



SEN. ROGER J. KATZ, SENATE CHAIR
REP. CHUCK KRUGER, HOUSE CHAIR

MEMBERS:

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SEN. DAVID C. BURNS
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. STAN GERZOFOSKY
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REP. RICHARD H. CAMPBELL
REP. ROBERT S. DUCHESNE
REP. ANNE-MARIE MASTRACCIO
REP. DEBORAH J. SANDERSON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

April 8, 2016

Accepted May 19, 2016

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 8:02 a.m. in the Cross Office Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Johnson, Sen. Burns and Sen. Diamond
Joining the meeting in progress: Sen. Davis and Sen. Gerzofsky

Representatives: Rep. Kruger, Rep. McClellan, Rep. Campbell, Rep. Duchesne
and Rep. Mastraccio
Absent: Rep. Sanderson

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Scott Farwell, Analyst, OPEGA
Amy Gagne, Analyst, OPEGA
Lucia Nixon, Analyst, OPEGA
Etta Connors, Adm. Secretary, OPEGA

Executive Branch Officers and Staff Providing Information to the Committee: Ricker Hamilton, Deputy Commissioner of Programs, Department of Health and Human Services

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARIES OF THE FEBRUARY 12 AND 26, and MARCH 11, 2016 GOC MEETINGS

Motion: That the Meeting Summaries of February 12 and 26 and March 11, 2016 be approved. (Motion by Chair Kruger, second by Rep. Campbell, passed unanimous vote 9-0).

NEW BUSINESS

•Presentation of Riverview Psychiatric Center Report

Chair Katz explained the GOC/OPEGA's process when issuing reports. He said Director Ashcroft will present the Riverview Psychiatric Center Report. Committee members will ask any questions they may have regarding the Report and if anyone is at the meeting from the Department of Health and Human Services (DHHS) and/or Riverview Psychiatric Center (RPC) the Committee would be pleased to hear from them. Chair Katz said the next step will be for the GOC to schedule a public hearing with respect to the Report.

Chair Katz suggested scheduling the next GOC meeting for some time during the week of May 9th. Following a brief discussion the next GOC meeting was scheduled for Tuesday, May 17, 2016 at 9:00 a.m.

Director Ashcroft presented OPEGA's Riverview Psychiatric Center Report. The Report can be found at <http://legislature.maine.gov/opega/opega-reports/9149> or by contacting OPEGA.

The GOC members' questions and comments during the Director's presentation of the Report's overall conclusions included:

Chair Katz noted that Sentinel Event reporting was one of the reporting avenues OPEGA reviewed and asked what a sentinel event would be. Director Ashcroft said that would be an extraordinary event, for example, something like a patient showing bedsores and much more catastrophic things like surgery on the wrong part of the patient's body or there is something that is occurring to the patient that is going to cause short or long term damage to them or an unanticipated death. Another would be a transfer to another facility.

Rep. Campbell referred to OPEGA's finding that there were inconsistencies between expected and actual practice with regard to administrative follow-up or reported incidents and concerns. He asked for an example. She said there are various policies, for example, that state a fact-finding is supposed to be done for abuse, neglect and exploitation incidents and OPEGA saw it done for some incidents and not for others. There was also a document RPC provided to the Appropriations and Financial Affairs (AFA) Committee earlier last year that laid out what follow-up was done by RPC and the actions they take. She said reading that document you are left with the impression that there is going to be a root cause analysis, or a fact-finding done on a number of types of reported incidences, but OPEGA did not see evidence of that actually occurring in what they reviewed.

Rep. McClellan referred to OPEGA's findings that publicly reported performance metrics did not capture all reported incidents. He asked if people were in danger because of that. Director Ashcroft said the issue was about transparency and reporting and people were not in danger because of it. There is a process at RPC where things get reported up to the senior level of management, external agencies, etc. so the knowledge that the incidents actually occurred is there. However, the related data is not making its way all the way into the performance metrics that the Legislature, or oversight entities, are looking at as a barometer on what the environment is at RPC for staff and patient safety.

Chair Katz wanted to make sure he understood what Director Ashcroft said with respect to allegations of events of patient abuse, neglect or exploitation. Did he understand correctly that the ANE events that are unwitnessed are captured in the reported metrics, but the ones where there are witnesses, because of the way the computer program is set up, are not reported? Director Ashcroft said the Chair was correct, the witnessed events are not in reported metrics, but it is not because of the computer. She said it is because of the judgment or criteria being applied by the data entry person based on guidance she has received about what should be entered. That guidance is that the metric should only include allegations. The events that are witnessed are reported differently on the Incident Report itself and are not seen to be something that is supposed to be captured in the

metric. Director Ashcroft said that may be all well and good if the witnessed events were getting captured in other metrics, but they are not. Consequently, they are not getting reported to the Legislature as having occurred, even though staff actually witnessed them.

Committee members' questions regarding the section of the report covering Incident Reporting included:

Chair Katz asked if it was OPEGA's impression that the first level staffer who is supposed to fill out incident reports is doing so. Director Ashcroft said staff know very well the expectation around when to complete an Incident Report. She said as of January, 2015 RPC has instituted pre-numbered incident report forms in an effort to try to make sure that if staff are filling them out then they are actually getting all the way through the reporting process. Director Ashcroft said there will always be the risk of people not choosing to fill one out and OPEGA did hear from everybody they interviewed that they had received very consistent guidance from their supervisors as to what should or should not be reported. OPEGA feels they understand it well.

Chair Katz noted that the Director seemed to be drawing a distinction between Incident Reports that met the "reportable events criteria", and those that did not. He asked for an example of the type of events being reported on Incident Reports that may not meet the criteria. Director Ashcroft gave the example of a sharp object laying outside on the ground, or somebody not being at their position when they were expected to be. An Incident Report is supposed to be completed for anything that someone would think is unusual or out of the ordinary.

Sen. Diamond noted that all Incident Reports are funneled to the Risk Manager, and asked if they get reported further than that as a matter of routine, or is it that everything stops there until somebody makes an inquiry. Director Ashcroft said from there the Incident Reports get reviewed at the morning management meetings held every weekday. There is a management meeting every weekday morning that includes head nurses from the units. The Risk Manager brings copies of all the Incident Reports that have been submitted over the course of the last day, or since the last meeting. The Incident Reports at least get looked at and brought to the attention of the administrative team which includes not only the administrators, but also clinical folks, the head medical director, nursing director and psychologists.

Rep. Mastraccio referred to the 2791 reportable events in Table 2 of the Report and asked if the 209 talked about that were affected by the computer system update were included in the 2791, or are they two different things. Director Ashcroft said they were two different things and OPEGA is still not sure whether the 209 events were actually in the data base or not. That is a piece of information OPEGA still feels like they do not have.

Sen. Diamond referred to the Event Type of Sexual Abuse shown in Table 3 and asked what that included. Director Ashcroft said it can be any form of inappropriate touching of staff-to-patient or patient-to-patient.

Rep. Campbell referred to Sen. Diamond's question and asked if it extended to verbal abuse. Director Ashcroft said the Abuse category generally covered all sexual, verbal and physical abuse. She said abuse of all types is to be reported to Adult Protective Services (APS) regardless of whether it occurred at RPC or not. For example, if a patient claims they were abused before they got to the Hospital by a family member, once a staff person at RPC becomes aware of that claim it must be reported to APS regardless of the ability to verify what happened. Only events that occur within the Hospital, or are related to RPC, are reported in the quarterly performance metrics around abuse, neglect and exploitation. Director Ashcroft said there is a distinction to be made there as to what their reporting obligations are.

Sen. Gerzofsky asked if OPEGA was able to assess how RPC is doing compared to other like hospitals regarding the number of events that are occurring. Director Ashcroft said no that was not within the scope of this review. However, she believed in their quarterly reports, they do have some standards and targets, etc. that either come from the National Accrediting Commission or might be part of the consent decree. They do report the metrics against those benchmarks. She said looking at those may answer the Senator's question to some degree.

The GOC's questions and comments on the Recommendations section of the Report included:

Rep. Mastraccio referred to OPEGA's observation that RPC Policy does not mention the requirement in DHHS Chapter 112 Rules for notification to Adult Protective Services within 24 hours of a suspected ANE event. She asked whether OPEGA had any indication that RPC is not reporting within 24 hours. Director Ashcroft said most all of the ANE events OPEGA reviewed were reported within the 24 hours. Three of the 20 OPEGA reviewed were not reported within 1 day, two of them had mitigating factors. For one, the incident was brought up in a treatment team meeting days after it had occurred and they did address it as soon as they learned of it. On the second, the primary incident captured on the incident report was with regard to a police response to an incident they determined to be unsubstantiated. It was not picked up by the staff as being something that needed to be reported. She said the Risk Manager did identify it as a potential ANE event and reported it. Director Ashcroft said there was only one that was not reported within the 24 hours for which there was no reasonable explanation.

Sen. Diamond said LD 622 would help with the issues in Recommendation 4 on mandatory reporting of ANE events. He noted that the Health and Human Services Committee did a lot of work on the LD and he thinks that is going to require training every 4 years, not just at RPC, but any mandatory reporter from teachers to other hospitals, etc.

Rep. Campbell asked if anybody believed that RPC will get to 100% staffing. Director Ashcroft said that was a question that he would have to ask of the Department and the Court Master. She does think that they hope to be in a better position than they have been in the past.

Chair Kruger reminded everyone that the public comment period on the Riverview Psychiatric Center Report will be held at the May 17, 2016 GOC meeting. He said the public is invited to send the Committee comments in written form to OPEGA and/or attend the public hearing on the 17th. (Following the Committee Meeting the May 17th meeting was rescheduled to May 19, 2016.)

Chair Kruger invited the RPC and DHHS representatives at the meeting to make any comments they would like.

Deputy Commissioner Ricker Hamilton said he wanted to thank Director Ashcroft and OPEGA staff. He said OPEGA spent from 2014 to 2016 on the RPC review and DHHS tried to be as responsive as possible. He said OPEGA was always available for them for meetings. He urged the GOC members to read Commissioner Mayhew's letter at the end of OPEGA's Report that talks about the Report Recommendations and said the Department is already taking steps to work on them and to improve things going forward.

Mr. Hamilton said he would like to applaud Director Ashcroft for mentioning the staff at RPC and praising them as well. He said that does not happen very often and it is nice to have that in a Report. Mr. Hamilton said anytime they can say thank you to the staff for doing a difficult job every day, they want to do that. He said RPC staff and the union representatives are looking forward to the changes that are being seen.

Mr. Hamilton said he facilitates a call once a week with DAFS' Human Resources Service Center (Service Center) who provides HR services to RPC. At the Department's request he has been doing that since the beginning of December and they meet specifically to look at vacancies and what is being done to fill them, where the vacancies are and what they can do. He said DHHS worked with the unions and got their agreement for posting positions more quickly and that helped a lot, as did creating a mental health worker pool. He said also on a weekly basis he sends a report to Daniel Wathen, Court Master, which includes overtime and mandates. DHHS is tracking overtime and mandates and tracking who is hired, who is coming in and where the areas are. Mr. Hamilton said historically RPC had always had between 10-15 nurse vacancies at any one time despite anyone's best effort. He said RPC is about at that level now so they have been hanging around 23 or 25 total vacancies and are trying to fill them as quickly as they can. Mr. Hamilton said that information is available to the Court Master and internally on a weekly basis.

Mr. Hamilton said he thinks the GOC will hear and see some tremendous improvement at the public hearing on May 17th. He said they are at the point now where when they have a mental health worker opening they can fill that position almost in the same week because of the pool. He said that is unusual and it is because of the partnership with the unions and others to make that happen.

Mr. Hamilton said licensed and registered professionals are mandated through their licensing and professional standards to report any incident to APS. He said RPC goes beyond the APS Act in Maine and encourages every staff member who suspects abuse and/or neglect has occurred to report to APS. He knows, however, that does not always happen and DHHS would accept any help they can get for new legislation. DHHS is ready and committed to do more training at RPC to make sure that it is clear that they are going above and beyond what is expected in the statute for staff to report.

The GOC members thanked Mr. Hamilton for the information he provided.

UNFINISHED BUSINESS

None

REPORT FROM DIRECTOR

No Report.

NEXT GOC MEETING DATE

The next meeting date was discussed earlier and is scheduled for May 17, 2016 at 9:00 a.m. (The meeting date was changed to May 19, 2016 at 10:00 a.m.)

ADJOURN

Chair Kruger adjourned the Government Oversight Committee meeting at 9:52 a.m.