
DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE
COMMISSION

Emily P. Bissell Hospital
2nd floor conference room
3000 Newport Gap Pike
Wilmington, Delaware 19808

Final

Meeting of March 10, 2009
Minutes

Commission Members Present: Brian L. Posey, Chairman; Yrene E. Waldron; Karen E. Gallagher; Patricia C. Engelhardt; Holly Rolt; Vicki L. Givens; Wayne A. Smith and Representative Valerie Longhurst.

Commission Member Absent: Senator Robert I. Marshall, Joe DiPinto, M/Sgt Ferris and Lisa Furber.

Others present: Margaret Bailey; Susan DelPesco, Director DLTCRP; Tom Murray, Deputy Director DLTCRP; Rob Smith, Licensing Administrator DLTCRP; Candace Brothers, Aid to Ms. Gallagher; Rosanne Mahaney, Deputy Director of DMMA; Victor Orija, State Ombudsman; Pete Feliceangeli, DOJ; Carol Lovett, Advocate; Pamela Williams, Administrator, APS; Richard Kelley, Advocate; Sue Mitchell, Administrator EPB; Kathy Wilson, DTC; Luther Wynder, DTC; Bonnie Hitch, DTC; Bruce Smith, Advocate; and Lori Clemmons, DON Newark Manor.

1. Call to order

The meeting was called to order at 9:32 AM by Brian Posey, DNHRQAC Chairman. Mr. Posey welcomed Representative Valerie Longhurst as the newest DNHRQAC member. Representative Longhurst is a member of the House Majority Leadership Team and has accepted the role on the Commission previously held by Representative Pamela Maier.

A welcome was also extended to the newly appointed DLTCRP Director Susan DelPesco who served Delaware for many years as an educator and advocate- She was the first female Superior Court judge and part of the Delaware Law School graduating class.

Approval of the Minutes of the meeting of:

January 13, 2009 draft was voted upon and approved without changes.

2. Discussion of:

DART Para Transit-Bonnie Hitch, Kathy Wilson and Luther Wynder

Handouts were provided by DART Para Transit to the Commission outlining updates since their visit last year.

DART Para Transit is challenged with demand versus budget to provide service to Delawareans. The Commission provided question to DART Para Transit prior to the March 10, 2009 DNHRQAC meeting to be addressed.

Currently, there are 12,000 customers in the Para Transit database that includes individuals with disabilities, elderly and individuals being transported to/from renal care.

FY 07, DART Para Transit provided 812,000 service trips. FY 08, the number of trips totaled 855,000. FY 09 (through 12/08) there were 452,000 trips thus far. Based on the numbers through Dec. 08, they are anticipating on providing a record number of Para Transit trips for FY 09.

150 new Para Transit applications are submitted each month. It appears that individuals from the surrounding tri-States are moving into Delaware to utilize services here. Border to border service is provided to individual's residing in Delaware.

DART Para Transit went under review through the Federal Transit Administration in late 2007. As a result of random review, Americans for Disability Act in particular, states that comparable service must be provided for Para Transit riders as they would for the general public on a fixed route. It's mandated to be provided within $\frac{3}{4}$ mile of a fixed route service. In NCC, there are a number of fixed routes. As one moves further downstate, the more spread out the population becomes and less number of fixed routes. DART Para Transit is faced with demand and lack of resources to maintain what is required by ADA.

Ms. DelPesco asked if a fixed route is not available, how DART Para Transit determines whether they meet the FTA standards for ADA. Ms. Wilson stated that technically and legally there is no obligation to provide a Para service in that instance.

Ms. Waldron stated that due to the demand for service in a less restrictive setting and tremendous push in funding through CMS for Money Follows the Person that there is a missing link somewhere. She furthered that services in the community have increased there has not been equitable funding for DART Para Transit to be able to provide transportation for individual's to receive services needed to live independently.

Mr. Posey shared that Money Follows the Person is targeting on transitioning 100 individual's during a four year period, which is not a large number of additional transportation services to be added to Para Transit's current load. The DNHRQAC Chairman suggests that careful planning be utilized before transitioning more individual's out into the community and still be able to meet transportation needs.

Ms. DelPesco asked Ms. Wilson to provide the FY 09 DART Para Transits budget. Ms. Wilson will provide the FY 09 budget information to the commission.

Luther Wynder oversees DART Para Transit scheduling. He shared that a rider's guide is provided to all customers that utilize the Para Transit service. A copy of the Riders Guide was provided to the commission members and other meeting attendees.

ADA requires Dart Para Transit to provide next day service. The reservation call center is available to take reservations 8:00 AM and 4:30 PM at 1-800-553-3278 and open 7 days a week. Staff is available in the Reservation Call center to assist customers during hours that Para Transit buses are in service M-F 5:00 AM-11:00 PM, Saturday 5:00 AM-8:00 PM and Sunday 8 AM-6:30 PM. The center remains open to assist with cancellation(s) or to check on the status of a requested trip (until the last customer is picked up).

Individual's can cancel a reservation by calling the 800# and speak with a live representative or leave a voice message. There are 15 representatives that answer the phone lines; eight staff members perform scheduling tasks.

There are 141 DART Para transit drivers. On average, there are 90 drivers aboard/available on a given day to perform 2,200 trips. The difference in numbers is due to vacation, sick days, jury duty, bereavement, etc. Mr. Wynder mentioned that in the past, there were staffing issues; however, Para Transit received additional funding and hired more full-time drivers.

Ms. DelPesco asked whether DART has considered adding an additional bus line downstate which might be more economical. Ms. Wilson shared that DART is reviewing the idea currently. There are DART public hearings scheduled later in March 2009 to address proposals and receive comments from the public.

Mr. Wynder stated that DART drivers have a 5 minute wait procedure in place. The driver attempts to make contact with the customer, especially since they offer door-to-door service.

Representative Longhurst asked if DART Para Transit tracks reasons surrounding cancellations. Mr. Wynder stated that the no-show rate is under 3%. DART Para Transit worked with an advisory committee to develop a no-show policy. Repeat offenders can have their transportation privileges suspended, however it will not affect getting them to medical appointments.

The standard is that individual's can ask for transportation to any destination in Delaware. Under ADA, Mr. Wynder shared that DART cannot prioritize Para Transit trips. Ms. Wilson added that DART is looking at prioritizing other trips not covered under ADA.

Mr. Posey asked what time frame DART Para Transit promises to pick up a customer in addition to the 5 minute wait. Mr. Wynder mentioned that they are in the process of redesigning the process. Presently there is a one hour window on the front and back end of a trip. The time will be adjusted accordingly to the length of the trip.

Chairman Posey stated that a 3% no show rate equates to 26,000 occurrences. He further encourages the process of trying to determine whether it is a result of the 5 minute rule. DART Para Transit reviewed the no shows during a 5 month period. Mr. Wynder shared that Para Transit determined after review that there is a missing educational link with agencies (such as renal care services) that prevented customers of becoming aware of the

service. Staff contacted renal care agencies and customers to determine whether the individual's will need to utilize the service or should the reservation be cancelled.

Ms. Waldron suggested that Para Transit provide renal care service providers with guidelines. Mr. Wynder stated that Para Transit met with renal care providers in Kent and Sussex counties, provided the riders guide, toured the facilities and listened to their concerns. Para Transit has not filtered discussions with renal providers in NCC yet.

Ms. Waldron inquired if her understanding was correct that anyone with transportation needs to/from dialysis is ineligible under the Federal ADA Act to use Para Transit, but is covered anyway due to an exception based on Delaware regulations. . Ms. Wilson clarified that the State language states that DART Para Transit is to transport individuals to/from dialysis as long as they are not in violation with ADA and the level of care. She furthered that if they were not meeting ADA standards, the State would need to revisit the regulation and receive additional funding to ensure dialysis trips would continue.

Ms. Wilson offered that a person needs to be diagnosed with a disability and have a limited functional or cognitive capacity preventing the use of public transportation to qualify for Para Transit services.

DART Para Transit is available to meet with individual facilities to discuss and issues/concerns. Ms. Wilson will forward to Yrene Waldron, DHCFA, an electronic copy of the riders guide so she may forward to members. Ms. Waldron suggested that the guidelines be forwarded to home health, personal care, and renal care agencies. Ms. Wilson shared that DART Para Transit holds an annual workshop at the Modern Maturity Center in the spring/early summer and invite agencies.

Mr. Wayne Smith mentioned that there is a transportation service offered to the elderly called SCAT (Senior Citizens Affordable Taxi) and asked whether DART has thought about prioritizing and augmenting resources. He suggested that perhaps working with the private sector to determine whether a voucher system would provide less expensive approach to aid in transportation needs instead of hiring more drivers and purchasing more vehicles. Ms. Wilson shared that Para Transit submitted bids for additional contractual transportation services and are waiting to hear back.

Mr. Richard Kelley, President of Resident Council for Emily P. Bissell Hospital, spoke regarding concerns and complaints for DART Para Transit. He asked PART Representatives to consider flexibility in the 5 minute window. Mr. Kelley shared that he had multiple issues surrounding a Para Transit trip the week prior where he was to attend and speak at the FY 10 JFC Hearings in Dover. Para Transit arrived late and departed without Mr. Kelley, who had to go back to his room for an oxygen tank. A bus from Bissell was able to take him to Dover on time.

Mr. Kelley has shared his past personal experience about being left waiting at restaurants, churches, and malls for DART Para Transit. He says, "It's the best \$2 you'll ever spend and as long as the rider and driver abide by the rules, it's a fabulous system."

Ms. Bailey mentioned that former Representative Pamela Maier suggested that riders and drivers have a cell phone to communicate with each other if there will be a delay in the pick up. Ms. Wilson shared that the suggestion was reviewed further, however, due to costs associated, the idea was dismissed. Mr. Posey asked if vehicle operators have a means to communicate. Mr. Wynder stated communication is available thorough a radio and the vehicles also have a GPS device. Para Transit is checking into possibly updating the radio system currently in place.

Mr. Wayne Smith asked whether Para Transit distributes performance statistics that could be shared with the Commission. Ms. Wilson stated that Para Transit is required to send yearly performance measures to the Federal Government. The information is currently shared with EDTAC and will be forwarded to DNHRQAC.

Adult Protective Services- Pamela Williams, APS Administrator

Pamela Williams, Administrator for Adult Protection Services, a small program through the Division of Services for Aging and Adults with Physical Disabilities.

Elder abuse is an issue in our country and Delaware. In the past 5 years, the number of elder abuse cases has increased. The phone number to call to report abuse is (800)223-9074.

The mission of the APS program is to ensure the safety and well-being for Delaware Senior's and adults with physical disabilities.

The unit of 9 has an administrator, 2 social workers, and 8 case manager positions for all 3 Delaware counties- of which, 3 case manager positions are vacant. The case managers investigate allegations of abuse, neglect and financial exploitation of adults in the community.

Of elder abuse cases, 1:14 will be reported and most commonly referred by: 1) a hospital or a doctor's office, 2) home health aide, and 3) family member.

95% of adult abuse occurs in the community, of which, 60% of allegations stem from abuse by a family members such as son, daughter, grandchild or spouse.

2/3's of Adult Protect Service cases are resolved with adding services within the community like setting up: food, transportation, or home healthcare aides. Approximately 5-10% of the clients referred to APS need to enter assisted living or a nursing home.

1/3 of APS cases- individual's living alone and need service assistance like their ADL's. APS gets in touch with agencies in the community to assist the individual's.

Adult Protective Services is challenged in regards to: community resources, funding, housing or emergency shelter, training/education, legislation.....elder abuse is so far behind in offering seniors service more so than what is available to protect children.

Ms. Williams mentioned the Elder Justice Act was recently introduced to help provide more money to all adult protective services in the United States. As a result of more funding, it would then help with providing more services and staff as well as an emergency shelter. Presently, APS does not work after 4:30 PM, so if the police are called regarding domestic violence, the adult individual remains at there and the police contact APS in the morning.

Adult Protective Services works with the Elder Unit within the Attorney General's Office with respect to Financial Exploitation cases. APS and the Elder Unit will go to investigate cases together.

A Mandatory training for first responder's regarding elder abuse has been scheduled for April 1st and 2nd at the NCC Police Academy. Attorney General's Office is working on an advertising campaign to promote awareness regarding elder abuse- whether it is neglect or financial exploitation. The training program will be rolled out to the public in the future.

Chairman Posey offered that there are not enough services to safeguard the elderly and disabled in the community which constantly is mentioned at different disability commission and council meetings.

Mr. Posey asked how case managers maintain their safety when entering a home. Ms. Williams shared that a safety protocol is in place with APS- they usually enter in teams or with a police escort if necessary. Ms Williams shared that during the call intake, a series of questions are asked regarding the home situation and potential issues- guns, previous complaints, who lives in the house, etc. APS also has the AG's Office run a check on names provided as another safety measure. APS case managers have cell phones and call immediately to the office and report the situation back to their colleagues.

APS has 3 vacancies which has affected their ability to meet individual's needs. As a result, APS has utilized social workers in other departments within their agency to help with their case load.

A call regarding physical abuse or extreme neglect must be investigated within 24 hours and has been a challenge due to APS being under-staffed.

Ms. Waldron stated she thought that the hiring freeze did not apply to essential employees. Ms. Williams shared that APS employees are not considered essential. The director over APS has submitted a request to DHSS Secretary regarding the need to deem APS workers as essential personnel.

Ms. Waldron suggested that DNHRQAC send a letter of support to Secretary Landgraf to raise awareness of this issue and to request consideration for APS workers to be considered essential personnel. Furthermore she requested that the Department provide any support possible to the APS program. The commission voted and approved the request.

Ms. Williams stated that emergency shelter situations is one of the biggest concerns for APS and feels that awareness regarding this need is essential.

Chairman Posey asked whether there is a level of proof or conviction necessary to have an individual placed on the Adult Abuse Registry. Ms. DelPesco shared that a lesser standard is needed to be placed on the Adult Abuse Registry than a criminal conviction.

Mr. Murray shared that should DLTCRP receive a referral from APS, they will receive a copy of the report and schedules a hearing, if the individual appeals the charge(s). The level to meet is beyond a reasonable doubt.

Ms. DelPesco asked why information regarding who is on the Adult Abuse Registry is not public record. Ms. Waldron stated it would be helpful if the information on the Adult Abuse Registry was also made public to minimize offenders from moving around between adult and child facilities.

Ms. DelPesco offered that the Adult Abuse Registry has limited access, is costly to maintain and employers wanting to inquire about individuals placed on the Adult Abuse Registry have to jump hoops to get information.

Mr. Feliceangeli shared that based on the statute; a person placed on the Adult Abuse Registry can still work in an adult patient care setting. He furthered that the Child Protection Abuse Registry has a more complicated statute and there are levels within.

Ms. Bailey will locate the statute on the Adult Abuse Registry and forward to commission members to analyze whether or not continuing to protect the lists from the public.

Ms. DelPesco shared that having the information readily available could save money in terms of processing a request.

Mr. Wayne Smith wanted the commission to understand the reason the statute was created and feels the legitimate issues surrounding it. Ms. DelPesco mentioned a cost benefit analysis could possibly be explored further. Ms. Waldron also suggests the need for service letters be reviewed further as well as they may no longer be necessary due to the Criminal Background Check that is required.

Ms. Bailey will forward the Adult Abuse Registry statute to commission members.

Staffing Report- Rob Smith, DLTCRP Licensing Administrator

Rob Smith presented the Staffing Report to the commission for the first quarter 2009 (through 3/9/09). The hours per resident totaled 3.93 for private and 5.0 for State facilities. Eagle's law required a minimum 3.28 hours of residential care.

The report breaks down RN and nurse aide ratios and hours of care per shift.

Ms. Waldron asked why the State facilities are staffing 1:14 in the evening. Mr. Rob Smith shared the State facilities have a very difficult population and acuity level which is the reason. Ms. Sue Mitchell, Administrator at Emily P. Bissell Hospital, shared that the

census is down at 2 of the State facilities since sprinkler systems are being installed in the buildings. Ms. Waldron asked if the staffing had been adjusted to reflect the reduced census and was told that it had not been adjusted.

Ms. Bailey stated that when the fourth quarter 2008 Staffing Report was being presented to the commission in January 2009, there was mention that two facilities were out of compliance regarding Eagles Law. Mr. Murray shared that 2 facilities were cited during their annual survey for not meeting staffing requirements. Mr. Rob Smith added that plan of corrections and revisits occur for facilities that are cited deficiencies to be sure facilities are back in compliance.

3. Old Business/New Business:

Bariatric Residents

Ms. Bailey provided a summary regarding the January 2009 DNHRQAC meeting where DHCI Medical Director, Dr. Cheryl Bolinger, attended and spoke regarding a bariatric resident. A few days after the January meeting, the resident expired.

Since then, DHCI senior staff contacted the commission to see whether statistical data was available regarding bariatric residents in Delaware. Presently, that information is not available. The commission did forward contact information to DHCI regarding Sava a Senior Care-which offers bariatric daily living services at 9 facilities in close proximity to Delaware. For more information, please access:
<http://www.savaseniorcare.com/www/CareServices/Default.aspx>

Ms. Rolt said a survey was forwarded to facilities from the Ombudsman's Office regarding Bariatrics. Mr. Orija confirmed that a survey was sent to facilities to assure bariatric needs are met and to learn the barriers being faced with Bariatrics today.

Ms. Waldron feels that bariatric as well as psychiatric services need to be addressed in Delaware. She further suggested that special wings may need to be created within a facility to provide care for bariatric, psychiatric and other similar needs which maybe beyond the scope of care that can be provided in LTC facilities.

Should The Commission Mission/Name Be Changed

Ms. Waldron suggested the commission review the commissions' mission and name and add this request to the May 12, 2009 meeting agenda as a topic for discussion.

Should The DNHRQAC Meetings Go Back To Monthly Meetings

Ms. Gallagher suggested that the by-monthly DNHRQAC meetings have many agenda items and suggests the Commission consider going back to meeting on a monthly basis.

Chairman Posey stated that in the fall of 2008, the Commission voted to keep the meetings by-monthly, despite several members requesting the meetings return to monthly

frequency. He agrees the Commission should continue to decide whether the current meeting frequency is sufficient and that this should be discussed at the May 12, 2009 meeting when more members are present and would therefore have a quorum for voting purposes, if needed.

DNHRQAC Personnel Sub-Committee

There were no updates presented at the meeting.

5. Public Comment

Mr. Richard Kelley, President for EPH Resident Council, spoke regarding the rumors stemming about the possibility of closing Emily P. Bissell Hospital and Governor Bacon. Mr. Kelley provided commission members with information gathered by multiple parties explaining the reasons why residents and staff want the 2 State facilities to remain open.

Mr. Kelley has been a resident at EBP for 2 years. He previously was a resident at 2 private NCC facilities before coming to EBH. He further explains that the staff at EBH is wonderful; there are multiple activities scheduled for the residents; family and community involvement is very active at EBH; and much more. There are therapy dogs that visit EBH several times a week as well as 2 ponies that visit monthly.

Mr. Kelley asks the Commission members and meeting attendees to provide support. Mr. Kelley attended the JFC Long Term Care hearing and spoke to the General Assembly about the concerns with closing EBH and Governor Bacon.

Congo Funeral Home provides birthday cake once a month to celebrate resident's birthdays. On Sunday March 22, 2009, the funeral home invited residents from EBH to come and speak on the televised show about the potential State facility closings.

6. Next meeting will be **Tuesday, May 12, 2009** at 9:30 AM. The location:

Emily P. Bissell Hospital
3000 Newport Gap Pike
2nd floor conference room
Wilmington, DE 19808
Switchboard: (302)995-8400

7. Adjournment

The meeting was adjourned at 12:16 PM by Chairman, Brian Posey.

Attachments: Staffing Report (quarterly)

January 13, 2009 meeting minutes draft

Updated member contact informational sheet

Updated Visiting Brochure

Para Transit Riders Guide

Adult Protective Services information

Facility Travel Schedule