

***DAIL Advisory Board
January 9, 2014
Comfort Inn, Berlin***

Attendees:

Board Members: Linda Berger, Beth Stern, Robert Borden, Peter Cobb, Bill Ashe, Gini Milkey, Diane Novak, Harriet Goodwin, Steven Pouliot, John Pierce, Nancy Breiden, Jim Coutts, Janet Cramer

Guests: Marlys Waller, Jackie Majoros, Sherry Callahan, Kirsten Murphy

State Employees: Linda Martinez (via phone), Susan Wehry, Lisa Parro, Stuart Schurr, Clayton Clark

The meeting began with the introduction of Clayton Clark, the new Division of Licensing and Protection (DLP) Director.

Long Term Care Ombudsman's Conflict of Interest Criteria

By January 15th each year, the Long Term Care Ombudsman is required to submit a report to the general assembly and Governor which includes a letter from the Commissioner of DAIL stating that the Long Term Care Ombudsman is carrying out all duties without a conflict of interest.

Per Title 33, section 7509, the Commissioner of Disabilities, Aging, and Independent Living shall establish a committee for the purpose of assuring that the State Ombudsman is able to carry out all prescribed duties without a conflict of interest, and the Commissioner shall solicit from the committee its assessment and submit that assessment as an appendix to the required report. In past discussions it was determined that the DAIL Advisory Board, which is comprised of at least five persons who represent the interests of individuals receiving long-term care and who are not State employees, is the committee that makes this assessment.

The LTC Ombudsman program is authorized under the Older Americans Act (OAA). Under the OAA provisions (42 USC3058g (f)), there are conflict of interest criteria that the LTC Ombudsman must follow. . Every state that receives OAA funding requires an ombudsman program, and the Federal law is very clear about conflict of interest.

Jackie Majoros noted that the Vermont LTC Ombudsman program takes conflict of interest seriously and asks all prospective workers the questions in the OAA. In addition, the LTC Ombudsman addresses any additional information that may be obtained in the interview process to ensure there is no conflict of interest. Jackie Majoros also spoke about the process and steps the LTC Ombudsman program takes to ensure that conflict of interest is addressed.

The last sentence of section 7509 states, “The Department, in consultation with this committee, shall establish rules which implement this subsection.” Discussion about the promulgation of rules pursued.

Steve made a motion to adopt the LTC Ombudsman conflict of interest provisions in the OAA. After some discussion about adopting provisions vs. required law, this motion was amended to two parts, the first part: A motion that the LTC Ombudsman has complied with the requirements for conflict of interest and the Commissioner should write a letter stating the Committee felt the LTC Ombudsman program was in compliance. Harriet seconded the motion. All were in favor of this motion, no abstentions or nays. The second part of the motion: A motion to incorporate the OAA subsection of conflict of interest into the rules.

In the next couple of months the federal rules that include conflict of interest will be promulgated, so it was recommended that the Committee wait for these rules to be adopted before working on the rules for DAIL. Stuart will report back to the Committee after looking more closely at the statute. After further discussion Steve withdrew the second part of his motion.

The Committee’s review of the LTC Ombudsman ability to carry out all prescribed duties without a conflict of interest should be a standard DAIL Advisory Board agenda item every year.

Board Meeting Minutes:

The Board approved the meeting minutes from December.

The agenda for January states the public is welcome to attend. The meeting minutes from December state the public is welcome to comment. The Board agreed, with 1 abstention, that the agenda should state that the public is welcome to attend and comment.

Commissioner Wehry’s Updates

2013 Highlights

- Sequestration and issues in Washington presented a lot of worry and uncertainty about the programs. Vermont did well to ensure that basic needs were met. An additional major topic was the narrowing of the companionship exemption, which refers to Fair Labor Standards Act.
- VT Health Care Innovation Project (VHCIP) presented new levels of conversation and model reform: Better health, better care, at lower costs. Some exciting things are being tried. The hope is that by 2017, all you will need is something identifying you as a Vermont resident.
- DAIL took further steps involving re-organization. The Division of Disabilities and Aging Services (DDAS) was divided into two divisions: The Developmental Disabilities Services Division (DDSD) and the Adult Services Division (ASD) to allow for greater focus and development of programs, and to capitalize on energies for divisional work as

a whole department. Camille George is the DDSD Director, and Lora Nielsen is the ASD Director.

DAIL has created a health care unit. In this unit are two new, limited service positions, as part of the SIM grant for long term services and supports. These positions will assist in the work of addressing the issues of self-neglect and falls prevention, continuing to tie them in with the Older Americans Act.

Stuart Schurr moved from Assistant Attorney General/Director of the Department's Legal Unit to Deputy Commissioner; Clayton Clark became the Director of the Division of Licensing and Protection (DLP); and Alice Kennedy transitioned from an Assistant Attorney General assigned to DAILE to the Department's General Counsel. Linda Purdy, Assistant Attorney General and Chief of the Human Services Legal Division, is meeting with the Commissioner next week to discuss possible candidates for the Assistant Attorney General (AAG) position that Alice vacated.

- An additional significant change in 2013 was the continued path of adopting results based accountability (RBA) as a performance measure platform which will continually hold us to task about what we are doing, how we are doing, and if people are benefiting from our work. While RBA has been requested every year, this year the Legislature will review legislation to require RBA as part of the budgeting process. The Traumatic Brain Injury Program (TBI) was chosen to be part of a pilot for RBA budgeting, and this information will be presented in the 2015 budget.

Indicators and outcomes from the work previously done during the AHS Secretary Con Hogan era are being used as the current AHS Strategic plan is being evolved.

It was a good year with solid visions. Some of the highlights are: CFC turned in another robust year: serving more people; new models of service (rolled out Adult Family Care which had 3 people living in homes by December); budget neutral and savings for reinvestment; DDSD launched its System of Care Tri-Annual Review plan (If you have not received a link to the survey, please let Lisa know); Imagine the Future 2013 was launched – A celebration of the present, looking toward the future; Numerous celebrations and remembrances for the 20th year closing of Brandon Training School; the Division of the Blind and Visually Impaired (DBVI) did a great job getting people with disabilities back to work; the settlement of the Adult Protective Services litigation; and a number of initiatives for dementia care. Everyone is encouraged to look at the DAILE Annual Report. It is due 1/15 and will be posted online. (<http://www.dail.vermont.gov/dail-publications/publications-annual-reports/dail-annual-report-2013>)

Governor's State of the State Address

The Governor addressed the ongoing criticism of health care reform not going as originally planned; however, while some things did not work out well, he encourages people to get past this and move forward to reform the health care system. He addressed opium addiction and other

addictions as a major crisis in Vermont, and the need for treatment and swift and stiff penalties. He will discuss budget issues next week during his budget address.

The Governor's State of the State Address can be found at:

<http://governor.vermont.gov/newsroom-state-of-state-speech-2013>

Adult Family Care Homes – Linda Martinez

Before Christmas, there were 3 people enrolled in the Adult Family Care program. Linda continues to work closely with the Traumatic Brain Injury Technical Assistant meeting with agencies. Linda is looking at the demonstration grant to see if there is an opportunity for more flexibility.

Testimony (See handout, or go to the DAIL website at: <http://www.dail.vermont.gov/dail-statutes/legislative-testimony-2013/hse-approp-fy14baa-01092014>)

Today the Commissioner will be testifying for the House Appropriations on the budget adjustment for SFY14. The Commissioner anticipates the concentration will be directed to the rescission savings target of approximately \$2.5 million in developmental services. A workgroup was convened, which came up with some cost saving ideas; however, none of these ideas would affect the SFY14 budget. In October, DAIL sent the agencies instructions and information about the reductions, effective in January. The agencies are required to review each individual's budget, and then sit down with each person or guardian and make the necessary choices. This has been completed, and 524 individuals (19%) had their budget impacted. Roughly, 300 individuals had a reduction in services; however, some of these individuals had needs assessments completed and did not need the services any longer or were not using the services.

New legislation has been introduced that would move the Traumatic Brain Injury program into the Department of Mental Health (DMH). Stuart has reviewed this legislation; however, DAIL has not been contacted about it, and the Commissioner of DMH is not advocating for this. Another piece to the legislation is to move the Division of Substance Abuse from Vermont Department of Health (VDH) to DMH.

Governor's Commission on Successful Aging - Will Rowe, DAIL

(Please see handout)

The Governor's Commission on Successful Aging has formed three subcommittees, one which addresses Vermont's older workforce. At the Grafton Conference a lot of work was done on older Vermonters and the workforce. This information provided a foundation for the subcommittee's work. The Workforce Subcommittee held three meetings – one with employers, in which 77 employers attended, one with older Vermonters about what was working/not working and what they wanted, and one about education and training.

The Subcommittee came up with 18-20 recommendations for the Governor about promoting/implementing mature workers and settled on 4 overall recommendations that it felt were achievable. These recommendations have been submitted to the Governor. The key agencies and departments in the State who would be involved with these recommendations have

been contacted, and Commissioner Wehry has reviewed them. The subcommittee members have a meeting with the Governor on the 30th of this month to discuss the recommendations.

The 4 overall recommendations are (not in priority ranking):

- The mature worker initiative (The mature worker initiative looks at multiple options to retain mature workers such as job share, flex time, seasonal employment, etc.)
- The Agency of Commerce and Community Development Employer Recruitment Focus
- Implement a Public, Well Publicized Annual Mature Worker Employer Recognition Program
- Viewing the State of Vermont as an employer, making the State a Model Mature Worker Employer.

The overall conclusion is to create a focus on mature workers, which does not currently exist, which will help employers and people looking for work to meet needs. Demographics show that the largest part of the workforce will be exiting employment and there is a need to look at policies and practices to retain the mature worker that wish to remain employed as the supply of younger workers will not meet employer demands.

A suggestion was made to have employers of mature workers submit recommendations on how they deal with things such as benefits and alternative schedules that can be put into a document as a resource for other employers.

The other two subcommittees of the Governor's Commission on Successful Aging are on healthcare reform (issues of health care for individuals 55 and older) and livable communities (designing age friendly communities.)

During the restructuring of DAIL, Stuart has replaced Will Rowe on the Governor's Successful Aging Commission.

Board Member Updates

A reminder about the 55 and older exposition on 1/25 at the Sheraton in Burlington.

In the 90's Medicaid coverage changed and eyeglasses, dentures, and chiropractor costs were no longer covered. Chiropractor costs are now covered, and there is a coalition working on oral health in the single payer system, which includes dentures.

The COVE newsletter will be sent to the DAIL Advisory Board members.

The Commissioner's positive presentation of DS cuts is appreciated; however, while one cut in DS services may not have a very big impact, budget reductions in DS over the past multiple years is eroding the system and the ability of the agencies to provide services. The DS system is feeling the funding impacts as they preserve the system for consumers and provide quality services with the increased workloads. There is some concern about getting a baseline for RBA

at year 6 of budget cuts, rather than a baseline from 6 years ago as the quality will not be the same. The impact on the people served over the past 6 years should be the question, and shown better.

The US Department of Labor (DOL) Rule addressing the companionship services exemption is taking effect January 2015. The rule has been promulgated and now is the time for states to address programmatic and fiscal impacts. The US DOL has narrowed the definition of companionship, thereby affording minimum wage and overtime protections to many more workers. A group of representatives throughout the state has convened to look at the different programs to determine which fall under the exemption. Marlys and Stuart have talked with NASUAD and will hopefully get some good news soon.

It was great to receive a list of what the commissioner was going to cover. It would be helpful if agendas can be received on Mondays before the meeting as previously discussed.

Potential Topics for the Calendar Year 2014: (not discussed)

- November/December LTC Ombudsman conflict of interest
- Aging and Disability Resource Connections (ADRC)
- Dual Eligibles
- Blueprint
- Peer run activities
- Integrated Family Services (IFS)
- Legislative and budgetary issues
- Federal government rule changes
- Explore how VT Health Connect affect people of all ages – how valid are stories of difficulty
- Multi-year cuts and effects over years – on the priority list on an ongoing basis
- Ongoing update on where spending is relative to the budget
- Case management – different funding streams – different disabilities in different programs – different definitions
- Without demonizing people with disabilities or aging problems, how to help people and maintain confidentiality
- Board commenting on State System of Care Plan recommendations before they are adopted - follow prescribed time tables.
- Adult Family Care implementation
- Health Care Reform – priority of board to stay current
- Folks from accountability care organizations (ACOs)
- SIM – implementing payment reform
- Dual eligible – how the ACA affects this
- Affordable Care Act – important to keep abreast, ACOs, payment models
- In addition to people from the state – advocates, people not “at the table”– people out there that can bring information of what’s going on out there.

- How computerization is affecting clients and our self – a lot more responsibility being put on people.
- Crisis of the SHIP (State Health Insurance Program) workers - some funding may disappear; uncertainties about Medicare. Larger states want to shift that formula to get more.
- APS Workgroup - will be presenting to full board next month.