the facilities. I told him I did not think so.

About 3 weeks later the LOC hearing was held and in the hearing the family member stated that the Administrator had made a call to DHHS on a specific date, the person talked to, and the content of the conversation and further stated this action showed his incompetence in knowing how to do the level of care process.

I was shocked when I heard her do this and it validated the Administrator's concern that his conversations had been shared with the family member.

My question is: When a facility calls a state agency for clarification of a regulation to be sure they have followed proper protocol or for any other reason, Should they assume that this information will be shared with the public. This is very important for the facilities to know as I have always encouraged facilities to call state agencies when they have concerns or questions and need to let them know this phone call will also become public information. The family member that called is also a House of Representative member, would this make any difference?

I would appreciate your response as soon as possible. The phone where I can be reached the easiest is 803-609-0543.

Thank you for your assistance.

Nancy C. Day

Nancy C. Day, RN, CRRN, CRCFA
Director of Quality Services and Compliance
South Carolina Baptist Ministries for the Aging, Inc.

Log # 193 ✓

From: Bryan Kost
To: nancy.day@newdayprofessionals.com
Date: 10/28/2009 3:47 PM
Subject: Re: question regarding freedom of information

Hi Ma'am:
I understand you spoke to our Long Term Care staff today. Did you get the answers you needed?

Bryan Kost
DHHS Public Information
803.898.2865
cell- 429.3201
kostbr@scdhhs.gov

>>> "nancy.day" <nancy.day@newdayprofessionals.com> 10/28/2009 7:27 AM >>>
Brian,

Attached is the question that I discussed with you yesterday. Thank you for your assistance.

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Sam waldrep - Fwd: Re: Log Letter - Fw: question regarding freedom of information

From: Sam waldrep
To: Brenda Hyleman; Bryan Kost; Nicole Mitchell Threatt
Date: 10/28/2009 3:45 PM
Subject: Fwd: Re: Log Letter - Fw: question regarding freedom of information

Do we need to respond, given this.

>>> Brenda Hyleman 10/28/2009 12:53 PM >>>
Nancy called Nicole this AM and I sat in on the call. She had us on speaker phone with Tom Turner, Pres. and Ben Spurling, Adm. We were grilled on the issues she raised in the letter to Bryan, but at the end of the call they seemed okay with the answers we provided concerning the sharing of information.

Is there a need to provide a written reply to this letter?
Brenda

>>> Sam waldrep 10/28/2009 8:39 AM >>>
Ms. Day has not let go of this. She has been calling around several people. Log it to us and we will respond. What she is saying has been greatly exaggerated. I was on the call with the referenced conversation. (I think you were as well...it was when you and Alicia conferenced Nicole and me in with a meeting you were having with Erickson.)

>>> Bryan Kost 10/28/2009 8:33 AM >>>
I went to that hearing.
-----Original Message-----
From: Sam waldrep
To: Bryan Kost <KostBR@scd.hhs.gov>

Sent: 10/28/2009 8:30:38 AM
Subject: Re: Log Letter - Fw: question regarding freedom of information

Yes, it is.

>>> Bryan Kost 10/28/2009 7:58 AM >>>
Brenda,
Please log this.

Sam - Is this Betha? Rep. Erickson's issue maybe?

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