

Olmstead Commission
July 15, 2020
Via Microsoft Teams/Tele-conference

MEMBERS PRESENT: Wally Goulet, Leslie Bakken-Oliver, Teresa Larsen, Carlotta McCleary, Julie Horntvedt, Scott Burlingame, Judge Bruce Romanick, Senator Judy Lee, and Siobhan Deppa

OTHERS PRESENT: Daniel Gulya, Olmstead Coordinator

The meeting was called to order at 1:37 p.m. Introductions were made by everyone present.

APPROVAL OF 5/20/20 MINUTES: MOTION: A motion was made by Ms. Larsen, and seconded by Ms. Horntvedt, that the meeting minutes of May 20, 2020 be approved as typed. The motion passed. Ms. McCleary stated that she was present at the last meeting, but her name is not noted in the minutes. AMENDED MOTION: An amended motion to include Ms. McCleary in the list of members present at the May 20, 2020 meeting was made by Ms. Larsen and seconded by Ms. Horntvedt. The amended motion passed.

OLD BUSINESS:

Discussion of future Commission meeting dates:

The next meeting of the Olmstead Commission is scheduled for Monday, September 28, 2020. This will be a three (3) hour virtual meeting. Mr. Gulya stated that there is a Century Code provision that states boards and commissions should set an annual calendar of meeting dates. An established quarterly meeting for the Olmstead Commission was suggested. Following the September meeting, the Olmstead Commission could schedule their next meeting for the second week in the respective months of January (1/13/21), April (4/14/21), June (6/9/21), and September (9/8/21). An established schedule would then be submitted to the Secretary of State's Office.

Ms. Larsen stated that because two of the proposed months fall within the dates of the 2021 Legislative Session, she questioned if the Commission should meet in December 2020 and then following the session, possibly May 2021.

Senator Lee expressed that she does have a lot of meetings scheduled for December, but that a virtual Olmstead Commission meeting could work for her. If she is unable to attend the meeting, the group should proceed without her.

Mr. Gulya suggested that the Commission approve a regular meeting schedule at this time. He will then send out a doodle poll following the September 28 meeting and confirm those dates going into 2021.

MOTION: A motion was made by Mr. Burlingame, and seconded by Senator Lee, that the Olmstead pass a resolution to meet in January (1/13/21), April (4/14/21), June (6/9/21), and September (9/8/21). The motion passed.

It was confirmed that the 2021 Legislative Session organizational meeting is scheduled for December 1-3, 2020.

Discuss Olmstead inquiry process - Protocol from inquiry protocol subcommittee:

The protocol for an Olmstead Commission inquiry process was discussed. The flowchart was reviewed. There will be screening questions; based on information received, an information and referral could be made to P & A; this would be for an individual specific complaint, not a systemic complaint.

After the initial screening questions, it will be determined if it is something appropriate for the Commission to address as a whole, or if review by the standing committee is sufficient. The context of the situation will need to be examined and whether the issue needs to be dealt with in some depth, i.e. an investigation and then a full Commission report prepared. It needs to be determined what impacts there are on people with DD and what rules, policies, or statutes are involved. A response will need to be given to the individual presenting the inquiry.

The Commission will receive a summation of the facts. There may be points that need to be discussed further. After the initial fact finding, there will be a brief inquiry with the individual filing the inquiry.

Members raised a question about the number of steps, and how quickly can things be done regarding an inquiry. The plan would be if an inquiry is made and the subcommittee is able to review, plan to get back to someone and start the process in under a week. Looking at confidential records from state entities or providers, that is going to take some time. This may not be a speedy process from front to back.

Based on Mr. Gulya's review and the Attorney General's open meeting rules, any discussion involving personal information about someone who submits a complaint or is the subject of a complaint is confidential, and the Commission would need to go into closed session for that discussion. There is a process allowing that; the

meeting notice needs to cite the appropriate NDCC provision, and at that point the Commission would go into a closed session to review the personal details.

Discussion moved to the initial screening assessment being in a different order. See order on flowchart. Commission members agreed. If the inquiry isn't Olmstead-related we wouldn't be proceeding any further. A referral to P & A or another appropriate entity might be appropriate.

The Commission can plan on having a reasonable amount of time – brief as necessary, or as lengthy as necessary to make a determination. The initial screening shouldn't take more than one week. Filing a lawsuit is not just a one-month situation – it may take some time.

The question was raised whether the term “Constituent” Inquiry should be changed. Is the lay person going to know what this means? The word “Citizen” was suggested as an alternative to constituent. Commission members agreed that Citizen Inquiry is a good choice and would work well.

MOTION: A motion was made by Senator Lee, and seconded by Ms. McCleary, that the Olmstead Commission change the name of its inquiry process to “Citizen Inquiry” as discussed, with the changes noted. Mr. Gulya will correct the inquiry process flow chart as deemed necessary. The motion passed.

NEW BUSINESS:

Learning Session- Shelly Peterson, Long Term Care Association (LTCA):

Mr. Goulet welcomed Ms. Shelly Peterson, from the ND Long Term Care Association (NDLTA), to today's meeting. Please see Ms. Peterson's handouts for more information.

Learning Session - April Young (NCI-AD) and Stephanie Giordano (HSRI):

Mr. Goulet welcomed Ms. Young and Ms. Giordano to the meeting. Please see handout provided for more information. Senator Lee mentioned the HSRI behavioral health study that was completed prior to the 2019 Legislative Session. She noted that this was a well-done study by HSRI in this area.

Learning Session- Nancy Nicholas-Maier, Director of Aging Services (DHS):

Ms. Nancy Nicholas-Maier, Director of Aging Services was welcomed to the meeting. Ms. Nicholas-Maier provided the Commission with a Home and Community Based Services (HCBS) Update.

Discussion on 1-year Workplan in light of meeting dates, 2021 Session timelines:

This agenda item will be addressed at the September 28, 2020 meeting of the Olmstead Commission.

Mr. Goulet thanked everyone for their input at today's meeting. Final thoughts on today's meeting were given by several members.

Further discussion will need to take place at the Commission's next meeting regarding the use of the word Citizen in its inquiry process, which implies (presumably incorrectly) that we are limiting the process to U.S. citizens only.

If anyone has thoughts on additional Learning Session speakers, please let Mr. Gulya, Mr. Goulet, or Ms. Bakken-Oliver know.

The next Olmstead Committee meeting is scheduled for Monday, September 28, 2020.

The meeting was adjourned at 3:55 p.m.