

Olmstead Commission
January 28, 2020
Ft. Totten Room- State Capitol Building

MEMBERS PRESENT: Leslie Oliver Bakken, Wally Goulet, Teresa Larsen, Julie Horntvedt, Judge Bruce Romanick, Carlotta McCleary, and Dan Gulya, Olmstead Coordinator; Siobhan Deppa, Senator Judy Lee, Scott Burlingame, and Representative Alisha Mitskog, via conference call

OTHERS PRESENT: Matt Schwarz, Jillian Schaible, LuAnn Baker and Sean Wiese, NDIT, Kirsten Dvorak, The Arc of ND, Mike Chaussee, ND Assistive, Bruce Murry, NDACP, Sean Hoaglund and Carrie Varner, Self- Advocacy Solutions

CALL TO ORDER – INTRODUCTIONS: The meeting was called to order at 10:16 a.m. Due to some technical difficulties with the telephone the meeting started late. Introductions were made by everyone present.

APPROVAL OF 10/30/19 MEETING MINUTES: MOTION: A motion was made by Judge Romanick and seconded by Ms. Horntvedt that the meeting minutes of October 30, 2019 be approved as typed. The motion passed.

Mr. Bruce Murry shared information on community forums on caregiving resources in ND. He noted that NDACP is co-hosting eight regional community conversations about in-home services that can help children with special needs and adults who need assistance to remain living at home and in their communities. The community forums started today in Rugby, ND and will run until February 10. Mr. Murry added that this presentation will share information that will benefit people seeking in-home support and people who may want to consider working as a qualified service provider on a full-time or part-time basis or becoming an agency provider. Wally encouraged Dan to network with Mr. Murry about participating in the NDACP meetings.

DISCUSSION ON FUTURE COMMISSION MEETING DATES:

Discussion was held on the Commission's preference on its next meeting date (March or April). Today's meeting will touch on the direction the Commission wants to go and its plan to achieve that. A suggestion was made that the Commission hold its meetings quarterly. Audience members and members of the Commission agreed that quarterly meetings would work and that if an additional meeting is necessary between regularly scheduled meetings, then doing those meetings via conference call is an option. The next meeting should be scheduled for a date that the majority of Commission members can agree on. Interim Committee meetings are scheduled 30-

45 days ahead of the meeting. It is good to get meetings scheduled as far in advance as possible.

Dan will send out a Doodle Scheduler with some proposed dates/meeting times for the last week in March. The Commission meetings will be held quarterly following the March meeting.

REPORTS FROM SUBCOMMITTEES:

- Function

A summary of three relatively rural states that had gone through planning and revisions to their Olmstead Plan was shared. ND's Olmstead Plan Revision Process – What are our services and needs? We need a plan to address that - what the Commission is going to be doing. There should be a due process piece within the system and plans that aim for systemic coordination of efforts.

The Olmstead Commission has no authority to do anything adjudicative. When issues get brought to our attention they will be investigated and discussed in regular or executive session (confidential information), which is different than enforcement. The Commission's by-laws or its Plan should include an acknowledgement that an investigation can be initiated as needed. The Olmstead Commission is not a punitive Commission and opposes any idea of adjudication. Education is the key.

Sometimes an enforcement action is needed in order to make people act. It is the Commission's role to share our position and make reports to the Human Services Committee of the legislature.

The question was raised whether the results of investigations completed by the Olmstead Commission would then be passed on to a particular agency. It would depend what entity is being investigated and who has authority over them. If it's a facility or service system that links to a residential facility, then the licensing and accreditation agencies would be alerted. Protection and Advocacy Project, Aging Services, or VAPS could be an option for reporting. There may be a lot of options for some and few for others. The information definitely needs to go somewhere so that the particular situation can be addressed and remedied, if possible. In a case where things might be referred to law enforcement, the Commission would no longer be involved and no further action would be taken.

Any investigation results should come back to the Commission. The Commission should review them and then send them on to the appropriate entity. The Commission will be effective as an ombudsman group and needs to look at a generic definition of the word. We are not 'watchdogs' but need to facilitate compliance and education to increase services. Everyone agreed.

Discussion continued on an appropriate term to use in place of investigation. Inquiry and fact finding were both suggested. Using the word Audit was frowned upon. Input was encouraged by visitors attending today's meeting. They agreed that the term fact-finding would allow more people to provide input.

Dan stated that based on the information gathered today, a summary of key components of the Olmstead Commission's function will be drafted. He noted that shareholder input (Listening Sessions and Learning Sessions), goal drafting/work plan and reporting aspects will be included.

- Bylaws

A draft of proposed by-laws were sent to Commission members. The by-laws were formative and pretty basic. The Function Sub-committee will be providing some specific input to the draft by-laws. Commission members felt the draft by-laws were a good start. Once we have more shareholder input, the by-laws will be completed. Any amendments to the by-laws once established will require a majority vote from the Commission.

Discussion continued on the section of the by-laws that addresses accessibility. It was noted that there are still a lot of accessibility issues at the capitol i.e. sensitivity to lighting. This can cause a barrier to people attending meetings at the capitol. The capitol building is not accessible to everyone. The Commission wants to create an environment that is friendly and do our best to accommodate individuals if possible. It was suggested that the Commission not get so specific in the by-laws. Maybe adding a clause saying that we will acknowledge requests and will accommodate them the best we can. Someone requesting a sign language interpreter might not be accommodated if they call just one day ahead of the meeting; these types of requests take more time. If any Commission meetings are held outside the Bismarck area, accessibility issues would be appropriately addressed.

Everyone agreed that the sooner the by-laws are approved, the sooner the Commission will have a greater foundation. The by-laws will be finalized and approved at the next full Commission meeting.

- Services Survey

No formal report was available from this sub-committee. It was determined that with the implementation of the Listening Sessions, more information will be gathered and provided to the Commission for further discussion. NDACP (Bruce Murry) is a good example of an entity that provides services to individuals with disabilities across the state. A suggestion was made that the sub-committee start with DHS and have each of their respective divisions submit a description of what services they provide. It was suggested that Mr. Chris Jones, Executive Director of DHS, be invited to the next Commission meeting to talk about the services provided by DHS. The Commission

agreed that one or two provider organizations should be invited to each Commission meeting in order to learn about their services.

It will also be important to find out what parts of the state the respective organizations provide services. There are a lot of concerns about the lack of services in the western part of state, specifically in the area of mental health services. We need to find out who does what and where. It was noted that individuals in rural areas of the state are not able to access services as readily as those in urban areas. Discussion needs to be held on the gaps in services that need to be addressed. Looking at existing programs and services will be part of the Commission's mission. This will include housing and transportation as well.

Some provider organizations may have overlapping functions. There are also across the board needs, i.e. transportation, housing, etc. that specific providers cover. The Services Committee will continue to survey what services are available in ND.

A suggestion was made that before a lot of time and energy is expended on gathering this information, the Commission should hear from the foundations that have already been laid, i.e. DHS, DD providers, DOT, Housing Finance, etc. These don't have to be long presentations. We don't want to reinvent the wheel. We need to figure out what's out there and then look at collaboration efforts. NDAssistive was added to the list of potential presenters to the Olmstead Commission on their services.

DISCUSSION OF OLMSTEAD COMMISSION MISSION STATEMENT:

The Olmstead Commission's Mission Statement needs to be the first thing people see on its website. It should be a sentence or paragraph about the Commission's vision. Wordsmithing is very important. Identifying the Commission's role as Ombudsman, Fact Finder, etc. is important.

A suggestion of: Fact Finding and Educating to Facilitate Compliance with the Olmstead Decision was suggested. Identifying HCBS as part of the mission statement is also an option. The mission statement should be short and to the point. It needs to state that "This is what we are here for and this is what we do". The use of the words "exceed, as well as comply", were also suggested.

The Mission Statement Committee will discuss these options further and report back to the Commission at its next meeting.

ITD – PRESENTATION ON SECURITY AND ND.GOV E-MAIL POSSIBILITIES:

Leann Baker, NDIT, introduced Mr. Sean Weiss who will address the Commission's questions regarding e-mail addresses and e-mail security. It was noted that state employees that serve on the Commission don't have an issue regarding e-mail, but it's those that are using their private e-mail addresses that is in question. With the Open Records laws, using private e-mail addresses is a concern for this group.

Mr. Weiss stated that the Open Records laws do come into play when using a personal or business e-mail account when serving on a Commission and it makes sense to use a dedicated e-mail account, such as a state government issued e-mail specifically for business purposes. He noted that under the Open Records law, not all of an individual's e-mails can be requested, and the request would be based on what they're looking for. That would cast just too broad of a net. It is important to keep business and personal e-mails separate. Mr. Weise explained the security aspect of an exchange account where a Username and Password are provided in order to access the account. This is called multi-factor authenticity and you must enter a six-digit code to identify that it is in fact you before you can get into the e-mail. He noted that this additional factor helps bolt that type of security. Mr. Weise noted that businesses are using this security feature more and more and this is a reflection of the world we live in today.

Mr. Weise stated that it is possible to get state e-mail addresses for all Commission members not associated with state government, but it comes at a cost and the Olmstead Commission would have to figure out how that would be paid for. Mr. Weise strongly recommended that all citizen members appointed to state government commissions or boards obtain a state e-mail address. He added that he doesn't know how many boards/commissions have gone this route, but he would be happy to find out.

The question was raised whether it was necessary for the civilian members of boards and commissions to have access to the government list serve and if there would be a way for Olmstead Commission members to communicate with each other without having access to all other government issues.

Mr. Wiese stated it could be worked out so that the Olmstead Commission's e-mail be tailored to just e-mail and not be granted access to everything, i.e. e-mail for communication purposes only.

Mr. Wiese explained that the cost would be \$7.00 per month per user for an nd.gov e-mail address and the additional security feature would be somewhere between \$5.00 - \$12.00/month per user.

Mr. Wiese mentioned the Security Awareness Training offered by NDIT and that this is something that is required for all nd.gov users. He mentioned that boards/commissions should not be posting personal information (personal addresses, e-mail address, etc.) on their website for their members.

Mr. Wiese stated that NDIT has someone else that can answer specific website questions for the Olmstead Commission.

The process is relatively easy to get an nd.gov e-mail address. The names of those needing an nd.gov e-mail address should be sent to LuAnn Baker at NDIT. Mr. Wiese questioned the issue of document sharing or the need to use a document depository

for the Olmstead Commission. Dan indicated that right now he is just sending attachments. Mr. Wiese recommended the OneNote system where documents can be stored and anyone can look at them. This would be one more layer of security for the Commission.

DISCUSSION OF POSSIBLE OLMSTEAD PLAN REVISION PROCESS – OLMSTEAD COORDINATOR:

The Function Sub-committee has discussed this issue. The common path taken by other states has been explored. ND's plan was drafted in 2002 and it could use some examination and re-evaluation. The question was raised if ND has been successful at all since that time; there was no answer for sure.

Looking at other state services, and identifying gaps and barriers to services, will help ND determine what we should be doing as a state. Determining what this look likes to a consumer with disabilities and to a provider will be important. Stakeholder input obtained at Listening Sessions will help in determining what the perceived needs are.

A suggestion was made that an individual Listening Session be provided to Self-Advocacy Solutions (SAS) in Grand Forks for them to provide input.

Mr. Hoaglund expressed that Community Inclusion is very important to people with disabilities and giving back to the community, transportation and housing are huge issues in G.F. Mr. Hoaglund agreed to work with Dan on any presentations held in the G.F. area.

The Learning Sessions will consist of different agencies coming to Commission meetings to identify the scope of services they provide and in what part of the state they are provided.

Rev. Carol Two Eagle shared some information with the Commission on the struggles she has been made aware of regarding services to individuals with disabilities in the community. She expressed that she hopes the Olmstead Commission will be able to make some much needed changes to the current service delivery system so that those in need are able to get the services they are seeking.

It is going to be a long process to acquire all the information the Commission needs to move forward. The Commission is open to anyone else that might have suggestions for the group. Mr. Murry suggested that the NDACP and the Olmstead Commission join efforts in dovetailing regional Listening Sessions across the state. A "road map" of where these sessions will be held will be put together by the Commission's next meeting.

Goal drafting efforts and a work plan will be provided to the Commission at its next meeting as well.

A suggestion was made that Ms. Shelly Peterson, from the Long Term Care Association of ND (LTCAND) be invited to the next Commission meeting to talk about

LTC and Home and Community Based Services (HCBS). DHS will also be asked to come to the next meeting. The Commission wants to know specifically what the issues are when it comes to providing services. The learning sessions should provide this information, allow time for questions and answers and be used as a means to educate the Commission.

Mr. Hoaglund stated that SAS is working with providers in Fargo that say they will do something for an individual, but then don't follow through. There appears to be a lot of miscommunication going on.

There are not a lot of professionals, nurses, doctors, etc. in small towns in ND. Hopefully this issue can be addressed. Aging to nursing homes is another service area that needs attention. Obtaining information from the Listening Sessions will be invaluable. If others have suggestions on who to invite to the Listening Sessions, send that information to Dan.

REPORTING:

The question was raised as to what kind of a report the Commission will be looking for after the listening sessions are held. Knowing the number of people attending each session and compiling all of their comments is expected. Comments and action items should be identified. Clarity is always appreciated. Gathering input to help the Olmstead Commission make decisions, identify terms, etc. will be useful. We want to hear about what's working and what isn't. Putting all of the data collected into a spreadsheet will help. Is it possible to record the listening sessions? Obtain as much good information regarding a complaint and bring it back to the Commission for follow up. Need to discourage people from sharing too much personal information. Some individuals are afraid to talk in front of their guardians.

Discussion was held on the need for a survey to be developed to gather input. Something easy to understand; what's good and what's not. General questions – no identifiers. To make it meaningful, would the individual filling out the survey need to identify if they have a disability or what services they are receiving. The survey would be accessible for everybody. Certain types of disabilities have gained more attention over the years than other. This could be an education piece. Possibly partner with National Core Indicators to do a survey, instead of reinventing the wheel. Maybe a survey that we could use has already been developed. Use something already developed so that we're not working against each other for the same information. A quality assurance survey.

Collaboration with National Cores Indicators is new to ND and Aging Services is trying to get ND involved. A presentation on the NCI would be helpful to the Commission. We don't want to get too bogged down so we can't move ahead.

Notices need to be sent out for the listening sessions so that individuals with disabilities that need accommodations to attend can request them ahead of time. Also, having a form that can be filled out ahead of time noting individual concerns. If someone can't attend, they could send in their questions and concerns.

Siobhan stated that she lives in the Fargo area and that if Dan needs any help in that area she is more than happy to provide assistance where necessary.

MOTION: A motion was made by Leslie and seconded by Judge Romanick that the meeting be adjourned at 12:50 p.m. The motion passed.