

Child Protection Accountability Commission
Training Committee
De-Escalation of Life Support Workgroup
March 1, 2017
A.I. duPont Hospital for Children, ARB Board Room

Meeting Minutes

In Attendance:

Carole Davis, Esq.	Department of Justice
Dr. Meg Frizzola	A.I. duPont Hospital for Children
Susan Gordon, Esq.	Christiana Care
Becky Horvath	A.I. duPont Hospital for Children
Mark Hudson, Esq., Co-Chair	Office of the Child Advocate
Honorable Peter B. Jones	Family Court
Jennifer Macaulay	A.I. duPont Hospital for Children
Dr. Elissa Miller	A.I. duPont Hospital for Children
Phyllis Rosenbaum, Esq.	A.I. duPont Hospital for Children
Molly Shaw, Esq., Co-Chair	Office of the Child Advocate
Andrea Swan	A.I. duPont Hospital for Children
Susan Taylor-Walls	Division of Family Services
Janice Tigani, Esq.	Department of Justice
Julie Yeager, Esq.	Parent Attorney

I. Welcome and Introductions

The Co-Chairs opened the meeting and attendees introduced themselves.

II. Workgroup Charge

Mark Hudson explained the Workgroup has been charged with creating a multidisciplinary response and protocol for handling de-escalation of care cases when DFS holds custody of the child. The need for this Workgroup was determined as a result of the 2015 *Hunt* case which was litigated in Sussex County Family Court and subsequently in the Delaware Supreme Court.

III. Brief History of Hunt Case

Mark Hudson provided a brief summary of how the *Hunt* case unfolded.

IV. Areas of Multidisciplinary Response

The group discussed areas/timeframes of focus for multidisciplinary response, and identified three key areas:

1. Initial communication/investigation in early stages of case
2. Court action
3. Implementation of Order and aftermath

Several issues were raised during the discussion for the Workgroup to consider as it works toward fulfilling its charge. The first was the issue of independent evaluations by doctors not affiliated with the hospital treating the child. It was noted that the Delaware Supreme Court, in *Hunt*, declined to require independent evaluations in all de-escalation cases. Therefore, it will be up to this group to determine if an independent evaluation will be best practice and, if so, how to effectuate such evaluations. It was also noted that the Supreme Court provided protections to the physician who ultimately provided the independent evaluation in *Hunt*, such as not being required to be deposed or to testify in Court, which a trial court Judge may not be able to provide. It was suggested that the Workgroup compile a list of doctors available in the state to do independent evaluations.

Another issue raised was DFS' willingness to take custody of children while they're "safe" in the hospital. DFS explained its obligation to explore appropriate relatives and other alternatives before automatically taking custody of a child. However, from the medical field's perspective, there is a concern when medical staff feel that the child's parents are not the appropriate medical decision-makers on behalf of the child. They emphasized the importance of having an appropriate medical decision-maker early in the case to ensure they can do further diagnostic testing as needed and make other necessary treatment decisions in a timely manner. Representatives from DFS and the DOJ noted that even when DFS holds legal custody of a child, the parents retain the right to make medical decisions, and DFS may be limited in its ability to override those decisions. This discussion led to a related concern that the timeframes which may seem extremely fast to DFS and the legal community may simultaneously feel agonizingly slow to the medical community. The Workgroup is hopeful it can reconcile these competing timeframes to some degree, at least in some aspects of the process.

The last issue raised for discussion was how to handle instances where the life-threatening injuries were not caused by the parents, although the child may be dependent in the parents' care for other reasons, or cases where only one parent is suspected of causing the injuries. The Workgroup acknowledged it will have to consider all the different scenarios that may arise to develop appropriate protocols for each.

V. Next Meeting Date

The next meeting will be held on May 1, 2017, from noon-2:00 p.m. The meeting will be held at A.I. duPont Hospital for Children, and the Co-Chairs will work with hospital staff and Sussex County Family Court to arrange video conferencing for the meeting.

VI. Public Comment

There were no members of the public present.

VII. Adjournment

The meeting was adjourned at 2:30 p.m.