State of Delaware
Adult Correction Healthcare Review Committee

Annual Report
Calendar Year
2019

Mustafa A. Mufti, M.D.
Chair

State of Delaware
Adult Correction Healthcare Review Committee

MEMORANDUM

TO: The Honorable John C. Carney, and

Members of the General Assembly

FROM: Criminal Justice Council, Adult Correction Healthcare Review Committee staff, and

Mustafa A. Mufti, M.D.
Chair, Adult Correction Healthcare Review Committee

DATE: December 31, 2019

SUBJECT: Adult Correction Healthcare Review Committee - 2019 Annual Report

cc: Claire DeMatteis, Commissioner, Delaware Department of Correction
Monroe Hudson, Deputy Commissioner, Delaware Department of Correction

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We are pleased to present to you the tenth Annual Report of the Delaware Adult Correction Healthcare Review Committee ("ACHRC" or "Committee"). This report, prepared by the Committee in accordance with 11 *Del. C.* § 6518 (v), provides a summary of the accomplishments and work product of the Committee this past year, observations and recommendations of the Committee, and the Committee's future goals and plans.

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I. Background

This is the tenth Annual Report of the ACHRC. Established by 11 *Del. C.* § 6518, and revised by House Bill 173, the Committee was created to serve "in an advisory capacity to the Governor, the General Assembly, and the Commissioner of the Department of Correction (DOC) on all matters in Delaware's adult correction system relating to the provision of inmate healthcare services, the review of all inmate deaths and autopsies relating to those deaths, the construction of healthcare contracts that provide inmate healthcare services, and the review of all statistics relating to inmate healthcare. The Committee shall not be considered a public body as defined by 29 *Del. C.* § 10002(c)." 11 Del. C. §6518 (m). HB173 restructured the ACHRC and made a few modifications which are highlighted below.

II. Committee Members

The six voting members of the Committee appointed by the Governor and confirmed by the Senate are:

1. Janet P. Kramer, MD, CCHP, a Delaware licensed physician;
2. Mustafa Mufti, MD, a Delaware licensed psychiatrist;
3. Mandell Much, PhD, a Delaware licensed psychologist;
4. Sandra J Nolan, PhD, RN AHN-BC, a Delaware licensed registered nurse;
5. Brenda James-Roberts, Esq. JD, RN, a member of the Delaware State Bar; and
6. Wm. James Harrison, MHS, an expert in the field of substance abuse treatment.

Mustafa Mufti, MD serves as Chair of the Committee and Dr. Mandell Much continues to serve as Vice Chair. In addition to the appointed members of the Committee, other non-voting participants include Deputy Attorneys General ("DAG") Joanna S. Suder, Esquire, served as counsel for the Committee, DAG Gregory Smith, Esquire, served as counsel for the DOC, Awele Maduka-Ezeh MD MPH., Medical Director of the DOC, Aileen D. Fink, Ph.D., Director, Behavioral Healthcare Services for the DOC, Vanessa Bennifield, Behavioral Health Treatment Administrator, Susan Conley, APRN, ACNS-BC, Director of Medical Treatment Services, Tera Young, Behavioral Healthcare Services for the DOC.

The Department of Correction also experienced some change during 2019. James Elder is the new Chief of an expanded Bureau of Healthcare, Substance Use Disorder and Mental Health Services at the Department and Michael Records is the new Deputy Chief. We wish to recognize the dedicated service to the Committee of former Chief of the Bureau of Correctional Healthcare Services, Dr. Marc Richman, as well as the former Administrative Specialist Christina DiGangi.

HB 173 provided additional members to the Adult Correction Healthcare Review Committee by adding the chairpersons of the House and Senate Correction committees as ex-officio non-voting members. In July, Senator Bruce Ennis and Representative Melissa Minor Brown joined the group. The bill also placed the Committee within the Criminal

Justice Council, so the Committee has the administrative support it needs to effectuate its purpose. Valarie Tickle, CJC Coordinator, was assigned to staff and support the ACHRC.

III. Committee Charge

In June, the code related to ACHRC was modified with HB173. The bill tasks the Committee with advising not only the Commissioner of the Department of Correction but also the Governor and the General Assembly on all matters in Delaware's adult correctional system relating to the provision of inmate healthcare services, the review of all inmate deaths and autopsies relating to those deaths, the construction of healthcare contracts that provide inmate healthcare services, the review of all statistics relating to inmate healthcare, and any matters relating to adult inmate healthcare that the Committee considers reasonable and worthwhile, including assuring the resolution of identified problems and enhancing the efficient utilization of resources.

The bill makes clear that certain State agencies and contractors providing medical services to inmates must provide information requested by the Committee. Additionally, the Committee may request the appearance of any contractor providing medical and behavioral health services to an inmate under the direction of the Department of Correction at a Committee meeting to provide information to the Committee. Another highlight notes that the Committee is not a public body, and the bill emphasizes that Committee members must abide by federal and state laws regarding the privacy of protected health information and provides penalties for violations of the privacy of such information. 11 *Del. C.* § 6518 (v) requires the Committee to report to the Governor, the General Assembly and the Commissioner of Correction each year regarding the status of inmate healthcare services in Delaware.

IV. Committee Work Product - Reports Reviewed During the Year

The Committee held nine (9) meetings in 2019, to fulfill the legislative mandate of providing oversight of the healthcare services provided in the Department of Correction. Below is a summary of the meeting highlights and major accomplishments of the Committee during the past year.

A. Review and Monitoring of DOC Health Services by the ACHRC

The Committee continues to review monthly hospital reports, mortality reports, health services practices, outcomes, and utilization with the goal of advising the Commissioner on health service areas that meet best practice standards and those that need improvement. The Committee also discusses news articles, any pending law suits, grievances and provides input regarding the DOC medical provider contract.

Reports Reviewed

Below are the number of cases the ACHRC reviewed for January through November. The data for December is still being compiled therefore could not be included in this report.

	Emergency Room Runs	Hospital Inpatient	Morbidity & Mortality reviewed	Autopsies reviewed	Deaths	Critical cases reviewed	Naloxone deployments
Total	254	190	29	9	13	7	29

Disease	Total
STD	423
Ectoparasites	11
Meningitis	0
MRSA	29
Active TB	0
Flu	26

Disease	Average Cases Per Month on the tracking log	Annual New Cases admitted to DOC with previous history	Annual New Cases with first time diagnosis
Hep A	Only 1 all year	0	1
Hep B	8	35	2
Hep C	506	444	153
HIV/AIDS	61	95	17

**January started with 609 on the Hep C log and for November have come down to 417 cases on the Hep C log.

Grievances

The ACHRC members continue to discuss and review grievances including what information they would like to receive from DOC regarding the grievances. DOC has outlined the process for medical and behavioral health grievances to the group. Grievances are initially heard at the facility level but are then transferred to the Bureau if the individual appeals the facility's decision. Review of grievance data has helped the Bureau identify system level issues with specific staff and/or within a specific facility. The Committee

determined that Bureau of Correctional Healthcare Services would present data on the number and type of grievances that are appealed to the Bureau and the outcome after Bureau review.

B. Recognition of Accomplishments and Meeting Highlights

Increased intra-agency cooperation

The Committee would like to recognize and commend the continuing intra-agency cooperation witnessed this year. All of the Committee members have a high level of expertise and there is transparency among the group and within the information sharing. The newly added members of the ACHRC, the chairpersons of the House and Senate Correction committees, increase the communication between the Committee and the legislature and their constituents. The members would like to thank Awele Maduka-Ezeh MD MPH., Medical Director of the DOC, Aileen D. Fink, Ph.D., Director, Behavioral Healthcare Services for the DOC and their staff for the time and dedication to preparing the reports and information for the meetings.

The Committee was able to discuss the DOC medical provider contracts and Quality Assurance Plan. DOC is in the process of releasing the bids for both the medical and behavioral health contracts. These have always been separate contracts and the new contracts will begin in July 2020. The Department noted that the costs will be higher than previous years due to significant changes and the increase in labor costs. Discussions also included a plan to monitor the contract, confirm the deliverables are met and ensure contract fidelity. Bureau of Correctional Healthcare Services at DOC finalized the Quality Assurance Plan which outlines the strategies used for quality assurance for the healthcare service delivery system. The Committee has received a copy of the plan.

Ethics Committee

We also wish to recognize the DOC for the efforts it has made toward the end of life/hospice care it offers to inmates with chronic medical conditions. An Ethics subcommittee was established to provide insight on the end of life process for individuals without family. Ethics committee members were called upon to advise the default surrogate decision maker and whether it would create a liability issue for ACHRC members.

Current efforts in place to avoid having the need for a surrogate include getting advance directive plans in place as soon as possible for patients with complex or terminal diagnoses. The goals are to have individuals indicate their preferences before they are no longer able to communicate their wishes, to identify with family who can make decisions if their loved one is no longer able, and to engage family at the end of life. It was noted that DOC does utilize hospice and they have in the past been successful (when appropriate) in transferring someone to another facility to pass away.

The group determined that ACHRC will provide recommendations to the Wardens regarding end of life decisions for inmates. This would only occur in cases where the individual is not able to communicate their preference and no family are available or

willing to make decisions. The ACHRC will draft a letter to the Warden regarding each case with a recommendation. The letter would include standard language such as "this individual has not received a clinical evaluation from the ACHRC."

Communicable Disease – Hepatitis C

Bureau of Correctional Healthcare Services has significantly expanded treatment for Hepatitis C and is now working towards treating everyone regardless of liver function. Several of the medical providers are undergoing training via Johns Hopkins which once completed, will increase the number of providers available to treat and expedite treatment. Delaware currently has an opt-in approach for Hep C testing but will move to an opt-out system (i.e. everyone will be tested unless they opt-out) in 2020. The modification involves a DOC policy change. The Bureau will also begin tracking the number of Hep C cases cured versus treated in 2020.

Substance Use Disorder Management

ACHRC members discuss substance use disorder and are following the national trends on improving treatment options for individuals that are under DOC supervision. The Committee examines substance use disorder treatment upon arrival and departure from DOC facilities and the use of Narcan kits. DOC is working to provide Narcan kits to individuals leaving the facilities to hopefully decrease the overdose fatalities.

V. Observations and Recommendations

The mission of the Committee as stated in the legislative mandate is to advise on all matters in Delaware's adult correctional system relating to the provision of inmate healthcare services. Based on the reports reviewed and the items discussed during the meetings, ACHRC has made the following observations and proposes recommendations:

1. We know about 1/3 of individuals in Delaware with opioid overdose deaths had contact with DOC. Unfortunately, it could take up to 48 hours to continue Medically Assisted Treatment (MAT) when someone is brought into a facility.

    a. Increase MAT options and secure additional funding for MAT expansion within DOC.

2. Information sharing needs to be improved. Court records are sealed and may contain valuable information for DOC. DOC should be notified of potential medical and mental health issues/diagnosis that may arise with individuals that are newly sentenced to the facilities.

    a. Increase communication and information sharing between DOC and the Court system.

3. There is a difference in the process between emergency room visits and hospital admissions and how those items are billed. As it stands, the state pays the "out of contract" costs with ER visits and Medicaid covers the costs of individuals that are admitted over 24 hours. Hospitals may also keep an individual on surveillance status versus being admitted which alters the costs.

    a. Explore various solutions such as how to have the state billed at the Medicaid rate and having dedicated DOC beds at the hospitals.
    b. Explore the possibility of conducting a pilot program at one of the hospitals.

4. Various agencies and individuals receive correspondence regarding health care matters at DOC. The Criminal Justice Council (CJC) would like to work with BCHS on a process for responding to inquiries and creating an avenue to assist the public and loved ones to communicate health care concerns. DOC has established an anonymous email and phone line for DOC staff and contracted healthcare staff to report any concerns related to health care services. DOC/BCHS often receives correspondence about health care from multiple sources. DOC/BCHS also tracks and addresses each matter. Concerns may also be forwarded to the DOC Public Relations staff. DOC must receive consent from the individual in custody prior to discussing anything with other parties or communicating with family.

    a. ACHRC determined that CJC staff, Valarie Tickle, will work with the BCHS Bureau Chief to develop a guideline/standards document to outline the process of communication. This document will include the procedure for inmates placed out of state as well.

5. The process of ordering medication, administering medication to inmates – specifically assuring that medications are administered as ordered, and the ability to track the process of medication administered are all important for health care. DOC does have a protocol in place for inmates that refuse medication as well. This process at DOC could also be improved.

    a. Educate individuals on the available resources including the backup pharmacy available to ensure that individuals do not miss doses of prescribed medication.

6. Nursing vacancies pose challenges as well as difficulties in recruiting and retaining staff exist.

a. Develop additional ways to increase recruitment of health care staff and secure additional training opportunities.

VI. Concerns

Rising Costs in Health Care

Medical and labor costs continue to rise. DOC has already had to significantly increase the bid for the medical and behavioral health contracts.

In addition, the appropriate treatment of those with infectious diseases such as Hepatitis C, HIV, MRSA and those with chronic illness, behavioral and mental health diagnosis continues to increase the cost of medication and professional services.

Information Sharing and Technology

The Committee is concerned how information is captured and transferred. To better streamline data sharing, the DOC technology would need to be integrated with the DHIN technology. This would require some work and funding. The group continues to discuss the compatibility of information sharing and information contained in the various medical charts and systems.

Autopsies

Obtaining autopsies, medical and psychological has been a struggle for the DOC for many years. Currently, the DOC may wait more than six months to obtain an autopsy on an uncomplicated inmate case. Because the Committee is tasked with reviewing the circumstances behind inmates' deaths, the inability to obtain autopsies in a timely fashion is discouraging and prevents the Committee from carrying out its charge.

Death Certificates

The DOC continues to have difficulty obtaining death certificates on inmates from the Medical Examiner's Office. In 2020, we will engage Homeland Security Director Robert Coupe to facilitate this process.

VII. Future Goals and Plans

The Committee is profoundly aware of the responsibility entrusted to it by the Governor and the Delaware Legislature. In 2020, the Committee will continue to monitor healthcare service reports from the DOC. In addition, Committee members will continue to review health service standards and service provisions in order to evaluate the quality of health services provided within the DOC.

In 2020, the Committee hopes to focus more on the relationship between DOC and outside providers. The Committee, through the DOC, intends to approach providers in their respective disciplines to begin a dialogue about how to improve communications and relationships.

The Committee also intends to assist DOC in advocating for additional funds to care for inmates. DOC has a duty to care for the inmates in their custody and as the population ages and becomes more ill, healthcare becomes more costly. We will consider adding the transfer of inmates from DOC to DPC civilian side because there are instances when inmates are released to the community but they are still in need of inpatient psychiatric care. Furthermore, all Committee members continue to contribute to updates and discussions on current healthcare services, best practices, and recommendations presented in healthcare service literature.

The Committee will explore the process and timing of being able to receive a gross autopsy report. Traditionally the Division of Forensic Science competes the whole autopsy report and sends it as a complete package to DOC which sometimes takes a month or longer. A gross autopsy is a preliminary review while waiting for test results and usually happens in the first few days of an incident.

Goal – Find a solution and improve the timeliness of receiving autopsy reports.

Christiana Care had a six-week quality assurance contract (at no cost to the State) to review DOC care. The goal of the review was to leverage Christiana's expertise in health care and quality assurance to determine if DOC can utilize any of their practices in care and safety within the DOC setting. Members received a copy of the completed report in December and will be reviewing the information.

Goal – Strategize and determine a process to streamline the work and recommendations of the Christiana Care report with the ACHRC to avoid any duplication of efforts.

Finally, the Committee is pleased with the cooperation and the efforts to resolve healthcare services concerns by the Commissioner of the DOC, the Bureau Chief of Healthcare Services, and the staff of DOC. We are confident that such cooperation, time and attention will continue as we work together to fulfill the mission of the Committee.

Respectfully submitted,

The Adult Correction Healthcare Review Committee December 31, 2019

Enclosure

APPENDIX A
Work Plan ACHRC
(House Bill 446)

Frequency of Meetings—Every one to two months but no less than four times a year

Reports expected for review at meeting:

- ✓ Critical Incident Reports involving injury to staff or inmates or public in DOC
- ✓ M/M Reports; Psychological autopsy when appropriate
  Mortality reports from deaths occurring between ACHRC meetings will be reviewed following the mortality review for that death.
- ✓ PREA and ADA grievances
- ✓ Health staff disciplinary reports
- ✓ Notification of NCCHC and ACA survey dates at each facility
- ✓ Reports from public sources on issues affecting health and safety in DOC
- ✓ Pending lawsuits and professional disciplinary actions filed with licensing boards
- ✓ Other information concerning the health and safety of inmates as it becomes available.
- ✓ Monthly summaries of health-related grievances from inmates, their families, and DOC health staff. This will include DOC plans for the resolution of frequently occurring health related grievances.

Reports expected prior to each 6 month meeting (January and July) November and December will focus on report to the Governor and Legislature

- ✓ Quality Improvement reports from each facility
- ✓ Internal quality monitoring reports
- ✓ NCCHC and ACA yearly reports
- ✓ Inmate hospital admissions; infectious disease report; quarterly report on inmates in DPC
- ✓ Reports on federal or state inspections such as but not limited to pharmacy, dietary, radiation, infectious disease and safety reports routinely conducted as per state licensing agency requirements.
- ✓ Status reports on numbers of inmates in chronic care clinics and cumulative diagnosis-for instance, insulin dependent diabetes, active TB, Hepatitis C with drug treatment, Hepatitis C without drug treatment; identified with major mental health diagnosis including addictions and numbers in specific treatment including counseling-group and individual, on psychiatric meds.
- ✓ Re-hospitalization rate of inmates who had been hospitalized in public or private mental health or general hospitals within 6 months of previous hospitalization.

Committee members may arrange to visit facilities after giving appropriate notice to the Warden and Chief of Health Services to observe the conduct of health services or to review practices and/or patient charts. If members wish to observe treatment or observe direct patient encounters, agreement by the patient will be first obtained**.**

Original Adopted October 26, 2009; Revision Adopted August 19, 2010; Revision Adopted November 18, 2011; Reviewed and Adopted without change December 2012; Reviewed and Adopted without change December 2013; Revision Adopted December 15, 2017.