

Olmstead Commission
May 12, 2021 – 1:00 p.m.
Via Teams

MEMBERS PRESENT: Siobhan Deppa, Leslie Bakken Oliver, Judge Bruce Romanick, Rep. Alissa Mitskog, Teresa Larsen, Scott Burlingame, and Senator Judy Lee

MEMBERS ABSENT: Julie Horntvedt, Wally Goulet, and Carlotta McCleary

OTHERS PRESENT: Dan Gulya, Rebekka Freije, Andrea Schlobohm, Matt McCleary, Corey (guest), Jake Reuter, Pam Mack, Jeannie Krull, Susan Foerster, and Mathew Schwarz

The meeting was called to order at 1:00 p.m.

REVIEW OF 1/31/21 and 4/15/21 OLMSTEAD COMMISSION MEETING MINUTES:

MOTION: A motion was made by Ms. Larsen, and seconded by Judge Romanick, that the January 31, 2021 and April 1, 2021 meeting minutes be approved as typed. The motion passed.

LEGISLATIVE REVIEW:

Senator Lee mentioned the IMD exclusions between the ages of 21-64. There has been a lot of conversation about the need for a new State Hospital and a mandatory study of the facility.

There was a provision in Appropriations to discuss the move of 26 individuals (10 adults and 16 youth) out of the LSTC. The Conference Committee for HB 1012 discussed whether COVID \$ could be used for that purpose. Ms. Larsen stated that it was important that the Olmstead Commission met to talk about this issue, it was passed and put in the DHS budget. It was noted that federal funds from the ARP or from any other eligible federal source or any other funds available could be used for the transition of individuals from the LSTC to HCBS. Lots of kudos to the OC for making this happen.

Mr. Gulya stated that Aging Services has added one (1) FTE to help with the planning and implementation of the DOJ settlement. He noted that Ms. Nancy Nikolas-Maier has been shouldering the full responsibility of settlement coordination to date. Ms. Nikolas-Maier has been asked to provide a more detailed

overview of the implementation plans of the lawsuit to the Olmstead Commission at its next meeting. Any information received from Ms. Nikolas-Maier prior to the next OC meeting will be distributed accordingly.

Mr. Gulya mentioned that a large amount of appropriations were allocated for permanent supported housing which is interesting and should be useful for all.

Mr. Gulya referenced Section 59 regarding the Early and Periodic Screening, Diagnosis and Treatment (E.P.S.D.T.) program. He noted that a consultant will be hired to report on the data captured from this program.

Commented [LTA1]: Dan - Is this meant to read "will be" hired?

Mr. Gulya noted that an additional \$5.2 million was put into the Aging Services budget for the 2021-2023 biennium. There were funds added for their claims system, and for additional data collection.

Ms. Larsen stated that in Section 23 it states the Century Code must be construed in People First language. The intent has been to clean up that language over the years and this section puts that in writing and the offensive language will be gotten rid of. She added that Medical Assistance can now be used for interpreter services, i.e. sign language or a foreign language. Ms. Larsen noted that work continues on accessibility issues at the state capitol. Section 6 provides for \$25,000 for an ADA consultant to work with the capitol to help identify where there might be accessibility issues. There could be state-of-the-art changes made at a minimal cost, following minimum standards. There has been issues with changes made over the years. The capitol needs to be accessible based on ADA guidelines.

Mr. Gulya noted the mandatory [Studies](#) legislative studies, specifically the study on the NDSH.

Commented [LTA2]: ?

Bill No. 2086 – This study relates to the DHS and human service zones employee compensation equity. Mr. Gulya noted that staffing continues to be an issue for the HSC zones. With the size of DHS and the services they provide, a comparable set of employees is needed. The provider community does look at state employee wages as a comparative for compensation.

Bill No. 2256 – This study will look at state and federal laws and regulations and services relating to the care and treatment of individuals with developmental disabilities and individuals with autism spectrum disorder. This study is meant to be a study of individuals with developmental disabilities opposed to intellectual

and developmental disabilities. The study will include the elimination of the Autism Spectrum Disorder Task Force. Legislative Management shall contract with a third party to conduct this study.

Mr. Gulya noted that there are 12 pages worth of studies under consideration, including the health care and mental health needs of incarcerated adults.

Bill No. 1247 - Bill was passed to merge the Dept. of Health and the Dept. of Human Services into one agency. This will take place over the next biennium, with the material changes yet to be identified. Ms. Oliver stated that the implementation will be left in the hands of the Executive Directors of these agencies along with a consultant. This merger will help people to not have to go to several different places for services. Long Term Care facilities are licensed by the Dept. of Health and services are provided through the Dept. of Human Services. Input will also be solicited from individuals that use the services of these two entities.

Bill No. 2089 - This study will review the autism spectrum disorder waiver and voucher programs and other programs designed to provide services to children who are impacted by autism spectrum disorder. It also includes the elimination of the Autism Spectrum Disorder Task Force. The study will address any gaps and unmet needs.

Bill No. 2861 will address expanded Behavioral Health services. The HSRI study in 2018 will be reviewed.

There may be a potential study on the impact of Fetal Alcohol Syndrome (FAS).

Ms. Oliver asked Senator Lee when a decision will be made on the proposed studies. Senator Lee stated that Legislative Management will hold its next meeting on Tuesday, May 19 to decide which optional studies will be chosen. The studies will then be assigned to respective committees.

Section 30 - This is a buy-in for disabled workers for healthcare. This would qualify working people and not jeopardize their access to healthcare. Ms. Larsen stated that the workers with disabilities buy-in has been around for a long time. She thanked Senator Lee for her support as an original sponsor of the buy-in.

The Autism Waiver and Autism Voucher bills are together on the study list. The Voucher is 100% general funds and the Waiver is Medicaid funded. The Waiver has not been used to the maximum. -There will be discussion with stakeholders

and DHS staff on how to increase appropriations and avoid a waiting list, which has been an issue in the past. This study would be combined with Bill 2256 that includes the broad and comprehensive view for services to people with DD, to include people with autism.

Bill No. 2161 – This study would look at the implementation of expanded behavioral health services, including section 1915i waiver implementation, capacity and utilization of the State Hospital, a behavioral health bed management system, and implementation of the recommendations of the 2018 HSRI behavioral health system study. The mental health registry would allow individuals to be able to look on-line to find services close to them to help them out. This will take a while to get up and running. The Bed Management System will allow for faster location of a bed available in the state for someone who needs one.

In the previous biennium, the Substance Use Disorder (SUD) voucher program ran out of money. There have been no new people added to the program, but the program was sustained for those already enrolled in the program. -IMD regulations state that a facility cannot have more than 16 beds and get Medicaid funds. Three quarters of the funding in this program was used by big companies. A goal -could be -to have larger individual facilities become Medicaid registered. A 50/50 match would make funding go further. Facilities would be encouraged to bill more services that are eligible for Medicaid funding. There have been 4,200 people served by the IMD voucher. It is important for individuals to be able to see a provider in their home community. There was an increase to \$17 million dollars appropriated this session for this program.

Mr. Gulya asked Senator Lee to speak to Juvenile Justice and the Children's Cabinet. Senator Lee explained how this should work. She noted that there is a sunset clause. She added that the Children's Cabinet is not involved with the juvenile justice system, but there is an overlap due to the Juvenile Justice efforts. Senator Lee stated that kids are being transferred to DHS through the zones and other providers. They didn't tell DHS that this was the final decision and there was no joint hearing held. DHS did not testify. Young people are going to be able to work with appropriate counselors for kids and families to get straightened out to keep them out of the juvenile justice system. -There is a different philosophy between Corrections and DHS. There is some adjudication needed to get youth back on the right track.

Ms. Oliver thanked Senator Lee for all her work in this area and for her involvement in planning the next phase. Senator Lee stated that the awareness of legislators is much higher than ever before. Things are happening in their own

neighborhoods, involving both rural and urban areas. There has been a lot of good collaboration amongst legislators on this issue.

DOJ SETTLEMENT UPDATE:

Mr. Gulya stated that the subplans for the DOJ Settlement are not done yet, but the larger implementation plans should be done by May 28, 2021. There will be a public stakeholder meeting held on Tuesday, June 15 from 1-3 p.m.; this notice will be posted today. The meeting will be held in-person and virtually. Ms. Oliver stated that the DOJ timelines have been aggressive, and that Aging Services has done a great job in meeting the established goals of the settlement.

OLMSTEAD PLAN DRAFT REVIEW: Mr. Gulya stated that the document titled "Putting Olmstead into Practice" was provided to OC members to generate discussion. The document encompasses the old OC plan, plus information gathered from other states. He noted that with the OC's assistance he would like to bring in members of the community, state agencies, advocacy groups, those with lived experience, etc. to dig further into the topics outlined in this document. He would like to see advancement in North Dakota's plan within these areas discussed. Mr. Gulya expressed that he doesn't have all the information he needs to complete the OC Plan. Mr. Gulya specifically mentioned the DOJ settlement and the efforts to transition people out of congregate settings (LSTC transitions). These are just two pieces of athe larger framework that we need to get input on. The workgroups for the plan We need to generate strategies towards implementation of our goals, the progress, or how to make progress happen.

Mr. Gulya indicated that he would like to see workgroups in the areas of Education, Housing, Community Supports, and Transportation initially.

Ms. Larsen suggested that some of the original state entity non-voting members of the OC (DHS, DoH, DPI, Dept. of Commerce, Job Service ND, DOT, Indian Affairs, and Housing Finance Agency) could be pulled in for their comments.

Mr. Gulya noted that some data collection through a workgroup would be a good way to measure what we are doing. It would be good to get input from someone experiencing the system to see how things are going and create some specific measurable goals. He indicated that he doesn't have a good handle on how to formulate these. Ms. Oliver suggested that ITD be asked to help with this process.

Senator Lee noted that a lot of quality measurements have been done by DHS in the last year and a half, so we don't want to duplicate our efforts. Some of those

goals are being met already. A suggestion was made that Mr. Gulya contact Ms. Caprice Knapp, in the Medicaid Dept. at DHS, about those quality measurements that are under federal parameters.

Ms. Oliver liked the idea of a smaller group to review the first draft plan. She suggested that the process start with volunteers from the OC to get together within the next three weeks to review the plan and get some comfort with its content. Ms. Oliver, Ms. Deppa, and Judge Romanick expressed an interest in participating in this meeting. Mr. Gulya will reach out to Ms. Horntvedt, Ms. McCleary, and Mr. Goulet as they couldn't be present at today's meeting.

Senator Lee stated that she is happy to read the draft plan but would not be available the later part of that week for a meeting. Mr. Burlingame expressed an interest in participating in the meeting, but he knows he doesn't have a lot of availability that week. If available, he will join the meeting.

Mr. Gulya stated that he would like the subgroup to reconvene in July to discuss the comments received from stakeholders for incorporation into the plan.

Senator Lee stated that a 1-hour meeting in June and then another 1-hour meeting in July should be sufficient if the agenda is adhered to. OC members agreed. Senator Lee suggested that a Tuesday, Wednesday, or Thursday meeting will work best for the summer months.

Mr. Gulya indicated that the OC would share the draft plan with citizen and stakeholder groups for their input. Ms. Larsen stated that she felt this was a good start to this process. OC members not on the subcommittee should share their comments on the draft plan with both the subcommittee members and Mr. Gulya. Representative Mitskog indicated that she isn't available for the June meeting but welcomes the opportunity to review and provide input on the draft plan. She identified that the July dates would work for her to participate in a subcommittee meeting.

DISCUSSION ON FUTURE QUARTERLY COMMISSION MEETING DATES:

The next full Olmstead Commission quarterly meeting will be held in either August or September 2021.

Mr. Gulya stated that he would welcome any topics for discussion to add to this meeting agenda. Mr. Gulya stated that he did send out a Doodle Poll to the OC

with dates for a late summer (August 16-20) or early fall (September 6 – 10) meeting. He added that the OC should plan for at least a two-hour quarterly meeting.

PUBLIC COMMENT:

Mr. Gulya stated that, while only OC members have seen the draft plan today, any public comment received will be incorporated as well.

The question was raised whether a draft of the Plan will be put on the Olmstead Commission's website. Mr. Gulya stated, yes it will and asked if the Commission had any comments on that. Ms. Oliver stated that this is a great idea. She added that it should be noted on the website that public comment on the Plan will be received up until a certain date. Ms. Oliver asked if there were any guests in the audience today that have any comments.

Mr. Matt Schwarz applauded the Commission's discussion today. He commented about the implementation of the Med/Res program this past legislative session and feels that housing will definitely be an issue for the implementation. He added that specialized housing will be needed for some individuals.

Ms. Oliver thanked everyone for their participation this afternoon. The OC was asked to get any feedback to Mr. Gulya as soon as possible.

The meeting was adjourned at 2:20 p.m.