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DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE  
COMMISSION

Emily P. Bissell Hospital  
2<sup>nd</sup> floor conference room  
3000 Newport Gap Pike  
Wilmington, DE 19808

**FINAL**

Meeting July 13, 2010  
Minutes

Commission Member(s) Present: Brian L. Posey, Chairman; Yrene E. Waldron; Karen E. Gallagher; Joe G. DiPinto; Lisa A. Furber; Senator Bethany Hall-Long ;Patricia C. Engelhardt; and Kyle Hodges.

Commission Member(s) Absent: Vicki L. Givens; Wayne A. Smith; and Representative Valerie J. Longhurst and M/Sgt. Walter Ferris

Others Present: Margaret Bailey; Candace Brothers, Aid to Ms. Gallagher; Peter FeliceAngeli, DOJ; Ruth Cornelison, Consumer; Sheila Grant, Compassionate Care Hospice; Debbie Mayberrie, Compassionate Care Hospice; Lisa Schieffert, DE Health Care Association; Les DelPizzo, Quality Insights; Rob Smith, DLTCRP; Dr. Warren Ellis, DDDS; Eddi Ashby, DMMA; Mallory Karl, Best Buddies of Delaware; Laura Hendrick, Emily Bissell Hospital; and Lexie McFassel, OPG.

1. Call to order

The meeting was called to order at 9:32 AM by Brian Posey, DNHRQAC Chairman.

2. Approval of the Minutes of the meeting of:

March 9, 2010 and May 11, 2010 minutes were approved with minor changes.

1. Discussion of:

Division of Developmental Disabilities Services

Dr. Warren Ellis, Director for the Division of Developmental Disabilities Services (DDDS) Community Services Unit, presented an overview to commission members.

The Division's mission is to provide services to help people it serves achieve the quality of life they desire.

There are three Community Services locations: Fox Run, Thomas Collins and Sussex. Stockley Center also is part of DDDS.

There are over 3,000 individual's that DDDS provides some level of service: 144 in foster placement (shared living) , 550 in neighborhood homes, 160 in apartments and 2,100 living at home.

As of April 2010, 132 individuals receive respite care. Respite care hours are based on available funding.

The Division has health and safety training requirements for all direct care providers. Continuing education opportunities are contingent upon funding.

In addition to respite services, the Division offers family support (case managers). The amount of time spent to develop or meet with families can vary depending on the individual and/or family needs.

Case managers are currently averaging 90 cases each. In Sussex, the case load per case manager averages 120. In NCC, the average case load per case manager is approximately 75-80.

Mr. Posey asked what would be the optimal number of cases per case manager. Dr. Ellis shared that the optimal case load varies- younger clients need assistance in becoming enrolled for DDDS services and therefore primarily meet with case worker on a yearly basis. The younger clients do not require a lot of assistance. The case worker may assist with some respite care or summer camp.

On the other end of the spectrum, Dr. Ellis added that DDDS also serves individual's living independently but require a greater amount of support. In those instances, the interaction and assistance with the case worker is much greater.

Residential Services (group homes, apartments, foster/shared living) is the primary support system for individual's living in the community. Many of the residential locations are staffed 24/7 and residents attend a structured day program (habilitation through community employment).

CMS now requires DDDS to develop client care plans. In the past, agencies were responsible for developing the care plans.

DDDS has the Home and Community Based Waiver that funds most of the Divisions Residential Services. In the future, there will be some changes regarding choices for the Home and Community Based Waiver. A small percent of individual's in the Residential Services program are not on the waiver due to income reasons (exceed the limits). Those individuals' services are funded by the State. Yearly, the Division submits as part of their budget request, funds for individuals who are leaving school (special education) and will attend day programs.

The Division has a system in place which sets up an individual budget. A certain amount of money is attached to a person based on an adaptive behavior scale (ICAP).

The Division submits the ICAP information to the Government that reviews and determines how many hours of support that individual will need. As a result, the hours are translated into dollars.

If a client has a medical change, the Division can ask for an exception so they may send the new supportive costs to the agency providing services. The Division in return would conduct a new client assessment to capture any changes.

Dr. Ellis mentioned that legal involvement might also require a client to receive a greater level of supervision. Behavioral issues may also require more client support.

DDDS has been charged in FY 11 with becoming more involved with the Department of Education (DOE) regarding students aging out (leaving school or graduating). The Division has Transitional Specialists in each region who attend Individual Educational Plan (IEP) meetings to create a seamless transition.

Chairman Posey asked if further comment could be provided about students aging out and how it impacts State and Federal funding streams. Dr. Ellis stated that the largest funding source for the

Division comes from individuals who have aged out of school. Historically the Division has always been funded for individuals who have been identified as leaving special education. Every budget cycle, DDDS submits funding requests specific as to the number of special education school graduates. A day program has a huge impact on families.

Presently, there are 340 clients with autism and over 800 individuals with autism in the school system.

FY 10, there were 77 special education graduates and 24 additional students (\$300,000) that transitioned out of school at the completion of 2009-10 school year. The 24 additional students were not expected to be transitioning out of school at that time and therefore not included in the totals provided to DDDS by DOE. The assumption is that a student will transition at age 18 or 21, however, some students transitioned out between 18-21 therefore funds were not anticipated nor projected in the Joint Finance Committee (JFC) hearings.

DDDS has a Quality Management Unit that performs licensing reviews. They review standards and make sure that agencies that provide services are reviewed for compliance. DLTCRP also performs annual site reviews specific to environmental and physical plant regulatory compliance.

To file a general complaint (other than a PM 46), a person can contact the Division, DHSS Secretary Office, Legislator or Governor's Office. The Division's constituent person, Chris Long, receives the complaint which is then forwarded to Dr. Ellis for a complete investigation. A follow-up is provided to the person filing the complaint as well as the State office who contacted the Division.

The Division has coordinators in each region to investigate PM 46's and determine whether the allegation will be substantiated. The coordinators weigh the information and make a determination whether there is enough merit to opening up an investigation. Dr. Ellis shared that a surprising number of staff files false complaints against one another. The case is assigned to an investigator usually within the agency involved. A report is then sent to DDDS and on to DLTCRP who determines whether it will be substantiated. DLTCRP will also decide if the individual will be placed on the Adult Abuse Registry or prosecuted.

Ms. Waldron asked whether DDDS staff is required to have criminal background checks. Dr. Ellis responded that criminal background checks are required for all staff that provides direct care contact with clients. Contracts also state that all agency personnel (including day program employees) must have criminal background checks as well as drug screening.

DDDS has limited their incoming client placements to emergency situations only. Due to the economic stresses on families, there has been an increase in their client base, particularly from behavioral health units like Rockford, MeadowWood or Dover Behavioral Health. FY 10 there was funding for 40 emergency placements and the Division netted 55 clients.

Mr. Hodges asked what is the funding allocated for FY 11 emergency placements. Dr. Ellis responded that funding for 50 emergency placements has been set aside in a contingent capacity under Office of Management and Budget (OMB). The Division is unclear at this point how they will be able to access the funds if needed for an emergency placement. The Division has monies set aside to cover 5-6 emergency placement's in FY 11's budget.

Mr. Hodges asked whether any ancillary funds (such as for dental treatment) has been set aside for FY 11. Dr. Ellis assured commission members that despite the Divisions \$2.9 M base budget reduction (which was to cover dental and doctor treatment, medication monitoring, etc), they will find a way to cover the services.

Dr. Ellis further added that most Delaware Psychiatrists do not accept Medicaid (or at least those that the Division contracts with will not accept Medicaid). As a result, the Division is paying straight State dollars for the service.

Ms. Waldron wanted to know if the Division has data to support how many developmentally disabled individuals are living with their aging parents to prepare providers for emergency placements. In addition, Ms. Waldron asked if DDDS is set up to provide data regarding average costs associated with individual's quality outcomes, interventions and acuity needs. Dr. Ellis will forward data requested to the Commission.

Chairman Posey asked whether the Division is helping clients with aging parents prepare for end of life. The DDDS family Support Unit provides some assistance but does not work on estate planning. The Division previously funded a training program delivered by the ARC. As funds got tight, the training program was placed on hold. In the future, the Division is planning on offering services to cover guardianship and estate planning.

Barriers for DDDS include: lack of qualified service providers depending on an individual's support needs, lack of available funding for the Division, and lack of specialized medical services in Delaware.

DDDS is currently trying to figure out how to utilize Stockley's "new" Medical Center. A proposal was to invite specialists from surrounding States to set up clinics at Stockley. The facility is the home for 70 residents.

#### Regional Extension Center

Les DelPizzo, Quality Insights of Delaware, spoke to the Commission regarding the Health Information Technology Regional Extension Center (REC). Delaware will receive slightly over \$4 million during a four year period.

REC is a relatively free service to primary care physicians to help them implement electronic health records (EHR). REC is part of the stimulus bill to promote more jobs and enable nationwide health information exchange. QI of DE will employ 20 new staff members—was an office of 9 staff members before REC.

RECs will each serve defined geographic areas and offer technical assistance, guidance and information on best practices to support and accelerate health care providers' efforts to become meaningful users of EHRs

The contract with the Office of the National Coordinator for Health Information Technology (ONC) was established to help implement 1,000 primary care physicians in DE and get them to meaningful use. DE currently has 1,200 primary care physicians and 250 have EHR's installed.

Ms. Engelhardt asked whether most of the 250 physicians that have EHRs installed are affiliated with Christiana Care Hospital. Mr. DelPizzo stated that the majority of the program is located in southern Delaware. He further added that Christiana Care is starting a program with affiliated practices to purchase health information technology medical records. In addition, Mr. DelPizzo shared that QI of DE is project managing the process for Christiana Care and helping the physicians with implementation. This effort is in addition to any stimulus funds a practice would be eligible to receive.

QI of DE receives payment based on signing practices up, bringing the practice to "go live" under electronic medical records and bringing the practice to meaningful use.

QI of DE is targeting only primary care physicians with 10 providers or less.

Meaningful Use Regulations, final version, is expected to be announced today. It requires physicians to implement the use of electronic records and utilize electronic records to improve quality of care.

Meaningful Use involves the collection of specific data and includes functions, such as e-prescribing. An adequate support system must be established and alerts put in place to identify what tests/procedures should be performed. It will assist with the patient's historical and new condition.

There has to be some capacity to share information with other health care providers and in Delaware, the Delaware Health Information Network (DHIN) becomes really critical.

Finally, a physicians practice must be able to send quality indicator data out of their electronic health records to a data warehouse (CMS database) to report how they are performing. Each physicians practice is able to choose which quality indicators they will use.

CMS, in return, can publish the data or send information back to the practice so they are aware of their performance measures as they relate to others. QI of DE plans to provide feedback services to any practice they implement. This would be similar to what hospitals are using under the PQRI program where information is being provided voluntarily and physicians are receiving incentive payments if certain standards are met.

Mr. DiPinto asked what quality indicators will be used. Mr. DelPizzo shared that for diabetics it might be lipid levels, where as for prevention services, it might prompt the physician to check and see whether the patient has been screened for cancer or received a pneumonia/flu shot. Most of the indicators are accredited by the National Quality Forum- they are standard and have been validated.

Mr. DelPizzo shared that the major benefit for a practice having an EHR and meeting meaningful use, they become eligible for substantial subsidy payments from the Government. That equates to an amount up to \$44,000 per provider for Medicare.

Chairman Posey asked what impact REC will have with Delaware nursing homes. Mr. DelPizzo stated that the impact will be light, yet profound. Many of the primary care physicians QI of DE will implement serve as medical directors for Delaware nursing homes and also have a separate practice. ERH templates can be developed specific to each part of their business.

Mr. DelPizzo added that QI of DE will be speaking with DE nursing homes to encourage DHIN participation. DHIN is currently piloting a Continuing Care Record (CCR) that will resolve transition issues for individuals who are admitted/discharged from the hospital or nursing home/community. Standardizing and sharing of record systems with a broader community will provide a better communication of information. The CCR pilot will be a benefit to nursing homes. Several Delaware nursing homes have begun purchasing electronic records that do not communicate well with other software packages. Mr. DelPizzo stated that QI of DE is available to speak with facilities about some things to avoid. Since 2005, QI of DE has been engaged with 2-3 nursing homes around this same discussion.

Chairman Posey asked whether previous health records are digitized. Mr. DelPizzo responded that turning papered health information records into an electronic format can be achieved by scanning previous data or looking at structured data beginning at a specific point in time. This is one of the biggest barriers faced when switching to electronic health records.

Chairman Posey asked if there is redundancy in having EHRs, DHIN system and personal record keeping. Mr. DelPizzo stated that there is more synergy than redundancy. DHIN is like a mini application. It can be used without EHRs. DHIN is set up to feed from EHRs to identify quality care outcomes specific to that patient. Personal record keeping is more difficult because there aren't any standards yet established.

Senator Bethany Hall-Long shared that there's a misconception that all prescriptions will be able to be electronically prescribed. Until the Federal Government grants permission, controlled substances (such as pain meds) will not be able to be e-prescribed.

### Best Buddies of Delaware

Mallory Karl, Program Manager for Best Buddies of Delaware, spoke about the international organization, whose mission is to promote global volunteer movement that creates opportunities for one-to-one friendships, integrated employment and leadership development for individuals with intellectual and developmental disabilities (IDD). The program is located in all 50 States and 46 countries.

The program works to end social isolation for individuals with IDD by establishing meaningful and lasting friendships as well as life skills. Best Buddies of Delaware began April 2008 and presently does not offer integrated employment.

Individuals are matched based on: gender, age, common interests and proximity to home or work.

All participants are asked to commit to a one-year friendship; maintain weekly contact by phone, mail or e-mail and see each other twice a month. The organization hosts six activities throughout the year for members and is free or for a nominal fee.

Best Buddies of Delaware is funded through individual gifts, foundation grants, Government grants and special events.

Best Buddies works with and supports many organizations: DFRC, Down Syndrome Association of DE, Special Olympics Delaware and Autism Delaware. There are also host sites (residential homes or schools specifically for individuals with IDD): Mary Campbell Center, Chimes, Easter Seals, and Meadow Wood School.

There are three programs offered through Best Buddies of Delaware.

- School Program- 21 schools within all three counties participate in this program for students (10+ through college years) that operates as student run clubs at the schools. This was the first program offered through Best Buddies of Delaware when it opened in 2008.
- Citizens Program- Adult community program (18+) where IDD individuals are paired with a non-disabled peer in the civic or corporate community (Bank of America). Currently the Citizens Program has 45 matches and 10 individuals on the waiting list. The Citizens Program began September 2009. Individuals with a disability need someone to sponsor them (family member, caregiver, etc) to speak on their behalf and act as a liaison.
- E-Buddies- A national Best Buddies on-line pen pal program that pairs individuals with IDD with a non-disabled peer who lives in another State through e-mail. The server used blocks out phone numbers and e-mail addresses.

Disability Awareness and Leadership training is required for school based programs. For adults, all participants without disabilities are given a brief overview of disabilities during the interview. In addition, two training sessions are offered yearly for individuals without disabilities to learn about disabilities, participate in an open forum with program peers and an opportunity to hear from presenters regarding a specific topic.

IDD program participants are provided with a friendship and an annual Buddies United Leadership Development (BUILD) training session. Friendship training offers participants with life skills such as phone etiquette, etc. During the annual BUILD training, speakers are brought in to discuss how an individual may become a leader, self advocate or influential community member. Participants learn how to prepare and present a speech.

Background checks are performed for every Citizens Program applicant. There is a telephone screening performed by Best Buddies of DE staff to see if the candidate's idea of the program is correct and then a background check and in-person interview conducted.

School Program applicants are discussed first with staff members who serve as advisers as to whether an individual that signed up for the club should be in the club. Each of the 21 school's that participate in the program has 20-30 student matches.

Background checks are also performed for e-buddy candidates. The program currently serves 18 Delawareans.

Chairman Posey asked whether Best Buddies of DE is involved with DDDS. Ms. Karl mentioned they are not however should a DDDS client contact Best Buddies requesting service, they would gladly assist.

Ms. Karl stated that volunteer recruitment and volunteer management are the two most difficult barriers for the program. She further added that pairing younger adults with disabilities to non-disabled individuals also is a challenge. Ms. Waldron suggested she contact Boy Scouts and Girl Scouts of America for potential non-disabled Citizens Program participants to be paired with IDD individuals recently transitioned out of school. Delaware Interfaith Coalition was also suggested.

#### Office of the Public Guardian

Lexie McFassel, OPG Director, provided commission members with an update since OPG's last presentation.

The Office of the Public Guardian is a non-judicial agency for the Administrative Office of the Courts that makes medical decisions, health care decisions and maintains finances for individuals (both person and property) found to be incapacitated by the Court of Chancery. OPG can also assign Medicaid or Social Security benefits to facilities.

OPG criteria: individuals must have an incapacity that renders them unable to make decisions for them self. There cannot be another person able to serve as their guardian. The individuals must be at some level of risk-financial exploitation and health risks, for example, are considered. OPG often works with Adult Protective Services (APS) for individuals that are at physical risk or in danger with their situation

Robin Brunner, former OPG Director, presented a wish list to DNHRQAC members when she spoke about two years ago. The wish list included: funding for a Nurse Case Manager; developing a Data Management System; assisting with statue support enhancements, protocols and standards and providing legislative review.

The Data Management System was achieved through a personal contribution to OPG.

The non-judicial agency improved their on-call system. In the past, OPG staff was contacted on their cell phones and pagers if they were on-call. Presently, on-call notifications are sent to staff Blackberries eliminating pagers and duplication.

Ms. McFassel is the first attorney ever hired as Public Guardian. The National Guardianship Association recommends the public guardian be an attorney. The benefits of having an attorney as the public guardian: a legally intensive process when one is seeking guardianship and does the person seeking guardianship meet the legal definition of a person needing a guardian.

There currently are 600 pleadings being followed by OPG that were followed previously by the Department of Justice (DOJ).

The office was established in 1984 by a statute that enabled the agency to collect administrative fees and delegate guardianship services.

OPG is working on legislative initiatives:

- Clarify that the public guardian has to be an attorney
- Expand guardianship role to include advocacy or protective services
- Modify existing statute to be able to collect guardianship fees

The non-judicial agency is anticipating that guardianship fees will off-set operational costs and enhance services for the wards. The guardianship fees could help to fund a nurse case manager position, something that has not been approved in previous budget requests.

The guardianship fees would come from a percentage of a ward's estate for administrative fees in handling their case and providing services. Ms. McFassel shared that it is a common practice among public guardian's offices to collect guardianship fees. The agency has investigated how to equitably collect fees from individuals who do not have much money.

OPG would also like to retain attorneys if necessary:

- To aid in a court hearing should a ward face criminal or other actions
- To assist in recouping assets in situations like financial exploitation

Mr. Feliceangeli suggested that OPG check with the Office of the Child Advocate (OCA) regarding volunteer attorneys. It is his understanding that OCA has been able to retain many volunteer attorneys from large law firms who assist in representing children as a Guardian At Litem.

Office of the Public Guardian currently serves 230 individuals and handles approximately \$1 million dollars per year (social security checks included). The agency would like to expand the number of clients being served. Presently there are 60 case referrals that the office has not been able to take for one reason or another.

Most of OPG's clients reside in long term care facilities. There are DDDS clients also served by OPG.

Ms. McFassel shared that most case referrals come from other State agencies, hospitals or LTC facilities.



OPG case workers average between 50-70 open cases. The National Guardianship Association recommends 20-25 cases per case worker.

OPG plans on restructuring the agency so it may increase volunteer legal services; possibly sub-contract out services if needed and continue being as efficient as possible within the agencies budget-which has not changed in five years.

#### QART Report

Rob Smith, DLTCRP Licensing Administrator, presented the second quarter 2010 QART Report results to commission members. During 2<sup>nd</sup> quarter 2010, the Division conducted 13 surveys. There were 7 “G” level deficiencies recommended by the survey teams. After QART review, one of the deficiencies was downgraded to a “D” level. The citation was based on the facility’s deficient follow-up to a cardiac event. The cardiac event, which constituted harm upon which the “G” level citation was based, was not the result of the deficient practice.

#### Staffing Report

Rob Smith, DLTCRP Licensing Administrator, presented the quarterly staffing report ending on July 12, 2010. The facility names previous not mentioned, now appear on the report. The hours per resident determined for this period was 3.76. Eagles Law requires hours to resident at 3.28.

#### 2. Old Business/New Business:

##### Legislative Updates

Residents Rights Week (HCR 60) - The 9<sup>th</sup> annual awareness and event was sponsored by Representative Longhurst and Senator Hall-Long. The Residents Rights Rally will be held October 5, 2010 at the Dover Sheraton 1:00-3:00 p.m.

Certified Nursing Assistance Day-A tribute was prepared by Representative Longhurst and Senator Hall-Long. The tribute was sent to Sandy Dole and Pat Engelhardt. CNA Day was held June 10, 2010 at the Cheswold Fire House.

5<sup>th</sup> Annual Elder Abuse Awareness Day (HCR 53)-The 5<sup>th</sup> Annual Elder Abuse Awareness Day was June 15, 2010. Representative Longhurst and Senator Bethany Hall-Long sponsored a joint resolution. Several State, City and County agencies published information about the event.

Vulnerable and Infirm Adults (HS 1 for HB 348)- An act to amend Title 11 of the Delaware Code relating to specific offenses was signed by Governor Markell July 16, 2010 at the MOT Senior Center. Representative Longhurst, Senator Hall-Long and Chairman Posey attended and spoke about the new legislation.

#### DLTCRP

Mr. Smith provided Division updates regarding legislative initiatives for FY 10:

- More comprehensive CNA requirement and training law (continue education, also)
- Civil Monetary Penalties- DLTCRP is now able to establish a State trust fund (as opposed to Federal Trust Fund) for State monies collected.
- Supported the Vulnerable or Infirm Adult sentencing guidelines.
- Participated in crafting of the Dual Powers of Attorney law.

In addition to the above, the Division revised the Skilled and Assisted Living Regulations. They created an on-line Adult Abuse Registry Database and provide Criminal Background checks for employees of all licensed facilities and home health agencies.

The Division received a \$15k grant from Criminal Justice Council (CJC) and purchased laptops for investigators to use in the field.

#### Money Follows the Person

MFP originally received a four year grant to implement the program. Ms. Ashby informed the Commission recently that the program has been given a five year extension and the eligibility requirement was also reduced from six to three months.

#### Guardianship Monitoring Program

The Court of Chancery will be implementing an electronic system that all guardians will be required to use when filing their accountings. The program is called "GAP" and the tentative "go live" date is August 2010.

#### 2010 DNHRQAC Annual Report

DNHRQAC 2010 Annual Report draft will be sent to commission members for review. Please forward comments to Ms. Bailey prior to the September 14, 2010 meeting where the report is expected to be finalized.

#### 2011 DNHRQAC Meeting Calendar

Commission members were provided a copy of the 2011 meeting calendar in draft form. The Commission will meet the second Tuesday every other month throughout the year. The meeting start time is 9:30 a.m. and location is Emily P. Bissell Hospital 2<sup>nd</sup> floor conference room.

#### 5. Public Comment

#### 6. Next meeting will be **Tuesday, September 14, 2010** at 9:30 AM. The location:

Emily P. Bissell Hospital  
3000 Newport Gap Pike  
2<sup>nd</sup> floor conference room  
Wilmington, DE 19808

#### 7. Adjournment

The meeting was adjourned at 11:47 AM by Chairman Posey.

Attachments: Meeting agenda

March 9, 2010 DNHRQC meeting minutes draft

2011 DNHRQAC Meeting Schedule draft

QART Report

Staffing Report

Best Buddies of Delaware

DDDS Organizational Chart