

**Protection and Advocacy Advisory Board
Meeting Minutes
March 17, 2011
Conference Room B**

Attendees: Art Quirk, (Acting as Board Chair), Eileen Furey, Ray Elling, Sheila Mulvey, Joyce Peters; Vivian Cross, via conference call Rachel Bogartz, and Phyllis Zlotnick.

Absent: Peter Tyrrell, Wally Pelensky, Muriel Tomer, and Chad Sinanian

Staff Members: James McGaughey, Executive Director; Gretchen Knauff, Assistant Director; Peter Hughes, AID Program Director; and, Beth Leslie, Legislative Regulations Specialist.

Call to Order & Quorum: The meeting was called to order at 4:00, and the presence of a quorum was noted.

1. **Legislative Update** - Beth Leslie, Legislative and Regulations Specialist, gave a brief update on the current status of the hearings and deadlines facing legislative committees. She also explained the appropriations and finance committee's deadlines and the centrality of budget development to the fate of various proposals. She then invited questions:
 - a. Ms. Leslie was asked by Board Member Sheila Mulvey about the overall process for adopting a budget. The budget bill is **Raised Bill HB 6380 AN ACT CONCERNING THE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2013**. The Appropriations Committee will be working on this very soon, and the Finance Revenue and Bonding Committee will be putting together a revenue package. Once these two committees have done their work, serious negotiations will take place between legislative leaders and the Governor's Office. The Governor has expressed the hope that a budget will be in place by the second week in May.
 - b. Ray Elling asked about the bill proposed requiring ADA compliance for state buildings. **Proposed SB 389 AN ACT REQUIRING STATE-OWNED BUILDINGS TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT**. This bill was sent by the Government Administration and Elections Committee to the Human Services Committee. However, the bill did not get a public hearing. Mr. Elling noted that ADA compliance really isn't enough – there should be a requirement for electronically operated entrance doors.
 - c. The bill that deals with PCAs and unionization was also discussed. **Raised Bill HB 6486 AN ACT CONCERNING HOME HEALTH CARE SERVICES AND THE ESTABLISHMENT OF A PERSONAL CARE ATTENDANT WORKFORCE COUNCIL**. This bill was approved by the Human Services Committee on the day of the Board Meeting--March 17, 2011. It will now go to the House of Representatives and will likely be referred to other committees, such as the Labor Committee, before final action.

- d. Mr. Elling also discussed Senator Beth Bye's bill to protect vulnerable people. The bill is **Committee Bill SB 720 AN ACT CREATING PENALTIES FOR CAUSING HARM TO, OR THE DEATH OF, A VULNERABLE USER OF A PUBLIC WAY**. It is a bill to increase the penalty to a motor vehicle driver who hits and hurts or kills a "vulnerable person", which is defined as: "(1) A pedestrian; (2) a highway worker; (3) a person riding or driving an animal; (4) a person riding a bicycle; (5) a person using a skateboard, roller skates or inline skates; (6) a person operating or riding on an agricultural tractor, and (7) a person using a wheelchair or motorized chair". This bill is currently in the Transportation Committee. Phyllis Zlotnick questioned whether the fine associated with this legislation was adequate or an effective strategy to get drivers to be more careful.
- e. Vivian Cross asked Ms. Leslie about Section 5 of **Raised Bill SB 1105 AN ACT CONCERNING SPECIAL EDUCATION**. This bill had a public hearing on March 7th and is still in the Education Committee. Section 5 of the bill requires the State Department of Education, Department of Developmental Services, the Department of Higher Education and a newly created lead poisoning prevention and treatment stakeholder committee to develop guidelines regarding both the prevention of lead poisoning among students, and ways to ensure that children who are identified as having elevated blood lead levels when they are screened, are subsequently identified to school systems as needing special education, so that special education and related services can be made available from the start of their school careers, rather than waiting for them to fail in second or third grade, as is currently happening.

Specifically, section 5 of the bill requires this group "develop guidelines that are in compliance with the Individuals with Disabilities Act, 20 USC 1471 et seq., and Section 504 of the Rehabilitation Act of 1973, as amended from time to time, regarding the prevention of lead poisoning among students and the care of students with lead poisoning. Such guidelines shall include, but not be limited to: (1) Information concerning professional development opportunities for educators and school personnel pertaining to the effects of lead on brain development, learning and behavior and a child's social and emotional development, (2) methods that educators and pupil personnel staff may use to mitigate the effects of lead on a child's brain, such as early intervention, special education, cognitive rehabilitation, speech and language intervention and related services, (3) information for physicians, psychologists, speech and language pathologists and other clinicians relating to the appropriate developmental, neurological and cognitive diagnostic or developmental evaluations and assessments available for determining lead-related impairments in a child's brain, (4) information for parents and guardians concerning available means of prevention of lead poisoning and available services for the treatment and care of a child suffering from lead poisoning, and (5) information for parents and guardians concerning federal parental due process rights. The Department of Education shall make such guidelines available to local and regional boards of education."

Ms. Leslie expressed optimism that the Governor and Legislature would finish their work on time.

2. **Abuse Investigation Division Update Report**, by Peter Hughes, AID Program Director. The recent N.Y. Times Article about the repeat offenders in New York State who commit acts of abuse and neglect and yet elude efforts to fire them was very interesting. In Connecticut we at least have a dedicated program where every allegation is reported, investigated; and then processed through the DDS system and the independent P&A system. We stay more on top of repeat offenders; we have the registry to help prevent what happened in New York. If a worker is fired because of abuse, they receive a hearing and afterward they cannot be hired in Connecticut. The case must be solid against the perpetrator. Board Member Joyce Peters shared that when someone reported abuse or neglect but there were no witnesses, it often became a question of “he said, she said”, with insufficient evidence to substantiate that abuse occurred. However, provider management still had to make a judgment about client safety. These become management decisions, which, in her experience, were sometimes made despite the “he said, she said” nature of the evidence. Mr. Hughes also reorted:
 - a. We are in the process of hiring a much-needed nurse-investigator. Unfortunately, this is occurring at the same time P&A is slated to lose positions, but without the nurse; we are unable to complete some investigations.
 - b. Our goal is to get services for people who have been abused and/or neglected, our statute talks about protective services for people. While respectfully allowing clients to manage their own affairs to the best they can; the budget crisis makes it hard to get the services tailored to the needs of the victims.
 - a. Our annual record retention, purging, and shredding of files is in process, a huge process to complete.
3. **PAIMI Council Report** – Muriel cannot attend these meetings; we will get a different council person to come and report on the PAIMI Council. Jim McGaughey provided an update:
 - a. The council has grown; they now have 17 people.
 - b. The PAIMI program has recently conducted three investigations into serious injuries resulting from the use of restraint and seclusion in children’s mental health and educational programs we plan on meeting with the Department of Education in the next few weeks. We are hoping to get the Department of Children and Families to prohibit prone restraints. DDS banned this deadly practice 30 years ago. Only one person in all of DDS has the authorization for a face down restraint.
 - c. Council members visited Psychiatric Hospitals to find out how respectfully staff was treating the patients and completed “report cards” to give feedback to facilities.
4. **Executive Director’s Report – James McGaughey, Executive Director**
 1. Budget woes top the list of agency concerns. The proposed budget cuts four positions and \$38,403 in contract money this will reduce the number of people represented. Given the reductions we have suffered over the past ten years (nine other positions); these cuts threaten to significantly limit our effectiveness as a safeguarding agency. We are so small, if these loses go through it is going to hurt our clients and our ability to do anything.

2. The nurse-investigator for our Abuse Investigation Division funding and the position itself was transferred from DDS in 2004 when the agency was assigned responsibility for conducting all death investigations where abuse or neglect are suspected.
3. The use of restraint and/or seclusion (R&S) is rampant. We have found clear evidence of non-compliance with DCF regulations and policies, and of the statute that limits their use. Mr. McGaughey and PAIMI program staff met with DCF representatives and have another meeting with them and one of the providers where the problematic practices are being used. Best practice does not rely on seclusion in educational settings, partly because it is relatively ineffective compared with more positive approaches, and partly because attempts to “escort” students to seclusion rooms/booths often precipitate violent struggles which end in restraint.
4. R&S problems have surfaced in hospital emergency rooms as well. A recent AID/Fatality Review Board investigation found neglect on the part of a hospital that held a man with intellectual disability in four-point restraint for five days. The man was experiencing a psychiatric crisis, and could have been admitted to the psych unit of the hospital, but the hospital wanted him placed into a State facility. The man died within minutes of transfer to CVH. He had a pulmonary embolism – a blood clot had formed as a result of the protracted period of immobility. We are planning to host a major conference on the risks and trauma associated with restraint and seclusion, and the desirability of adopting Positive Behavioral Supports as an alternative. The FRB requested it be held in the Greater New Haven area, either in the summer or early fall. SAMSHA has developed expertise that we can request. The planning group will need to accurately define the target groups, suggestions included: union people, firemen and police unions, ambulance drivers, and Occupational Safety. Board Members: Art Quirk, John Clauson, and Vivian Cross volunteered to assist on the planning committee. Ray Elling volunteered to spread the word to several organizations, and suggested including CONNOSH.
5. Sexual Assault bill (S.B. 918) coalition & strategy. This bill would address the problems surfaced through the State Appellate Court’s decision in *Fortin v. State*, which overturned a jury verdict convicting a man of sexually assaulting his girlfriend’s daughter who has intellectual and significant physical disabilities. It replaces arcane language in the criminal code that refers to victims as “mentally defective” and “totally helpless”, but does not create any presumptions that people with significant disabilities are not capable of entering into consensual sexual relations. The original bill was introduced last year at the request of the Chief State’s Attorney’s Office, and the language was improved and agreed to by all interested parties. There is some legislative interest in changing some of the wording – which might help or might hurt its chances of passing. A coalition is forming to shepherd it through. We are working hard with CONNSACS, the DD Council, ARC-CT, and DDS and DHMAS to get the bill out of the Judiciary Committee.
6. Community Services Forum to be rescheduled. After much preparation and a very enthusiastic response from invitees, we had to cancel/postpone the community services forum scheduled for March 14. John O’Brien, the facilitator/discussion leader had a family emergency and couldn’t come from Georgia. We will be rescheduling, hopefully for 6-8 weeks from now.

7. Due to family obligations, Mr. McGaughey had to decline an invitation to visit the White House and meet the President at a ceremonial signing of an MOU between FEMA and the National Disability Rights Network (NDRN) – the P&A’s national association.
8. NDRN has published and distributed a report highly critical of the practice of “sheltered employment”. At this point we are simply encouraging people to read it and to read any of the responses to it that have developed. It may or may not help inform discussion when it comes time to re-think priorities for this Office. The report is posted on our website; P&As are taking cases to challenge the subminimum wages that people are being paid. We have our priorities. We have an employment priority we need to consider this as adding it into a priority.

Joyce Peters discussed the problems facing staff people in finding jobs. Having worked in the field for years, she felt great pride in people getting jobs and then it breaks your heart, because they are the first ones to go. She felt the best way to learn is on the job, with the job coach.

Ray Elling announced the **Citizen’s Coalition for Equal Access** is conducting sensitivity training for people Farmington at 7:00 p.m., March 23, Farmington Town Hall. The regular March Meeting of the Coalition is held at the Silo restaurant at 11:45 a.m.

Dr. Cross announced a forum on April 16, “Closing CT’s Achievement Gap for Children and Youth with Disabilities”. William Casper Graustein Memorial Fund and City of Hartford are sponsoring the Convention and Jim has agreed to be one of the facilitators.

John Clausen made motion to adjourn; Ray Elling seconded the motion. The motion was accepted unanimously.

Adjournment: 5:55 p.m.