

**DAIL Advisory Board Meeting**  
**February 12, 2015**  
**Comfort Inn, Berlin**

**Attendees:**

**Board Members:** Jim Coutts, Linda Berger, Nancy Breiden, Steve Pouliot, Harriet Goodwin, Diane Novak, Ginny Milkey, Beth Stern, Robert Borden, Peter Cobb, Janet Cramer, Denise Bailey (via phone), Nancy Lang (via phone)

**Guests:** Jackie Majoros, Karen Schwartz, Marlys Waller

**State Employees:** Lisa Parro, Stuart Schurr, Clayton Clark, Suzanne Leavitt, Susan Wehry

Roll call for the Board was completed. Robert Borden made a motion to accept the DAIL Advisory Board meeting minutes from January, seconded by Diane Novak. The minutes were approved: 6 yes, 4 abstained, 0 No

**Adult Protective Services (APS) Update** - Clayton Clark, Director, Division of Licensing and Protection, DAIL

A summary of the Annual Report on Adult Protective Services for State Fiscal Year 2014 was distributed. The full report was sent to the Board, and can be viewed on the DAIL website at: <http://dail.vt.gov/dail-publications/publications-legis-studies/aps-annual-report-sfy2014>)

No structural changes were made in the Adult Protective Services (APS) program in 2014. Currently, there is an Investigator vacancy; otherwise, APS is fully staffed. The two Field Supervisors carry a significant caseload and will pick up the extra work when there is a vacancy in the field.

The number of intakes in FY14 increased approximately 45%. The reason for this increase is unknown. It may be due to an increase in abuse and exploitation; however, it is believed that is due to an increase in consistency of the data and an improvement in record keeping. There was also an increase in training for mandatory reporters, which clarified the types of things that need to be reported.

Due to the increase in the number of cases reported, the percentage of cases investigated increased. (Clayton will do a breakout of the types of cases that were investigated, including how many investigations involved financial exploitation, and he will send this information to the Board.)

There is increased coordination within the Survey and Certification Unit (S&C) and APS on findings of abuse, neglect, and exploitation that are discovered during a survey. S&C staff ensures that APS is involved with these cases, and they look closely to ensure that the facility is doing what it needs to do in order to keep the residents safe. Whenever a survey is completed and abuse, neglect or exploitation is discovered, the State Long Term Care Ombudsman may follow-up with APS to ensure there is a record of the case.

A commissioner's hearing is a second review of a case. The individual can attend with witnesses, attorneys, or whomever they wish. There is a further appeal process available before the Human Services Board.

All substantiations require the individual to be put on the abuse registry; however, an individual can request a hearing to have his/her name expunged from the registry. This is the first year that APS is reporting on the data for appeals.

The names of the individuals on the abuse registry are not public information, and this information will not show up on a standard job application. However, before an individual can get a position working with a vulnerable adult or child, or at a health care facility, they need to sign a release so the employer may check the abuse registry. There is no cost to the facility to have an abuse registry check completed. Clayton will send a copy of the statute, 33 V.S.A. § 6911, which states who can access the information on the registry.

**Survey and Certification Update** - Suzanne Leavitt, Assistant Director, Division of Licensing and Protection/State Survey Agency Director, DAIL (*See handout*)

Survey and Certification (S&C) is responsible for the evaluation of providers and suppliers, who participate in Medicare, to determine if they meet established federal health and safety standards, and they are responsible for licensing state facilities and enforcing all pertinent state regulations.

S&C will collaborate with a provider/facility about its practices; however, S&C does not evaluate the best practices of a provider/facility or evaluate its quality assurance practices. S&C does ensure that required facilities have a quality unit; however, the public makes sure the quality of care is good. If a provider/facility meets the Center for Medicare and Medicaid Services (CMS) regulatory standards, it is expected that the quality improves as well. In Vermont, all of the S&C investigators are registered nurses.

CMS notifies the states how often S&C needs to go into a health care entity. CMS has the right to terminate a provider/facility from the Medicaid/Medicare program if it is found deficient and does not come into compliance with the standards within the required time frame. CMS may add or make minimum changes to the regulations; however, it does not significantly change the regulations.

A provider/facility may go through an accreditation process and demonstrate that all applicable conditions are met and become a deemed entity. Fletcher Allen is a deemed entity. CMS will

tell the state where to go and what to review at a deemed entity, and these are the only areas that the state can review at these facilities.

The investigator receives a spreadsheet with information about where to go and will give the timeframe based on federal requirements. S&C surveys are unannounced; however, due to the time requirement, some facilities have a rough idea of when a survey may occur. S&C is currently up to date with the surveys; there is no backlog. The State Long Term Care Ombudsman (LTCO) is notified of the investigation schedule.

As a quality assurance, the federal surveyors may join the state surveyors on a visit, or they may do a survey 2 months after the state completes a survey. For the past 2 years, Vermont S&C has been in line with the federal surveyors' results.

Information about how to file a complaint about the facility is posted at every facility and is in the information packet that is given to patients. In nursing homes, information about filing a complaint with the State LTCO is also posted. The LTCO can resolve some issues within the facility; however, they do inform the patient that a complaint can be filed through S&C. The LTCO may also pass complaints onto S&C.

## **Commissioner Wehry's Updates**

### **Legislative Updates:**

The third reading for budget adjustment is today at 1:00. There are only minor amendments, and they do not impact DAIL.

All of State Government was asked to identify any programs or parts of programs that could be eliminated without undue impact, using missions, outcome measures, and outcomes on investments as guides. This has created a lot of thought and challenging discussions and decisions. Commissioner Wehry presented information to the Board about the FY16 budget. If anyone on the Board has any ideas about how to better address any budget issue, please contact Commissioner Wehry. The Commissioner's budget testimony can be found at: <http://dail.vt.gov/dail-publications/budget-testimony/dail-sfy16-budget-testimony>

This week, Commissioner Wehry testified on the State Auditor's results for Developmental Disabilities Services. The State Auditor basically stated that the DS program needed improvement, of which DAIL is aware and has been working to address. The assessments and appeal rights for developmental services have been improved and are already making a difference; and Camille is working with the designated agencies about how to tighten up the hospitals' accountability for accessibility when an individual who receives DS services is hospitalized.

The House Human Services Committee is looking at the full spectrum of healthy aging. Yesterday, Commissioner Wehry provided a presentation for the Committee on aging in Vermont. Today the Commissioner presented information about aging and dementia, and Beth Stern presented information on Alzheimer's Disease. The Committee is very engaged and

interested in the information being presented. Today is Alzheimer's Awareness Day. There are a lot of activities going on at the State House, with a reception tonight sponsored by the Memory Center.

Last year President Obama signed the ABLE (Achieving a Better Life Experience) Act of 2014. This Act allows tax exemptions on savings accounts for people with disabilities, without impacting their funding. (<https://www.congress.gov/bill/113th-congress/house-bill/647>) There is no legislation in place yet about how this will be set up and administered, but there is a placeholder for it. Karen Schwartz from the Developmental Disabilities Council is working on this legislation.

There will be a Medicaid rate increase of 2.5% in January 2016 for all providers who provide Medicaid services, except nursing homes. The Commissioner was notified that there would be an option to get 1.5% in July, with the intent for this to continue after the fiscal year.

### **Department of Labor Rule – Update**

The most recent court decision on the new federal labor rule was that the rule will not be implemented at this time. The Department of Labor has decided to appeal the decision, and a decision on this appeal is expected in the summer or fall. If the appellate court reverses the decision, the rule will likely go into effect immediately. If this happens, employers will be expected to comply with the minimum wage and overtime requirements set forth in the Fair Labor Standards Act. Letters have been sent out to all employers advising of the status of the Rule.

### **Healthy Aging**

2015 is the 50<sup>th</sup> Anniversary of the Older American's Act. A lot of things have changed since the Act was passed, and it may be time to look at this again.

The White House Conference on Aging is hosting three webinars. The Commissioner watched the webinar on self-management with the seniors at one of the SASH locations. The seniors thoroughly enjoyed it and felt it was very informative. SASH is going to ensure that the next webinar is seen in all their homes. The webinars are also posted on the White House Conference on Aging website: <http://www.whitehouseconferenceonaging.gov/>

The White House Conference on Aging used to be held every 10 years; however, there is currently no funding for this, so this year AARP is co-convening regional conferences in 6 different regions across the county, with attendees by invitation only. AARP is researching video casting so others may watch the conference. Providers will be contacted for input about whom they feel should be invited to attend. After the regional conferences, one person from each state will be invited to go to the White House for the Conference on Aging.

There is a federal level discussion about the reduction of Social Security Disability Benefits. Vocational Rehabilitation is researching how initiatives in other states might assist Vermont in serving and offsetting individuals who may have a reduction in benefits.

### **Personnel Updates:**

DAIL has received applications from some good candidates for the Director of Operations position and interviews should begin soon. Recruitment continues for an Administrative Services Coordinator III position and a limited service Health Policy Analyst position.

### **Health reform update:**

There has been a lot of discussion about the standards for Accountable Care Organizations (ACOs); however, it is believed that a decision about the standards was passed this week. The best source for any health care reform information for Vermont can be found on the Vermont Health Care Innovation Project (VHCIP) website:

[http://healthcareinnovation.vermont.gov/VHCIP\\_Grant\\_Program](http://healthcareinnovation.vermont.gov/VHCIP_Grant_Program)

### **Board Member Updates**

The AAAs are in the process of hiring a director for their organization.

Marlys gave her perspective about the DAIL FY16 budget and DS services.

AARP is trying to put a policy group together for SSDI funding so funding can move from one place to another and not run out. Legislature will not allow this to happen; this portion of funding will not be affected.

The Developmental Disabilities Services Division Annual report has been completed. It can be found on the DAIL website at: <http://dail.vt.gov/dail-publications/publications-legis-studies/ddsd-annual-rpt-sfy2014>

If anyone would like more information on the ABLE (Achieving a Better Life Experience) Act of 2014, please contact Karen Schwartz.

S.30 would change the Home Health fee for service to a fee per patient per month. DAIL is working with the Department of Vermont Health Access (DVHA) and Home Health about what this would look like if it were to pass.

The designated agencies were audited and it was found that the State was not doing a good job overseeing what was being done in the designated agencies. The Vermont State Auditor's office is concerned that the State may be paying the designated agencies multiple times for the same type of services and feels the State could improve in this area. The departments in the Agency of Human Services are working together and learning from each other to improve the oversight of designated agencies.

The three subcommittees for the Commission on Successful Aging continue their efforts.

- The Workforce Subcommittee is in the process of implementing the initiatives presented to the Governor (e.g. employee recognition programs, older worker initiatives, education within and outside of government, and creating talking points for use by State employees).
- The Health Care Reform Subcommittee has created a report with findings and recommendations on oral health, falls prevention, and mental health and aging that will be ready to submit to the Governor within the next 30 days.
- The Livable Communities Subcommittee is looking at housing and transportation needs, and how this can expand and improve to assist individuals to age in a place of their choice.

There is an interest in hospice this year. The VNA in Chittenden and Grand Isle has convened an advisory group to evaluate hospice services and underutilization. If any Board members have any ideas about how to improve hospice services, or have input, please contact Commissioner Wehry.