

Protection and Advocacy Advisory Board

Meeting Minutes

June 25, 2009

Present: Eileen Furey (Chairperson), Arthur Quirk, John Clausen, Sheila Mulvey, Rachel Bogartz, Suzanne Liqueremann, in person, and Walt Wetmore (PAIMI Chairperson), Phyllis Zlotnick, Walter Pelensky and Peter Tyrrell attended via telephone.

Absent: Margarita Torres, Heidi Mark, and Christopher Knapp.

Staff Members: James McGaughey, Executive Director; Gretchen Knauff, Assistant Director; and Peter Hughes, AID Program Director.

Call to Order: 4:05 p.m.

Minutes: Minutes accepted no revisions. Motion to accept the minutes as amended made by Wally and seconded by Art, minutes accepted.

1) **PAIMI Board Chair Update:** Walt Wetmore provided an update regarding the PAIMI Board activities:

- i) PAIMI grievance procedure was discussed and will now be integrated with the P&A Request for Administrative Review.
- ii) By-laws amended to include a request for public input.
- iii) Plans for the annual meeting in August are underway.

2) **Executive Director Report**

- a) Budget situation, the state is in dire straights, we are not being badly hurt by any of the proposals, to-date.
- b) Emergency purchases only, per Governor's Executive Order. In the federal funds we are spending more than we receive. Some Federal Funds allow us to carry over monies for two fiscal years, but we are using that up rapidly. In a year, we will be out of that reserve, unless the federal government increases the funds.
- c) Jim attended the CEO meeting in Washington, D.C., where NDRN presented some very good ideas. Special education clinics, Saturday seminars, we have already discussed with the family support networks. Parents will bring the child's records and get some real specific hints and ideas on what to ask in an IEP or evaluation(s); learn how they can get a better education plan for their child. We are overwhelmed with requests for assistance; there is a lot of interest in doing the clinics.
- d) Investigative reports are a great tool for bringing attention to what is happening, a way to educate the public. Texas P&A produced one on a fight club scandal; the staff forced residents to fight so they could film it. P&As are producing reports to get access to information.
- e) The subcommittee for the Abuse Statute has met.

- f) In the Nursing Home lawsuit we have re-filed the complaint and memorandum of law. CT is moving to institute a Medicaid waiver for persons with psychiatric disabilities, so they may leave nursing homes. It's a good thing, but our estimate is several thousand persons are living in nursing homes, and the waiver will only take care of a couple of hundred.
 - g) In other litigation, we won the major legal issues in that New Horizon's case. The settlement agreement in OPA vs. Choinski, a case filed in 2003 on behalf of prisoners with psychiatric disabilities, mostly those at the Northern Correctional Institution, has expired. Currently no agreement in place, however DOC did keep the policies in place just no oversight. We are concerned because Commissioner Lantz announced her retirement. She was generally progressive and will be hard to replace.
1. The Public Forum planning committee met at Phyllis's home. We need funding to produce video tapes of the public forums. NDRN stressed the use of media to bring attention to public issues. Website is being revised right now, new pictures on the website. Blogging is blocked to Executive Branch agencies, self-help booklets, a few training videos that were developed by the PAIMI program developed for in-patient. VHS tape, DVDs, are available now. Investigating the use of YouTube.com to share important information and training, such as restraint and seclusion in public schools.
 2. P&A legislation is in the Senate. DHMAS is required to notify OPA anytime there is a death in one of their facilities. Additionally, clarification is being added to our enabling legislation concerning our obligation under federal law to protect client records from disclosure.

3) Abuse Division Update - Peter Hughes, Program Director

- a) Peter attended planning meeting with Jim, Sheila, and Phyllis to update the P&A 1984 State abuse investigation statute, attempting to bring it up to 2009 – 2010 standards and beyond.
- b) During the current P&A audit, the auditor looked at the abuse database. He is satisfied with what the investigators do. He had some good insights, and suggested possibly replacing/upgrading the database. There are still some bugs in the program that we can't seem to get fixed. The cost to replace it right now is too prohibitive, but he will look into it.
- c) We are experiencing problems in the delivery of protective services for clients. DDS is part of the problem, they do not have the resources and the retirement incentive program (RIP) is going to negatively impact them. One region is more problematic.
- d) *John Clausen* - acknowledging that agencies cannot respond in a timely manner, we are really in deep trouble now, fair to say. It is becoming more problematic, over time it is going to get worse before it gets better. Where can we get assistance? How about a court order or a settlement agreement? We want to work with Department of Developmental Services (DDS), but you need the assistance of a court.
- i) We continue to conduct investigations and write reports, putting out letters in the secure posting for immediate protective service system. Some regions are doing it.

Time limits are built into the Investigation and Protective Services, a written plan of protective services. *Does P&A go back and check, every six months?* We have one person who does that.

- ii) There was a suggestion that we bring legal action to secure protective services. However, we have too many cases to keep up with going to court, you would get relief in some cases, but be tied up in court and fall behind investigating the new cases. DDS will say okay in most cases – up to 200 a year. There is no direct private right of action for consumers who need protective services. We will try administrative remedies. When someone dies, other entities like the Fatality Review Board, which are less limited by confidentiality statutes, can make more of a public issue out of the problem.
- 4) Legislative Update - Beth is at the State Capitol. If you have any questions, you can e-mail her, her address is at the bottom of the Legislative Update that she sends out weekly.
 - 5) PAIMI Monitoring Visit – Federal government comes to different agencies, our Monitoring visit is scheduled for July 14 through 16. Gretchen has sent them a ton of information, other members of the PAIMI Advisory Council, and other members of this board on the July, 9:30 to 10:30.
 - 6) Conflict of Interest Policy – At the March meeting we discussed the recommendation that P&A Board have a conflict of interest policy.
 - a) Art shared a disclosure statement that he has used on another board. It has proven to be a good thing and board members of that organization renew it every October, so it can be presented to auditors.

If you are on a different board, or otherwise involved in an organization whose interest might potentially conflict with some action or discussion at OPA or this Board, you will at least have made a prior disclosure and can then say that you cannot participate in that particular discussion or action, or do whatever else seems appropriate. There is no reference in the by-laws of the OPA Board to this process, so, in addition to adapting the disclosure form to OPA's needs, the by-laws would need to be amended. Because this is an advisory board, it is not quite the same thing as being on a corporate board – e.g. not the same level of fiduciary responsibility to the organization as if it were a corporate board of directors. There is a statutory prohibition against officers or employees of organizations that provide direct services to people with disabilities from serving on the OPA board.

- 7) The question that comes up most often in other P&As is about board members who seek or receive services as agency clients. P&As want consumers and family members on their boards, but in general cannot give preference to serving them over others who seek assistance. Some P&As have formal policies about this. The only other restriction is if you worked for a State agency, on their payroll, and also received compensation from OPA for activities that occurred while you were “on the clock” for that other agency. The State has pretty elaborate rules about “dual employment” that are geared toward making sure that people are not “double dipping”.
- 8) We can adapt the disclosure form and amend our by-laws to address this issue. The language needs to reflect this board, this state. Jim will draft something for the next meeting.
- 9) New Business - Peter's wife passed away a couple of months ago.

10) Adjournment - Suzanne made motion to adjourn, Sheila seconded.