Disability Rights Arkansas

Protection and Advocacy and Client Assistance Program Services in the 3rd Congressional District

Fiscal Year 2023

CONTENTS

DISABILITY RIGHTS ARKANSAS (DRA) is a private, non-profit agency located in Little Rock, Arkansas. Since 1977, DRA has been designated by the Governor of Arkansas as the independent Protection and Advocacy system for persons with disabilities in Arkansas. DRA operates under authority outlined in federal law, is funded primarily by the federal government, and is governed by a board of directors. DRA collaborates with other disability rights and civil rights organizations, social service agencies, the private bar, and legal services agencies to accomplish identified goals and objectives. DRA's services are offered statewide at no cost to individuals with disabilities. Following is a description of DRA's nine federal Protection and Advocacy grants, as well as a grant awarded though the Arkansas Governor's Council on Developmental Disabilities.

Protection & Advocacy for Individuals with Mental Illness (PAIMI)
PAIMI serves individuals with a diagnosis of serious mental illness. PAIMI prioritizes services to individuals receiving care and treatment in a facility and has a mandate to investigate complaints of neglect and abuse. See the Protection and Advocacy for Individuals with Mental Illness Act of 1986, as amended, 42 U.S.C. § 10801 *et seq.*

Protection & Advocacy for Individuals with Developmental Disabilities (PADD)
PADD serves individuals with developmental disabilities, including intellectual disabilities, autism spectrum disorder, epilepsy, cerebral palsy, and neurological impairments. A developmental disability is a mental or physical impairment beginning before the age of 22 which is likely to continue indefinitely, limits certain major life activities, and reflects a need for special care, treatment, and/or individualized planning. See the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. § 15001, *et seq.*

Client Assistance Program (CAP)
The CAP assists individuals with disabilities who have questions or who have encountered problems while applying for or receiving vocational rehabilitation (VR) services from state VR agencies. CAP also advocates for those who receive services from independent living centers (ILCs), the Division of Services for the Blind (DSB), and for those applying for or receiving services from tribal VR offices. See the Rehabilitation Act of 1973, as amended, Title I, Part B, Sec. 112, 29 U.S.C. § 732.

Protection & Advocacy of Individual Rights (PAIR)
PAIR serves individuals with disabilities who do not qualify for the protection and advocacy services described above. It is not limited to individuals with a specific disability or a particular disability rights issue. See the Protection and Advocacy of Individual Rights Program of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794e.

Protection & Advocacy for Assistive Technology (PAAT)
PAAT serves individuals with disabilities with issues related to assistive technology devices and services. This includes investigating the denial of, and negotiating access to, assistive technology devices and services. See the Assistive Technology Act of 2004, 29 U.S.C. § 3004.

Protection & Advocacy for Beneficiaries of Social Security (PABSS)
PABSS serves individuals with disabilities who receive Social Security Disability Insurance (SSDI) or Supplementary Security Income (SSI) and who are trying to return to work, obtain employment, or receive certain employment-related training and services. PABBS educates beneficiaries about Social Security's work incentives and provides advice about vocational rehabilitation and employment services. PABSS also assists beneficiaries with understanding their rights regarding representative payees. See the Ticket to Work and Work Incentives Improvement Act of 1999, as amended, 42 U.S.C. § 1320b-21.

Protection & Advocacy for Traumatic Brain Injury (PATBI)
PATBI serves individuals diagnosed with a traumatic brain injury (TBI). PATBI works to ensure that individuals with traumatic brain injuries and their families have access to information, referrals and advice, individual and family advocacy services, legal representation, and support and assistance with self-advocacy. See the Traumatic Brain Injury Act, authorized as part of the Children's Health Act of 2000, 42 U.S.C. § 300d-53.

Protection & Advocacy for Voting Access (PAVA)
PAVA educates and assists individuals with disabilities so they may enjoy full participation in the electoral process. These efforts include ensuring physical accessibility of polling sites and informing individuals about the rights of voters with disabilities. See the Protection and Advocacy for Voting Access program of the Help America Vote Act of 2002, 42 U.S.C. § 15461-15462.

Strengthening Protections for Social Security Beneficiaries (SPSSB)
SPSSB, also known as the Representative Payee program, serves individuals with disabilities whose social security benefits are managed by a representative payee. DRA coordinates with the Social Security Administration to conduct periodic onsite reviews as well as additional discretionary reviews to determine whether a representative payee is performing their duties in keeping a beneficiary safe and ensuring their needs are being met. See the Strengthening Protections for Social Security Beneficiaries Act of 2018, 42 U.S.C. § 405(j).

Arkansas Alliance for Disability Advocacy (AADA)
AADA consists of an alliance of advocacy programs that work in concert to provide self-advocates, parents, peer advocates, and state leaders with the tools they need to be active within the disability advocacy movement. AADA is comprised of Partners in Policymaking, a training program focusing on developing relationships with elected officials to influence public policy impacting people with disabilities; Self-Advocate Network Development, which provides advocacy training and leadership development to people with disabilities across Arkansas; and Community of Champions, a community project that provides people the tools to be disability advocates in their everyday life.

CLIENTS

The United States Census Bureau's 2022 American Community Survey estimates the 3rd District's total population to be 784,904, with a civilian, noninstitutionalized population of 778,027. Of that total, 101,296 (13%) have a disability. In FY2023 (October 1, 2022-September 30, 2023), DRA worked 71 active service requests from the 3rd District. DRA received a total of 1,946 requests for services statewide, in addition to investigating abuse and neglect and addressing critical systemic issues, including cuts to vital services by Medicaid managed care organizations.

Clients by Age

While DRA assisted every age demographic in the district, the table below shows that 36.5% of service requests were for clients under the age of 20 and 18% of requests were for those ages 56 or older.

Age Group	Number of Service Requests	Percentage
Unknown	---	---
0-9 Years	6	8.5%
10-19 Years	20	28%
20-39 Years	18	25.5%
40-55 Years	14	20%
56-65 Years	9	12.5%
66 or Older	4	5.5%

Clients by Race and Ethnicity

DRA seeks to provide services to underrepresented groups in our state. The following chart compares demographics for the entire 3rd Congressional District with that of DRA's requests for services in the 3rd Congressional District. The district's Hispanic population of 129,914 comprises 16.5% of the population, while 4.2% of the service requests worked by DRA were for individuals who identify as Hispanic.

Race	Estimate	As Percentage	DRA SR's	As Percentage
Total Population	784,904	---	71	---
One Race	612,826	78.1%	69	97.2%
White	499,950	63.7%	63	88.7%
Black or African American	21,434	2.7%	4	5.7%
American Indian and Alaska Native	13,753	1.8%	2	2.8%
Asian	25,648	3.3%	0	0%
Native Hawaiian/Other Pacific Islander	11,391	1.5%	0	0%
Unknown or some other race	40,650	5.2%	0	0%
Two or more races	172,078	21.9%	2	2.8%

SERVICE REQUESTS

DRA worked 71 requests for services in FY2023 from residents of the 3rd Congressional District. The charts below show the distribution of the requests by grant funding and by issue (problem) area. Callers with issues that do not meet a priority are still provided assistance, but will usually be offered information and referral services rather than case-level advocacy.

Service Requests by Program

Program Funding Source	CAP	PAAT	PABSS	PADD	PAIMI	PAIR	PATBI	PAVA
Count of Service Requests	12	2	4	21	6	23	2	1

Problem Areas Covered by Service Requests

Problem Area	Count of Service Requests
Education	16
Rehabilitation services	11
Access (architectural and programmatic)	9
Home- and community-based services	9
Abuse and Neglect	5
Employment	5
Voting	3
Guardianship	2
Post-secondary education	2
Assistive Technology	1
Other	8

Service Requests in the 3rd Congressional District continue to include issues related to DRA's efforts to tackle abuse and neglect, although there are fewer of the types of facilities DRA targets for monitoring in this district as compared with the other districts; as an example, none of the state's human development centers (HDC) are located in the 3rd district. The prominent issues for which Arkansans from the 3rd District requested assistance were education, rehabilitation services, access (both architectural and programmatic), and home- and community-based services. DRA staff continued to monitor residential facilities statewide, particularly the human development centers (HDC) and psychiatric residential treatment facilities (PRTF), by various methods, including reviewing incident reports filed with state regulatory agencies, reviewing surveys conducted by regulatory agencies, and monitoring facilities in person. Because issues impacting youth through placement in treatment and/or detention facilities remain a major focus for our attorneys and advocates, much of DRA's abuse and neglect work revolved around issues identified through these surveys and incident reports. Meanwhile, the most requested service in not only the 3rd District but throughout the state

involves students who are not receiving crucial special education services. DRA continues to prioritize issues involving suspension, expulsion, and referral to the justice system resulting from a failure to address a student's need for services related to their disabilities. While we understand the need for assistance with less serious education issues is significant, we are not provided with the resources necessary to serve everyone who requests our help and must limit education cases to the most serious issues. By focusing on the most egregious cases, we are attempting to staunch the school-to-prison pipeline, recognizing not only the benefit to a student when they stay in school, but also the cost benefit to the state of providing services in a school setting versus residential placement. In our home- and community-based services work, we are focused particularly on cases where a decrease in services authorized through the state's Medicaid managed care system threatens an individual's ability to remain in the community, which could lead to more costly institutional care. Architectural accessibility and program access issues like effective communication during medical appointments or reasonable accommodations in post-secondary settings continue to be common complaints; problematic guardianships and voting issues remain a focus for callers as well.

Whenever possible, DRA seeks to inform and educate clients so they may effectively self-advocate. Empowering an individual to resolve issues for themselves also makes the relationship between the client and the other party less adversarial than when a third party such as DRA intervenes and enables DRA to serve more individuals with fewer resources.

Service Requests Specific to the 3rd District

Example 1: The parent of an adolescent who was receiving treatment at a PRTF for violent, aggressive, and inappropriate behaviors contacted DRA for assistance after the Medicaid managed care organization (MCO) abruptly denied continued coverage against the advice of the client's clinicians. A DRA attorney represented the client in appealing the denial of coverage, initially engaging in informal resolution with attorneys representing the MCO, whereupon the MCO extended coverage for another week; however, they still planned to discharge the client without appropriate care. The DRA attorney then filed an expedited Level One appeal (which is an internal MCO appeal) concerning the denial of services and the MCO's failure to coordinate care as required by state and federal laws. The MCO subsequently approved continued coverage, and the client did not experience any gaps in her treatment.

Example 2: The parents of a student contacted DRA for assistance after their daughter was escorted out of the classroom by two paraprofessionals against her will, and the parents were told they would not be allowed to view the video of the incident. They also wanted a plan for how incidents with their daughter would be handled moving forward. A DRA attorney attended an individualized education program (IEP) meeting with the parents in which a plan was developed for the parents and the attorney to view the video at the school. The interdisciplinary team also agreed to conduct a functional behavior assessment (FBA) and established an IEP the parents and the attorney found acceptable. There have been no more restraint incidents involving this student since the implementation of the new IEP.

Example 3: After sustaining a significant injury to her leg that limited her ability to stand or walk for more than brief periods of time and not being accommodated for her disability by her employer, an individual decided to pursue an advanced degree as a mental health professional, a line of work that would accommodate her physical limitations. She subsequently contacted Arkansas Rehabilitation Services (ARS) requesting support for participation in a graduate program of study. She had previously received undergraduate support from ARS with an eligibility determination based on a different diagnosis and that case had been closed successfully. Upon requesting a new case be opened for her to pursue an advanced degree, the vocational rehabilitation (VR) counselor informed the client that this would need to have been a part of the goal in the client's previous case from nearly a decade earlier. This was nonsensical, as the client did not acquire the disability necessitating this career change until years after the original case had been closed. DRA's CAP advocate communicated with the ARS regional area manager, who agreed that an advanced degree could be included in a new Individualized Plan of Employment (IPE). Prior to the development of the IPE, the CAP advocate continued to assist the client in navigating potential barriers to vocational rehabilitation services, including the need for part-time enrollment. A final point of contention was the client's low grade point average as an undergraduate. Although she had been admitted to graduate school on academic probation for one semester, the VR counselor was still reluctant to fund graduate school. The client and the counselor compromised, with the counselor agreeing to include the graduate program in the IPE at the conclusion of the probationary semester. The IPE also included enrollment in a driver's education program to assist the client in acquiring a driver's license, and assistive technology evaluations to support the client's academic endeavors.

Example 4: An ARS client with a mental health diagnosis and an orthopedic impairment resulting from an injury was self-employed, raising produce and a few livestock on a small farm to sell at local farmer's markets. Because of her physical impairments, physical labor and carrying farm equipment became nearly impossible. An evaluation by the ARS AT Work occupational therapist resulted in the recommendation of a side-by-side utility vehicle, which would be used to carry equipment and materials across the farm for the client. Additionally, a flatbed at the rear of the utility vehicle could be used as an elevated workspace to prevent the client from bending or kneeling as often when working. The client contacted the CAP for advocacy services when ARS required the client to participate in mental health counseling before they would provide the side-by-side. DRA's CAP advocate successfully advocated for the removal of this contingency and continued working with the client, explaining her role and responsibilities in the vocational rehabilitation process in an effort to keep the client engaged and participating in her plan to receive full and appropriate services. The client ultimately received a 2024 Kawasaki Mule utility vehicle, and she is continuing to work with ARS, who will next provide professional cleanout services in anticipation of expanding the farm's operations.

Example 5: A Social Security beneficiary with both orthopedic and hearing impairments contacted DRA after encountering difficulties acquiring a Schedule A letter for federal employment through his local vocational rehabilitation services field office. DRA's PABSS advocate provided a template for a physician's statement; however, it was not feasible to obtain this through the client's primary care physician. The advocate then contacted an ARS

regional manager and explained ARS's role in providing this letter to individuals with disabilities. The regional manager agreed that this was a service they should provide to the client, so the advocate informed the client of the agency's willingness to provide the letter and facilitated an introduction between the client and the regional manager. The client subsequently received the Schedule A letter so he could pursue federal employment.

Example 6: DRA received a call from an ombudsman requesting assistance for a nursing home resident to fight a guardianship. The client's guardian was her sister and had reportedly become increasingly difficult for both the client and the facility to deal with, including threats to move the client to another facility and taking her phone away from her. The ombudsman felt the client was capable of being her own guardian, and the client wished to become her own guardian or otherwise prevent her current guardian from exercising undue control over all aspects of her life. A DRA attorney investigated the client's claim initially as one of abuse or neglect; however, during the course of the investigation, the guardian filed suit against the facility for failing to carry out the guardian's excessive demands against the client's will. DRA filed a countermotion to request the court intervene, order an evaluation, and consider whether the guardian was acting outside her authority in violation of the "Ward's Bill of Rights." The court ordered an evaluation and prohibited the guardian from exercising plenary authority over all of the client's decisions. The guardian immediately resigned, and once an evaluation was obtained in the client's favor, the Court terminated the guardianship.

Example 7: The guardian of a 21-year-old individual diagnosed with autism spectrum disorder (ASD) contacted DRA seeking advocacy services after the client's case with ARS was closed without proper notification to the guardian. At the time of case closure, the client's guardian was in communication with the vocational rehabilitation (VR) counselor about amending the client's current Individualized Plan for Employment (IPE) to include enrollment in the local community college. The counselor provided the client's guardian with a list of necessary documents she would need to amend the IPE, and as the client's guardian was gathering this information and corresponding with the counselor, she was informed the counselor had closed the current case and instructed the client to reapply for services in 30 days. DRA's CAP advocate contacted the regional area manager for this case and inquired why the case was closed without prior discussion or notification to the client's guardian. Upon review of the client's record of VR services, it was clear that the client's guardian had communicated that all official correspondence be directed to them. It was also evident that the guardian and the client had expressed a desire to amend the IPE well in advance of the start of the semester for which the client would enroll. Without a satisfactory response from the regional area manager, the CAP advocate requested an administrative review of the closing of the case, and requested the case be opened in an expeditious manner and support for the community college be provided retroactively, as the client had almost completed the semester by this time. The administrative review found that the case was closed without proper steps having been taken, and the counselor was directed to reopen the case and follow policy that supports the client's enrollment in community college. This included requesting an exception to policy for reimbursement of tuition for the semester in which the case was closed. The case was reopened, and a new IPE was developed and implemented in support of the client's enrollment

in a program of cinematic studies. The IPE reimbursed the client for tuition during the semester in which the case was closed improperly, provided tuition for the next semester, and purchased required equipment (a digital camera) for the program. The client is currently successfully enrolled in his second semester at the community college.

PROJECTS

Achieving impactful systems change for people with disabilities

As a result of several individual investigations conducted by DRA at the Arkansas State Hospital (ASH), changes in policies and procedures have been implemented at ASH that have the potential to impact every patient. DRA launched several investigations based on allegations submitted anonymously to us; these allegations involved profoundly serious issues, to include:

- A patient who repeatedly ingested harmful items, which then led to restraints. Ten incidents of foreign body ingestion in six months at ASH resulted in the patient enduring four gastroenterology procedures.
- A patient hospitalized after his bowel issues were minimally addressed with over-the-counter medications despite his vomiting a putrid green substance and having a history of bowel obstructions severe enough to result in hospital admissions at least three times in the previous two years.
- A patient's whose hip was fractured when she was attacked by another patient, who subsequently walked around for 25 days with a fractured hip that ultimately required surgery, despite the fracture being confirmed through imaging on 12 of those days. Post-surgical attempts at physical therapy were then not initiated for at least two months, and the patient now walks with a limp.
- A new patient who allegedly did not receive treatment for HIV despite testing positive. While this allegation was not substantiated, our investigation did identify issues with reporting critical lab results and charting missteps. For nearly a month it appeared there had been a positive HIV test result, but that information was not relayed or acted upon. While the test result was ultimately negative, at least some staff were reportedly not using universal precautions.
- A patient who lost a testicle after experiencing scrotal pain for at least two weeks without receiving treatment. Our investigation concluded that both the action and inaction of facility staff amounted to medical neglect resulting in the patient having to endure a significant amount of pain and the surgical removal of his testicle. The patient records make no mention of his complaint other than a delayed entry made after he was admitted to the hospital, despite his being able to clearly articulate his pain to the emergency room doctor.
- A patient involved in several incidents that could result in head trauma, including banging her head on the walls, who did not receive proper medical assessments for head trauma. Our investigation concluded that ordered neurological checks were not completed or documented and that vital signs had also not been checked in multiple incidents involving head trauma.

• A patient whose stimulus money was stolen by hospital staff. Our investigation resulted in our substantiating the allegation after reviewing financial records and interviewing the victim and relevant staff. An ASH employee withdrew an amount of money from an ATM above what the patient had requested, which she kept, after taking the patient's ATM card alone to withdraw money, which was allowed by hospital policy at the time. Although ASH administrators were aware of the theft, they had not initiated any relevant changes to hospital policies or practices to prevent this situation from occurring again.

After charting issues were identified in several of our investigations, hospital administration developed and implemented a Nurse Manger Performance Improvement Tool and conducted additional training with staff related to charting. Upon learning that ASH did not have a formal bowel tracking protocol, DRA advocated for implementation of a protocol, which is currently being developed by hospital staff. Following a DRA investigation into the allegation that neurological checks were not performed on a patient with a potential head injury, ASH responded to DRA's concerns by adding an update to the Electronic Health Record system that flags and forces neurological checks. Following several DRA investigations into allegations about the care and treatment of patients, particularly the excessive use of mechanical and chemical restraints and the lack of appropriate treatment for injuries and illness, a new therapeutic milieu process called Project Safe and Caring was implemented. As part of this new process, a weekly clinical leadership team review process will occur to ensure all aspects of milieu operations are therapeutic, safe, and caring. Phase Two, to be implemented in 2024, will include new violence prevention training. And while DRA was not successful in recovering a patient's stolen funds, as a result of our investigation and advocacy efforts regarding the theft of a patient's funds by a staff member, ASH did implement a new policy regarding the process for a patient to obtain funds through debit card withdrawals that will minimize opportunities for funds to be stolen.

DRA investigated a school district's use of an alternative learning environment (ALE) to determine whether they are complying with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act (IDEA). Several parents of students in this district were concerned the district was attempting to use the ALE as a sort of "special school," sending a number of students with behavior-related disabilities there. Through our investigation, DRA learned about the school district's practices involving this ALE setting, including several instances of failed policies concerning elopement, restraint, and a lack of educational services. We have assisted a number of students with transitioning back to general education settings from the ALE, and because several students were successful in this transition, we are confident this school district will discontinue its use of a third-party provider to provide educational services in this alternative environment.

DRA conducted two secondary investigations at PRTF's involving incidents where residents were seriously injured, with one resident requiring surgery for a broken occipital lobe. The agency responsible for enforcing the state Minimum Licensing Standards for Child Welfare Agencies, DHS's Division of Childcare & Early Childhood Education (DCECE), investigated the incidents but did not substantiate any licensing concerns. DRA's reviews revealed several

concerns, which were forwarded to the DHS Program Manager, along with relevant video clips and pictures, with a request that another investigation be conducted. DCECE did return to the facilities and conduct another review of the incidents; this time they documented findings and cited the facilities for being out of compliance with Standard 907.2, which states, "Childcare staff shall be responsible for providing the level of supervision, care, and treatment necessary to ensure the safety and well-being of each child at the facility, taking into account the child's age, individual differences and abilities, surrounding circumstances, hazards, and risks."

In FY2023, DRA added video footage of incidents occurring in various PRTF's across the state to our online PRTF database. As far as we know, this is the largest public collection of videos from inside these types of facilities. Visitors to the database can now hear from law enforcement, staff, and residents firsthand by viewing video clips from police body cameras of law enforcement responses to incidents at these facilities. Visitors can also view youth interactions with staff and law enforcement and see the physical environment inside some of these facilities. Sometimes law enforcement is utilized as a form of behavior management to threaten or scare youth; sometimes they are called in response to riots or other chaotic incidents that can be traumatizing and dangerous for everyone present. We have added video footage of incidents to the database to provide a much broader perspective of how incidents with residents, who are there to receive psychiatric treatment, are managed by facility staff, which can be punitive and retaliatory rather than therapeutic. The database is located at: https://disabilityrightsar.org/prtf/

DRA created a project in FY2023 to track causes of death in the state's five HDC's as detailed in incident reports submitted to the state, to identify potential patterns and whether abuse or neglect contributed to any of the deaths. The objective was to determine whether systemic issues could be identified in these facilities, and if certain policies or practices needed to be changed to reduce the likelihood of deaths occurring under similar circumstances. DRA investigators developed a tracking system to capture the cause of death for residents to identify any trends, and determined aspiration pneumonia and constipation were recurrent causes of death. We were subsequently able to persuade DDS and the HDC's to revise their bowel protocols based on some residents experiencing constipation resulting in bowel obstructions. Since this issue was successfully addressed, we have discussed developing a tracking system for people with chronic constipation to see if further improvements in protocols could be developed, which is a potential project in FY2024.

An unquestioned practice in place since the 1980's at one of the HDC's was changed as a result of a DRA investigation and resulted in the removal of telemetry devices from 23 facility residents. The facility administrator confirmed they had been using some type of telemetry device since the 1980's but no longer possessed the names and job titles of the staff who initially permitted the use of these devices. DRA investigators spoke with residents and with the facility superintendent, who estimated about a dozen people were wearing the devices. DRA investigators then shared their concerns with a Division of Developmental Disabilities Services (DDS) assistant director, who reviewed telemetry information about one particular resident and determined the use of the device was appropriate. DRA then submitted a records

request to the facility for a list of residents currently wearing telemetry devices and guardian contact information for each resident; a list of 26 residents was subsequently provided to DRA, and in the course of an investigation involving another resident, it was determined he had been wearing a device as well. The devices had been removed from two residents, and they were then removed from six additional residents in October and early November 2022. Sixteen more residents had their devices removed mid-November 2022, upon the determination that it was "best for the facility to become mostly telemetry free for the clients [they] serve." During a phone call between DRA's Executive Director Tom Masseau and DDS Director Melissa Weatherton in December 2022, she stated she instructed the facility administrator to remove the devices immediately from any resident still wearing them.

DRA investigated several complaints about a program called Deaf Start at a PRTF; specifically, that residents of this program were not receiving mental health treatment and staff were falsifying records to reflect services being provided that were not. Our investigation substantiated an allegation that the Clinical Director, who was also the primary therapist for the program, was not routinely providing therapy to the residents and was falsifying documentation, which resulted in his being terminated. His termination paperwork states, "between February 2021 and 2022, Disability Rights found documentation deceitful towards parents and therapist documentation did not align with the Acadia standard for therapy licenses…" Discrepancies were identified in the notes of additional therapists, but none as egregious as those of the Clinical Director. Based on our findings and method of investigation, facility administrators stated they planned to implement similar internal review processes. They admitted they had never implemented a process of internally auditing therapy notes and were now planning to continue cross-checking daily documentation sheets with note entries as they see how this can be a beneficial quality control practice. Upon attempting to confirm an internal process had been implemented before closing out the investigation, DRA then requested "all…internal audits related to the provision of therapy services." The facility response stated, "do not exist. We have no issue in the clinical department in regards to therapy services." This response indicates the facility had not instituted a process to ensure the issue DRA cited was fully resolved and would not recur. Our investigation subsequently remained open to continue monitoring the situation and advocating for internal quality control procedures at this facility by communicating with informants, reviewing reports, and conducting facility visits; however, we did not determine therapy services were not consistently being provided. In June 2023, DRA monitors spoke with the new Clinical Director, who stated he is spot-checking notes to ensure they are entered in a timely manner by therapists but does not have a plan to cross-check or attempt to ensure notes are not being fabricated. DRA monitors discussed their concerns with him, and he has since expanded his monitoring.

A major effort of our education advocacy involves ensuring access to professional providers for students who are subject to inequitable or illegal discipline in school. We have developed a practice of seeking services for our clients who are recipients of our state's Medicaid managed care system for individuals with developmental disabilities or behavioral health needs through that system. In leveraging the obligations of our state's managed care organizations (MCO) to enhance the services available to students we serve, we are relieving school districts of a

significant financial burden of providing these services. As a result of this work, we have witnessed school districts utilize those services for students with whom DRA does not have a representational relationship; in other words, this work is having a systemic impact, as many more students will benefit than just those represented by DRA. It is our hope that our continued work in this area will continue to improve access to those services across the state.

Thanks to a Public Health Workforce (PHWF) grant the P&A's received from the Administration on Community Living in 2022 and 2023, DRA was able to finance a thorough investigation at three Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) locations due to concerns about living conditions; each facility was found to be in a severe state of disrepair, featuring potentially hazardous conditions that significantly jeopardized the well-being and safety of its residents. Issues found included:

Facility One: the presence of mold, sagging mattresses, roaches in bedrooms, broken and hazardous structures such as rotted decking, and bathroom doors that were too narrow.

Facility Two: rusted or missing sprinklers, reports of rodent infestations, broken picnic tables, dirty and damaged carpets, and missing wood on bathroom vanities.

Facility Three: gaps in walls and doors leaving living units exposed to the outdoors, stained bedding, a strong odor of waste, and multiple structural and aesthetic issues like sagging curtain rods and missing caulk in the bathroom.

These conditions were extensively documented, with a link provided to photographs highlighting each issue observed during the investigation. The findings were promptly reported to the Office of Long-Term Care (OLTC) on 03/23/23, detailing each deficiency found during the visits on 03/17/23. Despite assurances from the facilities' management that, for example, all sprinklers were functional, we later received the results of a survey conducted on 03/28/23 that revealed multiple deficiencies in the sprinkler systems. DRA utilized various strategies to address these issues, including reporting the serious occurrences and the buildings and grounds issues to the OLTC, informing the Placement & Residential Licensing Unit (PRLU) of the conditions we uncovered, as well as the lack of interest and effort by one of their own staff who happened to be surveying the facility at the same time DRA was monitoring, and sharing our findings with the P&A in New Hampshire because children from their state were living at one of the facilities. Upon receiving DRA's complaint about the living conditions in these facilities, the OLTC investigated our allegations and cited the facilities for the terrible conditions, mandating the facilities rectify all reported deficiencies. This investigation effort exemplifies a successful P&A intervention resulting in hazardous conditions and deficiencies in youth treatment facilities being addressed to ensure the safety and well-being of the residents.

FY2023 witnessed DRA making great strides in how we manage cases involving our state's MCO's. These organizations are obligated to ensure Medicaid services are delivered to two populations: individuals eligible for developmental disability services through our state's developmental disabilities waiver, and individuals with behavioral health needs. DRA attorneys have managed to develop precedent at the administrative level that has enabled us to work on a greater number of cases involving an issue that is affecting all recipients – access to care

coordination as defined by federal and state regulations. We have also identified and continue to work toward resolving the issue of a systemic lack of enforcement mechanisms for our state's administrative due process proceedings. While it is a tremendous benefit to our clients that we can expect an administrative order requiring the MCO to supply care coordination consistent with state and federal regulations, our clients are left with little recourse if the MCO fails to adhere to the orders, which has occurred repeatedly. We anticipate this will be a continuing issue for DRA to prioritize in the coming fiscal years.

The State Rehabilitation Council's (SRC) CAP representative and other CAP staff participated in an SRC working group to revise the current Arkansas Rehabilitation Services (ARS) consumer satisfaction survey, with DRA's CAP staff providing input on the content of the survey and distribution methodology. ARS intends to implement the new survey in hopes of improving consumer participation, which will lead to increased data collection on service delivery experiences by consumers. CAP staff also met with Rehabilitation Services Administration (RSA) staff prior to their monitoring of ARS in August 2023. While it is too soon to know if this discussion will lead to policy change, the report from ARS's Chief of Field Services during the September 2023 SRC board meeting touched on areas DRA brought to the attention of RSA, which incidentally are areas CAP staff previously discussed with RSA prior to the monitoring of ARS in 2022. ARS is now revisiting their rate setting methodology specific to the purchase of hearing aids. New guidance has not yet been released for this and it is unclear if the changes will expand to other services or equipment. ARS also intends to address the $5,000 tuition threshold (cap) it has imposed on postsecondary tuition for the past several years. CAP staff successfully defeated these tuition caps for several ARS clients; however, the CAP could only assist clients who contacted the CAP, so it is unknown how many ARS clients were negatively impacted by the imposition of tuition caps. ARS also intends to review their use and calculation of consumer financial participation, which could be a result of a continued review of the large amount of rehabilitation services funds being returned to the federal government. The CAP hopes to report in FY2024 that these anticipated changes to ARS policies and practices have been implemented.

The greatest opportunity we have to ensure individuals under guardianship are able to vote is through litigation – assisting individuals with restoring their right to vote by seeking a court order to that effect. While we have been successful in achieving this goal for clients, litigation is not an approved activity under PAVA regulations; therefore, our best opportunity to ensure individuals under guardianship are allowed to vote is through educating everyone we can on this topic. We have continued to train attorneys, service providers, and advocates in our state who are interested in assisting individuals under guardianship with various issues related to guardianship. Not only have we provided training about the rights of individuals under guardianship to regain the right to vote, we have also integrated voting rights into any trainings we provide about guardianship, alternatives to guardianship, and supported decision-making.

Coalition Building DRA is not only committed to numerous long-term collaborations; we also continuously explore opportunities for new collaborations. DRA continues to partner with the Governor's Council on Developmental Disabilities (GCDD) and Partners for Inclusive

Communities (Arkansas' UCEDD) on issues impacting the developmental disabilities community. Most of these initiatives are multi-year efforts and focus on achieving impactful, systemic changes in Arkansas. Collaborations in FY2023 include the Arkansas Alliance for Disability Advocacy (AADA) and the Breakfast Club. The AADA initiative, which is a collaboration between DRA and the GCDD, consists of three components: Partners in Policymaking, Community of Champions, and Self-Advocacy Network Development. The AADA is working to develop the self-advocacy movement in the state, and partners with both DRA's PAVA program to educate new self-advocates about voting rights and with the PADD program to develop materials and training courses for parents wanting to be proficient advocates for their children with respect to special education services. DRA continues collaborating with other agencies in the TBI State Partnership Program (SPP) and holds a position on the Arkansas Brain Injury Council (ABIC), whose mission is "to improve upon Arkansas's TBI infrastructure in an effort to maximize independence, well-being and health of persons living with TBI, their family members, caregivers, and providers." DRA continues collaborating with the Federal Emergency Management Agency (FEMA), the Red Cross, and the Arkansas Department of Human Services (DHS) to ensure that the needs of Arkansans with disabilities are appropriately addressed in emergency preparedness planning. This effort is actually a hybrid of collaborating and monitoring activities, since we are collaborating to develop plans that are inclusive, but we are also monitoring the participating agencies' efforts to ensure they incorporate the needs of people with disabilities in their planning efforts. This collaboration began in FY2019 and is now expected to continue as a long-term collaboration.

Veterans' Issues

DRA welcomes the opportunity to work with veterans; we occasionally receive requests for assistance from veterans, typically involving an accommodation they need on the job or at a business or some other public venue because of a traumatic brain injury or PTSD. Should your offices receive requests for assistance from veterans regarding these types of issues, we would encourage your staff to refer them to DRA for assistance.

We hope this report has proven beneficial in providing an overview of our programs and services. Please do not hesitate to reach out to us if we can answer any questions or provide your office with further information about our work.

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