

Olmstead Commission
Meeting Minutes from
January 13, 2021 via TEAMS

MEMBERS PRESENT: Wally Goulet, Leslie Bakken Oliver, Scott Burlingame, Teresa Larsen, Judge Bruce Romanick, Julie Horntvedt, Senator Judy See, Siobhan Deppa, Rep. Alisha Mitskog, Carlotta McCleary, and Daniel Gulya, Olmstead Coordinator

OTHERS PRESENT: Jake Reuter, Richelle McGregor, Randy Sorenson, Beth Dewald, Trevor Vannett, Johanna Johnson, Brittini Auch, Jeannie Krull, Katie Ferguson, Lori Werre, Patty Dwyer, Barb Winking, David Boeck, Lorena Poppe, Jennifer Henderson, Cheryl Hellman, Royce Schultz, Susan Foerster, Senator Kathy Hogan, Lynne, Nancy Nikolas-Maier, Mary Weltz, Corey Birkholz, Katherine Barchenger, Dawn Pearson, Trina Gress, Rebekka Freije, and Melissa Klocke

CALL TO ORDER: The meeting was called to order at 1:34 p.m. via TEAMS. All Committee members (and some guests) introduced themselves and identified their affiliation.

Mr. Goulet indicated that we have several presentations today that will be very informative. We will plan to take a break between presentations.

APPROVAL OF 9/28/20 MEETING MINUTES: MOTION: A motion was made by Judge Romanick, and seconded by Ms. McCleary, that the September 28, 2020 meeting minutes be approved as typed.

DISCUSSION ON FUTURE QUARTERLY COMMISSION MEETING DATES:

The proposed dates are in mid-April or mid-May. Mr. Gulya will confirm that everyone responds and then send out an e-mail to confirm the date/time. Ms. McCleary asked Mr. Gulya to resend the Doodle Scheduler as she has not received it.

DRAFT

COORDINATOR REPORT – STAKEHOLDER INPUT:

Mr. Gulya advised that as of today he has received 74 responses to the survey sent out. There were also some text message responses with more descriptive responses than just answering general questions.

Mr. Gulya stated that many people were motivated to answer the survey because they are lacking services. He noted that numerous people indicated that they would be willing to be contacted for follow up to answer some expanded questions and he will do that within the next couple of weeks.

Mr. Goulet asked what the stakeholder list looks like. Mr. Gulya stated that the stakeholder list included numerous advocacy channels, i.e. Ms. Larsen's large e-mail list, the Long-Term Care Association, the North Dakota Association of Community Providers, etc. Mr. Gulya added that the town hall style forums that were held were not well attended (15 people total). The extended learning call through Family Voices of ND netted an audience of 8. This has been a learning experience and Mr. Gulya expressed the need to go back to the drawing board; get the Commission's name and mission out there and connect with more people we want to connect with, possibly using the media. He will plan to continue some of the same efforts on the Commission's behalf. Mr. Gulya stated that the Legislative Session will interrupt his efforts somewhat but will he get back on track by late April or May.

Mr. Goulet asked what the Commission's role will be in legislature. Mr. Gulya will be following all bills related to HCBS and the DHS budget closely. He added that he will also be following disability-related legislation regarding juvenile justice, involuntary treatment hearings, inspection of juvenile court files, and visitation of wards. There are some substantive changes on things the OC has talked about going thru the legislature. Mr. Gulya noted that DHS is proposing to discontinue the Autism voucher program and focus more on the Autism waiver. He noted that usage patterns of the voucher haven't been what anyone would prefer; DHS is spending far less than allocated. Mr. Gulya stated that he is tracking to see if people with DD and their families continue to have access to services.

Mr. Goulet asked about the COVID protocols during the Legislative Session and whether Mr. Gulya will have the ability to meet more of the legislators and develop a presence for the OC. Mr. Gulya explained the protocols in place during the Session, i.e. temperature scanning, social distancing, and the wearing of

masks. Ms. McCleary reminded everyone that the number of seats in hearing rooms is limited. Where there used to be 30 seats available, they are down to 8. This will cause some issues in hearings where constituents would like to attend in person.

Representative Mitskog, as a member of the Human Resources Division, knows that the Chair of this committee would like to see agency heads presenting in person and then others with significant input can present virtually. She expressed that it will be important for Mr. Gulya to be present at the hearing when funding for the OC is addressed.

Mr. Gulya mentioned the virtual Person-Centered Planning Summit held in September, October, and November 2020. He added that Mr. Jake Reuter also presented virtually on Money Follows the Person Grant Capacity Building twice in November.

From the Chat, Senator Hogan expressed that there has not been a clear process and communication on how to apply for the Autism Voucher program. Ms. McCleary stated that there are still a lot of concerns for kids on the waiver, i.e. wandering is a huge concern and a child was lost in the Fargo area due to this. There are a lot of children at the LSTC with Autism and we are seeing an increase risk of institutionalization for this population.

Ms. Poppe stated that she agrees with Senator Hogan. The youth Poppy's Promise serve are on the Autism voucher, but there is not a case management component to that service. She hears that a lot of families just stumble across information after searching on their own. There are lots of barriers during the application process that need to be addressed.

Nancy Nikolas-Maier, DHS-Aging Services, ND-DOJ Olmstead Complaint Settlement: DHS Agreement Framework And Next Steps

Nancy Nikolas-Maier, presented on the DOJ Settlement Agreement. The effective date is December 14, 2020. The agreement will terminate after 8 years if ND has complied with all provisions and maintains that compliance for one year.

Benefits of the agreement include:

- Expands and raises awareness about HCBS options;

- Allows for individuals to make informed choices;

- Builds on shared goals of improving services to the citizens of ND.

History and Timeline of the complaint was shared. The target population in the agreement was reviewed, i.e. Basic Eligibility, skilled nursing setting, and hospital or home setting. Mr. Michael Spanier, MAS Solutions Consulting, Santa Fe, New Mexico was hired to provide technical assistance and compliance reviews. He has expertise in management, administration, and finance of HCBS. The agreement Implementation Plan was outlined. There will be stakeholder meetings held to determine what's going right, and what could go better.

The question was raised on how the OC can assist in this endeavor. Ms. Nikolas-Maier indicated that working collaboratively will be the most important aspect to address. A collaborative/informative/sharing partnership is extremely important. It was noted that the OC doesn't have a formal role in the agreement. The OC currently has the intent to participate wherever possible.

Senator Hogan asked if there are enough in-home care options to cover additional movement to HCBS. There are currently 1,200 Qualified Service Providers (QSPs) in the state, with only 532 of them actively billing. There are 125 agencies actively billing. Additional specialized supports will need to be developed.

Senator Hogan questioned the need for ownership and involvement of providers and agencies with such a big system's change, well beyond what DHS can do alone. Is there a strategy and plan to do that? There is no formal requirement for a stakeholder group, but stakeholders will be involved. It is much broader than just DHS and will require other types of services. DHS wants to gather input on

the agreement, get feedback, and determine what stakeholder roles should be going forward. The virtual townhall meetings will provide an opportunity for stakeholders to give input regarding agreement implementation. Senator Hogan suggested a monthly communication through the Behavioral Health stakeholder's group.

Mr. Goulet asked what the Subject Matter Expert's role will be in this process. Ms. Nikolas-Maier stated Mr. Spanier has been contracted with for the next three years (following an evaluation of his services, his contract will either be continued, or a new person will step in). There will be a Subject Matter Expert available the full 8 years. Mr. Spanier will help write and review all plans that are submitted. He will provide oversight and make sure DHS remains on track and meets all the agreement requirements. Mr. Spanier will be a liaison between DHS and stakeholders, advocates, the OC, etc.

Dawn Pearson, DHS-Medicaid, on 1915i Home and Community-Based Behavioral Health Services

Ms. Pearson shared that the 1915i Medicaid State Plan Amendment allows ND Medicaid to pay for additional HCBS to support children and adults with behavioral health conditions which substantially interfere with their ability to function in the family, school, or community. The 1915i is a key component of the ND Behavioral Health System's overall strategic initiative. Ms. Pearson shared the 1915i process and the services provided under the amendment.

Dawn advised that there will be weekly technical assistance calls every Wednesday from 1:00 – 2:00 p.m. beginning on January 20. She added that 1915i assessment and eligibility will be determined through the HSC Zones. The Zones already determine Medicaid eligibility, so this is a good fit for the consumer.

Senator Hogan stated that she is interested to know how many providers will be needed to meet the needs of people we serve. Dawn noted that providers will be built up over a 5-year process. This process is new to Behavioral Health so we aren't sure how many providers will be needed, but we can't ever have too many. There is assistance available to become a provider. It will take years before the process is good.

Dawn noted that services cannot be duplicated. Other waivers will be utilized first, then the 1915i will supplement.

It was noted that even though the 1915i has been approved, it will take another six weeks for the expansion piece to be in place.

Dawn provided her e-mail address in case anyone has questions after the meeting. drpearson@nd.gov

Jake Reuter, DHS-Aging Services, ND Money Follows the Person (MFP) grant administrator

Jake Reuter was welcomed to today's meeting to present on ND Money Follows the Person (MFP) grant funding proposals. Jake noted that he attended a lot of meetings in October and November, including a Virtual Money Follows the Person Grant Capacity Building Training sponsored by the Protection and Advocacy Project.

Jake advised that the MFP program was moved to Aging Services in January 2020. He noted that this is a much better fit due to HCBS efforts and the DOJ Settlement. Jake shared some information on the MFP Grant Capacity Supplemental Funding. This is a separate fund, different from the annual MFP grant. It has seen a great return on minimal state investment.

Mr. Gulya stated that he would like to discuss stakeholders within state government and some goal suggestions for the OC going forward. He noted that Ms. Pearson alluded to the regulations on the federal side regarding money and knows that a lot of services have strings tied to some federal program and is not always a linear path from need to funding source.

Ms. Larsen stated that Mr. Chris Jones, DHS Executive Director, has spoken several times already about DHS and the future. She noted that it would be helpful to start with a conversation with him and get an idea of his new vision for DHS. She added that Mr. Jones sees a future of ND relying less on institutions; right now, ND has an overdependence on institutions. Ms. Larsen stated that the LSTC at Grafton currently has 19 youth in their facility and half of them have

Autism. She added that 36 adults will be moving over to crisis supports and out of residential services. LSTC plans to provide crisis intervention and support only. She has been hearing this message throughout DHS, foster care, DD, and Behavioral Health. It would be good to get Mr. Jones' perspective on what he is looking at for DHS. There is lots of work to be done regarding the DOJ settlement. Ms. Larsen stated that, for the first time, she feels extremely hopeful on where Mr. Jones wants to lead DHS.

Senator Hogan stated that deinstitutionalization needs to take place as much as possible. While there is not a lot of HCBS in place for behavioral health, we need to be sensitive to doing it well.

Mr. Burlingame stated that there needs to be continued formal contact with advocates; people using services; and parents. There are lots of trends noted when we hear from these groups; there are systemic issues that can be addressed. We can only blame funding so far. We need to make sure we are having deliberate conversations with advocacy groups, using a townhall meeting approach, talking to people who are using the services and listen to them.

Ms. Gulya asked the OC if they felt it would be useful to have regular townhall style meetings going forward? He stated that getting the face and the name of the OC out there has been challenging and would be open to any suggestions the OC would have for him.

Mr. Burlingame stated that it has been harder than normal to connect with Self Advocacy groups since the pandemic started. He stated that he does like the virtual format, or even a video chat. He will give this issue some additional thought.

Mr. Goulet stated that he would like to open the meeting up to Public Comment by guests to the OC meeting today.

Judge Romanick suggested that the OC hear directly from an organization who can share some real life situations; and while things don't always work, it would give us an education and hopefully we can figure out who to bring in to fix it.

Ms. McCleary stated that she agrees with Judge Romanick and that we need to look at the reality of how things are for an individual trying to access services.

There are lots of gaps in services happening for families. They would have a different take than what we are hearing from DHS.

Ms. Larsen reminded the Commission of the presentation we received at our last meeting from DHS regarding the Autism Spectrum Disorder Waiver. She noted that 58% of the youth housed at the LSTC have a diagnosis of Autism. The waiver has not been expanded, there is money not being spent, there is a huge waiting list, and there has been no increase in slots available. Ms. Larsen stated that there is a bill in the legislature to repeal the Autism Voucher which is used by low income families with children under the age of 18. Ms. Larsen stated that this is a huge Olmstead-related issue and questions if the OC is going to act or just continue to listen to reports. The OC needs to be a commission that is going to do something about a bad situation when it is brought to our attention. Having educational events are fine, but what are we going to do when they are done talking.

Rep. Mitskog stated that she echoes Ms. Larsen's concerns. She added that the OC has become a more active commission in the last year. Rather than being on the defense we need to be proactive and be more aggressive in preventing problems from happening. DHS comes across as being concerned about individuals with Autism, but we need to be doing more, having accountability so we have good outcomes. We don't want a ruling against ND because we haven't been proactive.

Mr. Goulet noted, that while it takes a while to get educated, we may need to make some action out of it. The OC needs to know where it can do its lobbying and where we can act.

Ms. McCleary stated that everyone can participate in the legislative process. The issues surrounding Autism services have been dealt with for years and years. There has been continued talk about dollars left unspent, families on waiting lists, and the lack of services getting to families. Kids go into the LSTC because we don't have services available for them. There needs to be follow through to make sure that the services get to those they are intended for.

Mr. Goulet stated that the OC has some good direction it needs to follow. He added that by the next OC meeting we should be ready for a legislative review on

what went well during the Legislative Session and what are some issues that remain outstanding.

Judge Romanick stated that the OC needs to participate in the process; if we have a bone to pick, then we need to deal with it. He is not involved in the legislative process himself. He would suggest that the OC only have one educational presentation per meeting. He hears the concerns about Autism, and these should be addressed, and the OC should move forward on that issue. Judge Romanick used the word "Resolution". He asked Ms. Larsen to put some statistics together for the OC, look at the information again at the next meeting, if there is a problem, then the OC needs to try and fix it. The feds might not look kindly on the fact that the OC was advised of a problem and didn't at least try to resolve the issue. The DHS presentation on the Autism Waiver in September didn't allow time for the OC to ask questions. We should have asked why the allocated funds aren't being spent. Maybe we need to put in a formal complaint or a written request from the OC for some answers. If we need to bring in some people to provide us with more information, then we should do that. By developing a Resolution, we would resolve that X, Y and Z should happen. It might be necessary to write a letter to get someone's attention. We need to carve out a section of our next meeting to look at what has been addressed by the Legislature, and if the issue was addressed appropriately, if not then the OC would make its decision to move forward or not. We may need to investigate further, etc. Judge Romanick stated that he appreciates Mr. Gulya's work on behalf of the OC but would like to see more action items on the agenda going forward.

Mr. Goulet expressed his appreciation for the input provided by Judge Romanick, Ms. McCleary and Ms. Larsen as advocates for individuals with Autism. We have some passionate members on the OC and if the group needs to write a letter then we should develop an action plan.

Mr. Gulya stated that Senator Hogan has suggested, if while serving on another board, an OC member hears a concern, send it to Mr. Gulya prior to the next OC meeting for the Commission to address.

Mr. Burlingame stated that it's important to use the OC as a pulpit; to be a liaison between people. If we don't hear problems, we don't know they need to be fixed. We don't want to be in the same situation in 20 years.

Mr. Goulet stated that if the OC needs to address a situation immediately, then a short special meeting could be called to develop a response (or resolution) to the issue.

Ms. Larsen stated that she likes the idea of meeting during Crossover to see where things are at and if there is anything major that is unresolved. If more information needs to be pulled together regarding Autism this can be done to take to the other side of the isle.

Mr. Gulya asked if the OC would like to schedule their next meeting now. Ms. Larsen stated that scheduling a meeting is fine, but if it comes down to their not being a need for a meeting, then it could be dismissed. Mr. Goulet stated that he could see a shorter meeting being scheduled to address resolution efforts. He added that it sounds like the OC is willing to take some action.

Mr. Goulet asked if anyone else in the audience had any input they would like to share with the Commission. Trevor V. stated that he would like to encourage the OC to keep doing what they are doing. He would like to continue to be part of these meetings; it is very educational for him. Mr. Burlingame stated that the OC received a lot of information today. He really appreciated the discussion in this last half hour. Representative Mitskog acknowledged the great discussion today. Senator Hogan recommended waiting until after Crossover for the next OC meeting. Ms. Deppa expressed that she enjoyed hearing the plans for more services and the proactive actions by the OC. Ms. McCleary stated that she likes the idea of the OC doing more advocacy vs. just getting an education. Ms. Larsen stated that she is enthusiastic about what this group is going to do. Ms. Horntvedt added that she enjoyed today's discussion and likes the direction the OC is heading.

Mr. Goulet stated that Mr. Gulya has received some good direction on where the OC wants to go. He should be very busy between now and Crossover.

Mr. David Boeck, Legal Director for P & A, stated that we can't wait around until after the legislature to see how things pan out. He added that the OC should

meet to review what is going on and make sure we make an impact before the session is over.

Mr. Goulet stated that the OC has some direction. He greatly appreciates everyone's time and commitment. An OC meeting will be scheduled soon, and a notice will be sent out.

The meeting was adjourned at 4:37 p.m.

DRAFT