Gabriel Myers Workgroup
Tampa, Florida
August 5, 2009

Workgroup Members and Advisors Present: Jim Sewell, Chairman
Bill Janes
Mike Haney
Betty Busbee
Robin Rosenberg
Rajiv Tandon

CALL TO ORDER

The meeting was called to order at 9:11 a.m. Chairman Sewell welcomed attendees and introduced Suncoast Regional Director Nick Cox.

Mr. Cox welcomed the workgroup and thanked them for the work they are doing.

WORKGROUP INTRODUCTIONS

Chairman Sewell asked the workgroup members and advisors to introduce themselves.

Workgroup member Robin Rosenberg also introduced the new Executive Director of Florida's Children First, Christina Spudeas.

Chairman Sewell introduced the new Department of Children and Families Assistant Secretary for Operations, Peter Digre.

IMPRESSIONS FROM THE BENCH

Chairman Sewell introduced Judge James Seals, Twentieth Judicial Circuit, to speak to the workgroup. Judge Seals is also a member of the Task Force on Fostering Success.

Judge Seals advised that he is a member of the Florida Council of Juvenile and Family Court Judges, which is a group of about 50 dependency court judges. He stated that he was asked to give a judicial perspective, and many of his remarks will reflect his own personal perspective, as well as the more collective perspective of his colleagues. He advised that their concerns fall into 4 categories:

1. When consents to medicate come from parents, is their consent an informed consent;
2. When judges are requested to give consent, are they satisfied that reasonable efforts were made to first obtain an informed consent of a parent;
3. When it becomes the judge's duty to rule on a motion to medicate, what should guide their decision making; and

4. Are children in care being over-medicated.

With regard to the first concern, the implied consent of the parent, Judge Seals stated that, according to the American Medical Association (AMA), informed consent is more than simply getting a parent to sign a written consent form for his/her child. It is a process of communication between the child's parent and physician that results in the parent's authorization or agreement to undergo a specific medical intervention. In the communications process, the physician providing the treatment, not a delegated representative, should disclose and discuss with the parent the following:

- patient's diagnosis, if known;
- the nature and purpose of the proposed treatment;
- risks and benefits of the proposed treatment;
- alternatives to proposed treatment;
- risks and benefits of any alternative treatment; and
- the risks and benefits of not receiving or undergoing any treatment at all.

Judge Seals noted that he is not sure the AMA standards are being applied in all cases or even in the majority of cases. He added that he is concerned if the parent really talked to a physician and if they are given the opportunity to ask questions and get answers before signing. He said that he has doubts if parents really understand what they are doing and fears that parents may even be pressured into signing consent forms. He continued that to do an independent verification on every case would be a burdensome process for child welfare case managers, and he does not believe it is the job of the judge or the case manager to investigate every case and determine whether or not the job was done. He noted that this makes the choice of the physician who provides care to the child very critical. He further stated that case managers should be trained on what is and is not informed consent, and, should they gain personal knowledge that a truly informed consent was not obtained, they should report it to their supervisors.

With regard to reasonable efforts, Judge Seals said that getting parents involved in the decision making process regarding the administration of psychotropic medications to their children is good reunification practice. Consequently, the doctrine of reasonable efforts should also apply to the efforts made to bring the parents into the informed consent process. He added that judges should not get involved in the process unless and until:

1. After reasonable efforts have been made, a parent cannot be located;
2. The parent, if located, fails or refuses to cooperate, or
3. When there is an issue over whether the parent's consent could ever be considered an informed consent, for example, in the case of a parent who may be too low functioning to competently give or withhold consent.

Judge Seals said that the substituted judgment of the court should be the last and only resort of the party seeking medication for children in care. The convenience of simply going straight to the court for consent is not good practice and should be avoided.

Therefore, judges want assurance that reasonable efforts were made to first obtain the informed consent of a parent.

Judge Seals added that if the matter comes before a judge for ruling on a motion to medicate, his/her consent should be an informed one. He noted that, using the 6 elements outlined in the AMA guidelines, he is not sure that is always the case. He said that often the information coming to him does not address all 6 elements or does not always disclose enough information or is not understandable. Judge Seals stated that, unfortunately, in many instances, due to the pressures of time, he is forced to make a decision based on the information provided, whatever conclusions he can make, and whether he knows and trusts the physician well enough to rely upon him/her without further information. He added that he believes that many of his colleagues throughout the state share the same dilemma.

Judge Seals noted that the extra effort required from physicians also must be considered, stating that too much paperwork may aggravate them to the point of refusing to take children in care as patients. He followed that judges have to weigh the risks and benefits because they do not want to waste people's time and unnecessarily delay vitally needed treatment, but at the same, they also want to make an informed decision. Judge Seals advised that he had convened a workgroup in his county, and the consensus of that group was that it is most important for judges that the system stakeholders come to know and trust the physicians hired to treat our children with mental health needs, much the same way we form trusting relationships with our own chosen physicians. He added that he believes all judges would like to know more about psychotropic medications and would benefit from more education as well as some handy effective references. He said judges want to feel comfortable that their consent is informed and that the treatment is calculated to benefit children without doing any harm to them. He added that judges want to accomplish these goals without taking up too much of their time or the physician's time.

Judge Seals stated that, on the issue of overmedicating, most, if not all judges believe the child protection system is medicating too many children beyond what is medically necessary for proper treatment of children's mental health, illnesses, and disorders. He added that, in some cases, they worry about whether the medication given to the child has crossed the line of good medical care and has become a tool to provide relief to others and not to the children. He noted that because judges are not physicians or pharmacologists, they cannot prove overmedication. He added that judges should not withhold consent based on a hunch of overmedicating or on a personal philosophical opposition to psychotropic medications. He added that judges are not to substitute their judgments for the physician's judgment because they do not possess the medical expertise. Judges are to receive the information from the physician, receive input from any interested party such as the Guardian Ad Litem, and, if necessary, conduct a hearing.

Judge Seals continued that the problem with overmedicating children with psychotropic medications goes beyond the child protection system, and the courtroom is not the forum to stop it. He added that judges believe that it happens with more frequency within the

child protection system than outside. He stated that this lingering belief affects the way judges try to make judgments in the best interest of children.

Judge Seals closed with 4 recommendations:

1. That judges and other stakeholders in the system get more education on psychotropic medications.
2. Develop best practices and procedures for obtaining informed consents both from parents and from judges and provide training to all the applicable people on those best practices;
3. Develop a judge's desk reference, much like a physician's desk reference, that will allow quick access to important items judge's need to know; and
4. Develop a bench card, a small laminated at-a-glance guide, which is used to crystallize the most important things that judges need to know, especially if they are conducting an evidentiary hearing.

<u>Questions/Comments/Discussion</u>

1. Ms. Rosenberg asked if Judge Seals thought judges would like to have someone they could rely on who has medical knowledge and could be accessible to help them make decisions when they are asked to rule on medication.

   Judge Seals responded that the short answer is yes.

2. Colonel Janes asked about the role of the dependency court in bringing the players on the team (family, physician, judge, advocates, teachers, etc.) together.

   Judge Seals responded that generally the whole team only comes together at judicial reviews, which can be as much as 6 months apart. He added that he believes that various staffings occur between the judicial reviews, and noted that judges sometimes have to delegate to staffing some decisions that do not need to reach the court level. He stated that judicial reviews can and occasionally do occur more frequently than every 6 months.

   Dr. Haney commented that one of the significant risk issues continually identified through the child abuse death review process is the lack of multidisciplinary staffings on children. He added that a recommendation has been made for a number of years that, at a minimum, when there are three or priors, irrespective of the findings, there should be a multidisciplinary staffing looking at what is going on with that child.

   Judge Seals added that he thinks the community based care agencies have an obligation to make sure there is some oversight between judicial reviews, and, if necessary, motion for an intermediate review to get the matter before the court. He said that dependency court judges have a responsibility that is different from that of

other judges. Dependency court judges should be proactive in helping to solve problems.

3. Colonel Janes asked if what the courts are asked to do in the law is achievable or unrealistic.

   Judge Seals responded that judges cannot fulfill all their responsibilities as they should and added that the laws aren't so much the problem as the resources to carry out the laws.

4. Dr. Tandon commented that team process and communication appeared to be lacking in the Gabriel Myers case and there seemed to be no one really representing Gabriel in terms of what was happening in his life.

   Judge Seals responded that he felt the Gabriel Myers case was the perfect storm of system breakdown. He added that the case is very unusual and that he does not believe we will ever solve every problem.

   Nick Cox noted that we should all be there advocating for the children but he thinks what we are dealing with is more of an organizational culture issue. He added that he thinks multidisciplinary staffings cannot be overrated, but we need to be sure that, culturally in child welfare, we realize we have to get family engagement. He stated that we have made a cultural turn in realizing the importance of biological families and foster families, and we have got to make sure we are engaging both of those entities as well.

   Dr. Haney noted that the Department of Health is moving forward with a policy as it relates to the child protection team for those mandatory referrals and is going to adopt the recommendation of the state's Child Abuse Death Review Team. The Child Protection Teams will be calling for staffings on any of those children that are high risk and have 3 or more priors. He noted that their programs are being challenged to call those staffings because they should be one of the major leaders in working in partnership with the Department of Children and Families.

FCC SUBCOMMITTEE ON PSYCHOTHERAPEUTIC MEDICATIONS

Chairman Sewell introduced Judge Herbert Baumann, 13th Judicial Circuit, who chairs the steering committee on Families, Children, and the Courts. Judge Baumann advised that the Supreme Court, in December 2008, issued an administrative order asking the steering committee on Families, Children and the Courts to "review the rules, statutes and procedures that pertain to the authorization and administration of psychotherapeutic medications for children in foster care and child protective services, and, as appropriate, recommend ways existing practices and procedures should be revised to ensure adequate oversight and review of the administration of medication to children and adolescents in the dependency system." Judge Baumann noted that the committee's goal is to ensure that each child on their targeted case load is being evaluated and given the medication

that is appropriate. Then, to the extent the courts need to step in and look at what's going on, make sure a procedure is in place so that information is being conveyed adequately to all the players and to the courts so that when judges are called on to make a decision, they are in the best position possible to do so. Specifically, the group is working on 3 general projects. One of those projects is to develop and disseminate statewide an affidavit that will transmit information from the physicians to the courts when there is a motion to authorize psychotropic medications that is: a) physician friendly from the standpoint that it allows physicians to feel comfortable that they are transmitting the appropriate information to the court, and b) allows the court, as well as the individuals that show up for the hearing, to understand exactly what the physician is recommending and feel comfortable that the court is getting the appropriate information.

Judge Baumann advised that a second project of the committee is to develop a bench book containing general generic outlines so individuals coming to court can know generally what kinds of inquiries the court is going to make.

Judge Baumann stated that the third project of the committee is to review the rules, statutes, and procedures that pertain to authorization and administration of psychotherapeutic medications. He added that the statute around informed consent does not match the American Medical Association Guidelines and basically allows the case manager to talk to the parent, have the parent sign informed consent, and bring it to the court. He noted that he does not think this is what the physician or the Department of Children and Families wants.

<u>Questions/Comments/Discussion</u>

1. Chairman Sewell asked Judge Baumann to provide a snapshot of the wide range of people involved on his committee.

   Judge Baumann responded that the committee includes several judges, representation from the Guardian Ad Litem Program, general magistrates, physicians, the state medical officer, Children's Legal Services, and representation from the FAMU Pharmacy School.

2. Dr. Tandon asked if the state Supreme Court could play a role in promoting adequate staffing across all judicial circuits.

   Judge Baumann responded that the state Supreme Court is in a position to advocate on this issue and that Justice Quince and Justice Pariente have been very vocal in their desire to make sure there are adequate resources. He added that there has been a lot of funding issues for everybody, not just the courts, over the last two years. He continued that the way the system is currently set up, the chief judge of each circuit is directly responsible for allocating judicial resources.

3. Ms. Rosenberg commented that one ongoing advocate concern is the tendency in some circuits for the newest judges on the bench to be assigned to dependency

cases and not necessarily those with the most experience in making difficult decisions on behalf of children. She added that it is her understanding that there is a group looking at recommendations about the importance of having seasoned judges.

Judge Seals responded that the National Council of Juvenile and Family Court Judges organization has long been working with the American Bar Association to promulgate standards of excellence for dependency court judges. Those standards say: 1) dependency court judges probably need more multidisciplinary education than anybody else on the bench (extended education and training); 2) a chief judge should not assign a judge to the dependency court division unless the judge wants to go there; and 3) chief judges need to loosen up on regular rotation policies for dependency judges.

THE ROLES OF THE CHILD'S ATTORNEY AND GAL AND THE CHILD'S PERSPECTIVE IN PSYCHOTROPIC MEDICATION HEARING

Professor Bernard Perlmutter, Director of the Children and Youth Law Clinic at the University of Miami School of Law, was introduced.

Professor Perlmutter advised that, in 2006, the Children and Youth Law Clinic presented comments to the Florida Supreme Court in a proceeding before the court on a petition by the Florida Bar Juvenile Court Rules Committee to adopt rule 8.355 of the Florida Rules of Juvenile Procedure. The rule was intended to provide procedures to implement Florida Statute 39.407(3), which required court authorization for the administration of psychotropic medications to children in shelter or foster care when parental consent cannot be obtained. The rule also created procedures for emergency situations such as when a delay in the authorization could cause significant harm to the child when the child has been placed in a psychiatric facility on an emergency basis. He continued that the clinic's comments had one main critique of the proposed rule: it needed to be amended to mandate the appointment of a Guardian Ad Litem and an Attorney Ad Litem to represent the child in proceedings under the rule. He added that the clinic's comments contended that requiring such representation is necessary to ensure that the court's decision to authorize the administration of psychotropic medications is informed by accurate and up-to-date information about the status and health needs of the child. The clinic also argued that without representation, it maybe impossible for a child to meaningfully voice objections to the prescribed treatment and to participate in a hearing as provided in the statute.

Professor Perlmutter advised that, although the Florida Supreme Court agreed that it was important for children in these proceedings to have counsel or Guardian Ad Litem and to be afforded the opportunity for meaningful age appropriate participation in the process, the court declined to insert the requirement for such representation into rule 8.355. He continued that 5 of the justices who signed the majority opinion reasoned that the statute imposed detailed requirements upon the Department of Children and Families sufficient to ensure that the court's ruling on the motion for court authorization to administer the

medication would be based upon the most complete medical information that is available. The court also held that imposing the mandatory appointments of Guardians Ad Litem or attorneys in these proceedings would be unnecessary as under Chapter 39, the majority of children under the care and custody of the Department should already have representation in the form of a Guardian Ad Litem. He added that the time is right for Florida to revisit the issue of representation for children in these proceedings and to require the appointment of attorneys and Guardians Ad Litem for all children in the Department's custody in psychotropic medication hearings.

Professor Perlmutter stated that 3 interests are promoted by mandating the appointment of a Guardian Ad Litem and Attorney Ad Litem in these proceedings. First, the court will have access to more accurate and up-to-date medical information necessary to be able to render an informed decision on the necessity, safety, and appropriateness of administering a psychotropic medication. Second, the child will benefit therapeutically and medically from being heard through a Guardian Ad Litem and Attorney Ad Litem in these hearings. Third, the rule will be in conformity with the enabling legislation and other rules of juvenile procedure which contain requirements and expectations, and the child in certain circumstances will be represented by appointing a GAL and/or an Attorney Ad Litem in hearings involving the child's medical status.

Professor Perlmutter continued that, recognizing the serious nature of the parent's decision to consent to psychotropic medications, the American Academy of Child and Adolescent Psychiatry recommends that families ask certain questions before the child or adolescent starts taking these medications. He added that those same recommended questions are, in effect, ones which the court must also ask before it authorizes the administration of psychotropic medication. However, because juvenile court judges lack what the United States Supreme Court referred to as the intimacy of daily association with the child that the child's natural parents enjoy, the court must of necessity rely on the information provided by DCF. He continued that because of the apparent unreliability of that information, the court should appoint a Guardian Ad Litem and Attorney Ad Litem to assist it before rendering a decision to authorize psychotropic medications. He added that having the assistance of a Guardian Ad Litem and Attorney Ad Litem for the child will ensure the decision to authorize administration of psychotropic medication is better informed by accurate and up-to-date information about the health and status needs of the child.

Professor Perlmutter advised that providing children with Guardians Ad Litem and attorneys ensures the child will have a meaningful opportunity to voice objections to the proposed administration of these medications. He continued that the statute and rule allow any party, including the child, to object to the proposed administration of these medications, but mandate the party file its objections within 2 working days of being notified of the Department's motion. Without an appointed guardian and legal counsel, the child will not be able to meaningfully voice an objection to the proposed action. Professor Perlmutter stated that a core of expertise needs to be built in the Guardian Ad Litem/Attorney Ad Litem area. He said that mandating trained and expert attorneys knowledgeable about this work would be ultimately adding value to the process and

everyone would feel that what the judges are ultimately deciding to do is informed by accurate and reliable information about the child's history and needs.

Professor Perlmutter continued that denying the child the practical ability to voice an objection to the proposed administration of medication due to the lack of access to counsel and a Guardian Ad Litem may be perceived by the child as a phony ritual violating the child's sense of participation, dignity and legal citizenship and may produce feelings of worthlessness and loss of dignity exacerbating the child's mental illness or behavioral problems and perhaps even fostering a sense of learned helplessness that can further diminish performance, motivation, and mood in ways that could be anti-therapeutic. He added that well trained experts in this field who are advocates for the best interest and legal rights and the expressed wishes of the children will enhance the value, effectiveness, reliability, and outcome of these hearings. He said that he felt it would be very beneficial for the workgroup and the Families, Children, and Courts committee to bring this before the Florida Supreme Court or even insert it in some legislation in the coming session that would enable children to be heard through appointed guardians and counsel.

Questions/Comments/Discussion

1. Colonel Janes asked if the Guardian Ad Litem and Attorney Ad Litem are mandated to be part of the court process, should they also be mandated to attend the medical appointment with the child so they are informed when they go to court.

   Professor Perlmutter responded that he did not think it could be mandated, but that it would be an aspirational goal.

2. Colonel Janes asked how the workgroup should decide what goes forward as their recommendation to the Task Force on Fostering Success.

   Professor Perlmutter responded that deference should be given to those who are specialists in this field, namely the American Academy of Child and Adolescent Psychiatrists (AACAP). He continued that he believed that red flags would have shot up in the Gabriel Myers case if questions like those from AACAP had been asked, and maybe somebody would have had the foresight to recognize what was happening with the child if such questions had been posed.

PRELIMINARY REPORT ON QUALITY ASSURANCE REVIEW FOR CHILDREN AGES 10-11

Kathy Newcomb, DCF Suncoast Region Quality Assurance Manager, was introduced to present a preliminary report on the Quality Assurance Review for children ages 10-11. Chairman Sewell asked Ms. Newcomb to focus on the major issues since some of the material in her PowerPoint presentation had been covered in previous meetings.

Ms. Newcomb advised the review of children ages 10-11 in out-of-home care on psychotropic medication concluded on August 3 and that the preliminary findings were very similar to those in the review of other age groups.

Ms. Newcomb provided the following key findings of the review:

- There were 1,466 children ages 10-11 in out-of-home care on July 15, the date the review began
- 365 of these children were prescribed psychotropic medication, which represents 25 percent of the total population of children in this age group who are in out-of-home care
- Of the 365 children, 80 percent have a diagnosis of ADHD
- Parental rights were terminated in 52 percent of the cases that were reviewed
- There was no documentation that the case worker provided prior known medical information to the prescribing physician in 60 percent of the cases
- 78 percent of the cases did not reflect that the case worker provided written information concerning the prescriptions to the parent or mailed the information to the parent's last known address
- When express and informed consent could not be obtained, the case worker submitted a request for court authorization in 65 percent of the cases
- Informed consent or a court order was absent for 245 of the 693 psychotropic medication prescriptions

Ms. Newcomb advised that key findings to date of all children ages 6 – 11 have been similar in the percentages overall.

<u>Questions/Comments/Discussion</u>

1. Colonel Janes asked if this is the first age group in which the number of children prescribed 4 or more medications is higher.

   Ms. Newcomb responded that this is the first age group reflecting a higher number of children prescribed 4 or more medication. She also noted, as the review team is beginning to review the next cohort of children (ages 12-13), that is being seen notably in that age group as well.

2. Chairman Sewell reminded the workgroup that it is the intention of the Department, by the end of this process, to have touched every one of the reports and then to have gone back and made sure all the data are corrected. He asked Ms. Newcomb to continue to provide the reports on the review to the workgroup during the break following today's meeting.

IMPRESSIONS AS A PUBLIC DEFENDER AND DISCUSSIONS OF GAPS IN LEGISLATION

Bob Dillinger, Public Defender for the Sixth Judicial Circuit (Pinellas/Pasco), was introduced by Chairman Sewell.

Mr. Dillinger stated that, in addition to his role as Public Defender, he is also a member of the Juvenile Welfare Board in Pinellas County so some of the information crosses over into the public defender world. He added that the Sixth Judicial Circuit is the only circuit that is funded for a cross over; a cross over is the representation of children who are in the delinquency realm of the juvenile court who are also dependent. Mr. Dillinger shared that the Sixth Judicial Circuit has been involved in this pilot program for over 2 years, and it has been quite an eye opening experience for him since he had always just been involved in the delinquency realm.

Mr. Dillinger advised that in working and talking with the cross over lawyers he believes their opinion is that many of these children are medicated for control issues as opposed to true medical issues. He continued that statistics provided by Eckerd showing a breakdown of the number of movements per child per year have revealed that children in care whose placement changes more than twice in a year are more likely to be taking psychotropic medications. He said the view of the cross over lawyers is they are being medicated to make them more controllable in the environments they are in as opposed to gong to the underlying issue, which is a lot of anger. Mr. Dillinger continued that his group keeps stressing the fact that there is nowhere else in the judicial system that a victim is treated the way these children are treated.

Mr. Dillinger stated that a second issue that has been shared with him by the cross over lawyers is the children who are moved frequently do not have a consistent continuum of care. There is significant concern about the continuum of care being consistent and the records being up-to-date so that when a child is taken to a different doctor due to a change in placement, that doctor knows exactly what is going on with that child. He added that medical records are not always following the child, medical records are not being updated, and medical records are not always complete. Mr. Dillinger advised that Pinellas County has a task force, Ready for Life, similar to Connected by 25 in Hillsborough County, trying to make sure all these records, and even items such as identification cards, social security cards, and Medicaid cards, are always available for the child. The task force is considering using the Clerk of the Court as the depository for this information.

Mr. Dillinger advised that another issue that has surfaced, to which he does not know how to respond, is when a child who has been on psychotropic medication for years expresses to the cross over lawyer a desire to know what life would be like without the medication. He believes this is a really involved medical issue and a family issue.

Questions/Comments/Discussion

1. Colonel Janes asked if a child has a choice in the matter of discontinuing medication.

   Mr. Dillinger responded that his group follows the expressed wishes of the child and would go to the court to ask permission for someone to evaluate and help the child in that decision making process.

   Professor Perlmutter said that children, under the Constitution, are vested with certain rights and that due process rights adhere in children as well as adults. He continued that children have a constitutional right that they could conceivably exercise to refuse to be involuntarily medicated with psychotropic drugs.

2. Colonel Janes noted that Mr. Dillinger's community seems to be out ahead in many initiatives and asked him for his insights.

   Mr. Dillinger responded that children in dependency are victims but are treated like they are at fault. He continued that he has seen a huge change with the children, personally and through the cross over lawyers. They feel good they have a lawyer. All the lawyers are experienced. He added that the lawyers really press accountability on the children. He continued that they have been able to get the children more services and they have been able to show the State Attorney that many, if not most, of the delinquency offenses are tied to dependency. He stated that the group presented a document to the Governor's office showing how they were able to track what was happening in dependency with the outbursts the child was having in delinquency to get the charges reduced to misdemeanors and get the child out of the system. He said felony charges follow a person for a long time, and that if you can get rid of those stigmas that are in the delinquency side and help the child in dependency, you have really made it better for them when they turn 18. He added that that is why he hopes that most of the children in dependency can have a lawyer.

3. Chairman Sewell asked what legal/legislative changes should be considered.

   Mr. Dillinger responded that children in dependency should have a lawyer that can do both delinquency and dependency. He said the current law is fine and the problem is just that nobody is following it or implementing it right.

4. Colonel Janes asked if the involvement of the school from a community perspective is an issue.

   Mr. Dillinger responded that he thinks that is a real issue, particularly for the children that are moving. He added that it is important to find a way for the child to stay in the same school the whole time, or have the records follow them, or provide individual teaching from the school.

SCHOOLS AND SPECIAL NEEDS OF FOSTER CARE CHILDREN

Dr. David S. Wheeler, School Psychology Consultant, Florida Department of Education, Bureau of Exceptional Education and Student Services, was introduced. He advised that he works with the student support services project which includes social work, guidance and nursing. His group provides technical assistance and best practice recommendations to districts across the state and support to the department in its initiatives.

Dr. Wheeler noted that he was asked to address the school role in psychotherapeutic medication but wanted to broaden that to what the role of the school is in addressing the needs of students and children in foster care. He added that he would talk about 3 basic issues:

1. The general conceptualization of how the Department of Education provides supports for children with academic and/or behavioral needs in the school,
2. The infrastructure for supporting the needs of children in foster care, and
3. Psychotropic medication and the schools' involvement.

Dr. Wheeler provided the workgroup with documents that included a Response to Intervention Implementation which the Department of Education adopted last year. He noted that the Department of Education realizes that there are many students that are not on an educational plan that have needs. So this became a framework, a tiered system of providing supports to students in school to address both the academic and the behavioral needs. He added that it focuses on prevention first of all, believing that we need to have good core supports for students both for their academic and social/emotional behavioral needs and then matching services, the intensity of service to the intensity of the students needs. He stated that when foster care children are in the school system they would fit into a system of supports similar to this. Most districts have student services support staff that are assigned to schools to help address some of the barriers to learning, providing direct support, consultation and service delivery. He said this is a new initiative which school districts are still learning about how to implement. He added that it is a shift, because they are saying they need to provide supports to all students and they recognize they can only provide intensive supports to smaller numbers of students.

In terms of infrastructure for supporting the needs of foster care children in schools, Dr. Wheeler noted that the interagency agreement between Department of Children and Families, Department of Education, Agency for Workforce Innovation, Department of Juvenile Justice, and Agency for Persons with Disabilities was recently signed, and it addresses many of the issues related to communications, continuity of services, pulling together between all the agencies that are providing supports, coordination and cooperation to best address the needs of these children. He continued that there is a statutory mandate to establish this working agreement. He added that there is also a Guide to Improving the Education Opportunities for Florida's Foster Youth. The interagency agreement is a state level agreement and there are also local agreements between the Department of Children and Families and the Department of Education. He

said the guide provides some guidelines and suggestions for developing those local level agreements. Dr. Wheeler stated that the local school district has a district liaison contact for foster care, and the Department of Children and Families/Community Based Care is responsible as a liaison for DCF, so there is communication and coordination at least at the district level. He added that they can address issues in terms of improving services for children in foster care and elevate any issues up to the state level for the agencies to address. He continued that as you move to a school based level, there are multiple players in the care of foster care children. He posed the question of who is acting in the parent role and what is the role of the case manager. He continued that at the school level you have the administrator, the teacher, the guidance counselor, who is often the person that would be addressing immediate social/emotional needs of children, your student support services staff, the social worker, the school psychologist. He added that those would all be individuals that might be involved in developing an intervention plan through school support or intervention team for a student not on an IEP or some other plan. Dr. Wheeler advised that communication and continuity of services are two really big issues here. What information is communicated, who has access to the information, and, from the school's perspective, who is the individual that has educational decision making responsibility or authority, that can sign consent, that can sign for placement, because access to records and the ability to consent may be different.

Dr. Wheeler stated that a number of primary communications issues that schools have in terms of foster care children are: the school needs to know who those children are; if a child who is in foster care moves into a school, what is the mechanism for alerting that individual school that this is a child in foster care; if they have unique or special needs the school needs to be aware of or help address; and who has access to the records.

With regard to the school role with the psychotropic medication, Dr. Wheeler advised that there is a statute that addressed this issue in terms of what the school can and cannot do. This statute prohibits district or school personnel from compelling parents to place their children on medication, and it prohibits the district or the school from denying access to any services or programs contingent upon the use of medication. He said that each school board has its own medication administration policy. If there is a prescribed medication and the parent provides consent for the school to administer the medication during school hours, the principal or designee who is trained by a nurse can administer the medication.

<u>Questions/Comments/Discussion</u>

1. Chairman Sewell asked what kind of training is given to the teachers on what to look for as warning signs of behavior issues related to the medication.

   Dr. Wheeler responded that there is not a prescribed procedure and it is dependent upon the physician and parent to alert the school of side effects, etc.

2. Colonel Janes commented that the intent of the black box warning is so that those who are in frequent contact with the child are aware that the child is taking a

black box medication and should be monitored for any abnormalities. He added he felt teachers should be aware of what a black box warning is and asked Dr. Wheeler if he agreed.

Dr. Wheeler responded that there are some rating systems and observational systems for helping to monitor. He added that if there is collaboration between the parent, the physician, and the school team, the team, not just the individual teacher, can monitor the impact of the medication. He continued that the school can help, but there is not a procedure in place.

3. Colonel Janes commented that the perception is prevalent that perhaps schools contribute significantly to medicating children and asked Dr. Wheeler what the schools could do to change that perception.

   Dr. Wheeler responded that the statutory language indicates that school personnel can describe behaviors, but added that the dialogue between the teacher and parent needs to be kept to behavioral descriptions

4. Colonel Janes asked what can be done to keep teachers talking about performance, behavior, and education and wellness, but not medication.

   Dr. Wheeler responded that teacher preparation programs at pre-service could be a possibility, along with addressing the issues in in-service training. He added that school based administrators have the most influence on the school climate in their school, so perhaps administrators raising the level of awareness and addressing it with their teachers would be another possibility.

5. Ms. Rosenberg commented that a large number of children that come into the child welfare system have suffered trauma in the past and can be re-traumatized in school. She asked Dr. Wheeler if his office works on trauma informed care within the school setting.

   Dr. Wheeler responded this his office is participating on workgroups and looking at how trauma informed care can be applied in terms of guidance to individual districts and how to translate the trauma informed care principles to ensure that children are treated with respect and not re-traumatized..

ADJOURNMENT

The meeting adjourned at 2:34 p.m.