

## **Olmstead Subcabinet Meeting Minutes**

Monday, July 22, 2019 • 3:00 p.m. to 4:30 p.m.

Minnesota Housing – Lake Superior Conference Room, 400 Wabasha Street North, Suite 400, St Paul

### **1) Call to Order**

Commissioner Ho welcomed everyone to the meeting and provided meeting logistics.

### **2) Introductions**

**Subcabinet members present:** Jennifer Leimaile Ho, Minnesota Housing; Margaret Anderson Kelliher, Department of Transportation (DOT); Rebecca Lucero, Minnesota Department of Human Rights (MDHR); Paul Schnell, Department of Corrections (DOC); Jan Malcolm, Minnesota Department of Health (MDH); Colleen Wieck, Governor's Council on Developmental Disabilities (GCDD); Mary Catherine Ricker, Minnesota Department of Education (MDE) joined at 3:09; Roberta Opheim, Ombudsman Office for Mental Health and Developmental Disabilities (OMHDD) joined at 3:11; Pam Wheelock, Department of Human Services (DHS) joined at 3:15 and could only stay for a few minutes; and Larry Herke, Minnesota Department of Veterans Affairs (MDVA) joined at 3:45

**Designees present:** Claire Wilson, Department of Human Services (DHS); Carol Pankow, Department of Employment and Economic Development (DEED); Timothy Lynaugh, Department of Public Safety (DPS); and Gerri Sutton, Metropolitan Council

**Guests present:** Matt Burdick, (Office of Governor and Office of Lieutenant Governor); Mike Tessneer, Darlene Zangara, Zoua Vang, Rosalie Vollmar and Sue Hite-Kirk, Olmstead Implementation Office (OIO); Rachel Robinson, Anne Smetak and Ryan Baumtrog (Minnesota Housing); Erin Sullivan Sutton, Cortney Jones, Alex Bartolic, Meghan Lindblom, Dominique Jones, Adrienne Hannert and Catherine Courcy (DHS); Tom Delaney and Holly Anderson (MDE); Nicole Stockert, Stephanie Lenartz, Mary Manning, Ann Schulte, Martha Burton and Wendy Berghorst (MDH); Kristie Billiar, Department of Transportation (DOT); Michelle Smith, Kate Erickson and Jolene Rebertus, Department of Corrections (DOC); Maura McNellis-Kubat, (OMHDD); Mary Kay Kennedy, Advocating Change Together (ACT); Justin Page, Minnesota Disability Law Center; Joan Willshire, Minnesota Council on Disability (MCD); Ken Bence, Association of Residential Resources in Minnesota (ARRM); Julie Kramme and Sandra Pettingell, Institute on Community Integration (ICI); Sarah Curfman, Down Syndrome Association of Minnesota; Bradford Teslow, Noah McCourt and Mary Fenske (members of the public).

**Guests attending by phone:** Sheri Meyers, member of the public

**ASL and CART providers:** Mary Catherine (Minnesota Housing); ASL Interpreting Services, Inc.; Paradigm Captioning and Reporting Services, Inc.

### **3) Agenda Review**

Commissioner Ho asked if there were any changes needed to the agenda. She asked those interested in making public comment to add their name to the sign-up sheet.

#### 4) Approval of Minutes

- a) Subcabinet meeting on June 24, 2019  
Commissioner Ho asked if there were any changes needed to the minutes for the June Subcabinet meeting. No changes were requested.

**Motion:** Approve June 24th Subcabinet meeting minutes  
**Action:** Motion – Wieck                      Second – Lucero                      In Favor – All

#### 5) Reports

- a) **Chair** - No report.
- b) **Executive Director**  
Darlene Zangara (OIO) provided a brief update regarding the Community Engagement Workgroup application process.
- c) **Legal Office** - No report.
- d) **Compliance Office** - No report.

#### 6) Action Items

- a) **Workplan Compliance Report for July 2019**  
Mike Tessneer (OIO) reported that 23 workplan activities were reviewed. There were no exceptions to report. The list of activities reviewed were attached to the Workplan Compliance report.

**Motion:** Approve July Compliance Report  
**Action:** Motion – Anderson Kelliher                      Second – Schnell                      In Favor - All

#### 7) Informational Items and Reports

- a) **Workplan activity reports to be presented to Subcabinet**  
Agency staff presented the following reports. No action was needed on the reports.

**1) Direct Care Workforce 1B.1 – Results of provider survey**

**2) Direct Care Workforce 1B.2 – Results of direct care worker survey**

Meghan Lindblom (DHS) presented the two Direct Care Workforce reports with Julie Kramme and Sandy Pettingrell, Institute on Community Integration (ICI).

**Questions/Comments:**

- Assistant Commissioner Pankow (DEED) asked if the small sample of providers was sufficiently representative to establish the findings. Sandy Pettingrell indicated that they feel confident with the representative sample both by region and service type.

The margin of error hoped for was 5 percent. With the sample they have, the margin of error is at 6.7 percent.

- Commissioner Lucero (MDHR) asked for the demographics of worker respondents and if anything was notable. Demographics are illustrated on page 45 of the packet.
- Deputy Commissioner Wilson (DHS) encouraged members to review the *Minnesota Direct Support Worker Survey* (pgs. 43-52) as this work will be one of DHS's primary objectives going forward. It is helpful to understand where we are investing our funds and how many public health care programs are being utilized. The Personal Care Assistance (PCA) program continues to be the most diverse workforce as well as earning the lowest median wages.
- Commissioner Schnell (DOC) suggested looking at this through the lens of the provider in terms of hiring part-time versus full-time staff and their ability to maintain and be profitable. It becomes a structural problem in that providers can't make this a viable option in terms of providing services. Non-profit agencies also struggle if they want to pay a better wage and offer benefits.
- Roberta Opheim (OMHDD) suggested looking at the disparity between rates paid to the provider and wages paid.

### **3) Housing 1D – Status of additional Section 811 funding**

Ryan Baumtrog (Minnesota Housing) presented the report and there were no questions or comments.

### **4) Health Care 3B.1b – Annual report on trainings to increase challenges to accessing adult health care by transition age youth**

Wendy Berghorst (MDH) presented the report and there were no questions or comments.

### **5) Crisis Services 3B.5 – Annual report on implementation of Forensic Assertive Community Treatment (FACT) teams**

Jolene Rebertus (DOC), Dominique Jones and Courtney Jones (DHS) presented the report.

#### **Questions/Comments:**

- Commissioner Ho asked about the pilot program for one Forensic Assertive Community Treatment (FACT) team. Dominique Jones explained this report includes the FACT team in Ramsey County. Hennepin County has established a FACT team and they are working with the Hennepin County FACT team to collect similar data.

- Roberta Opheim (OMHDD) asked if the pilot program was at full capacity. Dominique reported as of June 1, 2019 there are 71 out of 74 individuals.

#### **6) Preventing Abuse 2 2A/2B – Quarterly reports on Intermediate Care Facilities for Individuals with Intellectual Disabilities citations**

Nicole Stockert (MDH) presented this report.

##### **Questions/Comments:**

- Commissioner Anderson Kelliher (DOT) asked if there was a specific reason for the reported improvements. Ms. Stockert stated the education campaign is in the beginning stage, so the impact wouldn't necessarily be reflected in the data at this time. It is possible that the activity of the complaint investigations is helping compliance in this area. Public awareness campaigns will continue and data will continue to be gathered and analyzed.
- Colleen Wieck (GCDD) asked if providers as represented in, *ICF/IID Providers Cited for failure to Report Maltreatment* table (pg. 64) means individual homes or individual providers. Ms. Stockert stated that in this report, provider represents a home. Colleen Wieck pointed out there were 201 providers in 2016, and there is a significant decrease in the provider population over time. Ms. Stockert stated she is not certain why there is a decrease for the number of providers, but it appears that many are dropping their federal certification.
- Roberta Opheim (OMHDD) expressed concern about what is done when a provider has repeated citations. Ms. Stockert explained that MDH follows many regulations and timelines. Lists of providers with repeated citations are maintained and shared with your triage team and the complaints unit to prioritize complaint investigations.

#### **7) Preventing Abuse 4 3E – Annual report on school district required trainings**

Tom Delaney (MDE) presented the report.

##### **Questions/Comments:**

- Colleen Wieck (GCDD) asked about the total number of maltreatment reports and how many students were involved. Mr. Delaney stated he did not have those numbers but they will be included in Quarterly Report when this goal is reported.
- Roberta Opheim asked if investigations from a "children's residential facility" are handled differently than those that occur in a school setting. Mr. Delaney stated that any report of student maltreatment includes a complete investigation regardless of the setting.

## 8) Communications 2E.10 – OIO recommendations on public input process

Darlene Zangara (OIO) presented the report.

### Questions/Comments:

Commissioner Ho commented that it has been her observation that it is easier to go sit in a community led meeting and talk about something than it is for me to call a meeting and expect to get a diverse group of people to show up. She asked the team to think about that when considering meeting format.

## 8) Discussion – Imagining the future of the Olmstead Subcabinet

Commissioner Ho led a discussion on the direction of the Subcabinet and the scope of work. She suggested consideration of the following:

- Reestablishment of an Executive Committee;
- Discussion of the focus of the Subcabinet meetings to ensure the time spent is valuable to members and increases the impact of the Plan for people with disabilities;
- Consideration of what “outside the box” resources members could offer to enhance the work of the Plan; and
- Consideration of the frequency and time allotted for the Subcabinet meetings.

### Questions/Comments:

- **Commissioner Lucero (MDHR)** commented that in providing feedback it would be helpful to know if the intent of the Subcabinet is to be an approval group or a collaborative group. The DHS report on the direct care worker survey presented at today’s meeting provides an opportunity to think about how issues relate to MDHR.

Commissioner Ho asked Anne Smetak, (Minnesota Housing) to respond. Ms. Smetak explained that the Subcabinet has an obligation to approve compliance reports, including four quarterly reports, the annual report, and the annual Plan amendments. Mike Tessneer (OIO) further explained that the purpose of the Subcabinet was never intended to take away the authority of an agency, but to have the agencies join in a unified effort and operate collaboratively in the same direction.

- **Commissioner Anderson Kelliher (DOT)** indicated that with the background provided by Ms. Smetak and Mr. Tessneer, she supports an Executive Committee being formed. It is most helpful to be aware of reports such as those given today so that agencies continue to think about connecting factors. She also expressed time is needed over the next year or two to think about collaborative work.
- **Roberta Opheim (OMHDD)** stated that with or without a court order, an Olmstead Plan helps protect state agencies. The fact that the state has an Olmstead Plan and the state is making reasonable progress is critical. It was a long struggle to get to meaningful

measurements and baselines and required the collaboration of agencies in the development of the Plan. That type of collaboration needs to continue. The Subcabinet needs to address broader issues that impact several agencies.

- **Assistant Commissioner Pankow (DEED)** expressed support for collaborative work and doing things because it's the right thing to do for Minnesotans with disabilities.
- **Commissioner Malcolm (MDH)** recognized the importance of the more formal, court ordered process. However, she wonders about how to best determine why some measures are included, if they could be more robust, and if there could be additions to the Plan. She agrees time would be better spent by the Subcabinet to go beyond the reports and take a broader focus.
- **Deputy Commissioner Wilson (DHS)** also supports having an Executive Committee to address implementation, plan amendment, identifying barriers and help us to move forward, through and out of the court jurisdiction. The Subcabinet could then focus on the larger collaborative efforts.
- **Colleen Wieck (GCDD)** stated the Executive Order identifies 11 functions of the Subcabinet, with emphasis on interagency coordination and collaboration. She would like to see a timeline of when all reports are due. The Subcabinet could meet quarterly to focus on the bigger issues, while the Executive Committee meets in between to review and approve reports. She asked that prevention of abuse be one the bigger issues to discuss at the Subcabinet. Ms. Opheim and her staff have put together a prevention of abuse campaign they would like to share at a Subcabinet meeting.
- **Commissioner Schnell (DOC)** talked about the intersectionality across the state enterprise and the tendency to go easy when trying to satisfy a court order. The bigger challenges come from another agency's scrutiny or questions and this should be considered valuable.

Commissioner Ho suggested a presentation at the August Subcabinet meeting on the options and recommendations about how to move the work forward. She asked members to think about who should be on the Executive Committee. In the meantime, if members would like to provide additional input, they should contact her directly.

## 9) Public Comments

Commissioner Ho requested members to stay if possible, to hear all public comments. There were four individuals who provided comments to the Subcabinet.

**a) Sheri Meyers, member of the public**

The Public Comment Intake form was offered via email. An outline of Ms. Meyer's comments was not received. Ms. Meyers described many scenarios she has endured over the last five years as an adult woman with disabilities including:

- Lack of equal access to building due to others illegally parked in disability parking spaces;
- Lack of access to medical care;
- Medical violence committed by medical personnel;
- Lack of mental health care and violation of HIPAA laws;
- Lack of access to housing unless that space was previously disabled occupied;
- Lack of access to shelters;
- Lack of services in some counties, or only if living in county housing;
- Lack of access to report crimes and abuse of vulnerable adults;
- Lack of justice and human rights;
- Lack of safety, well-being and making personal choices; and
- Victim blaming and shaming.

**Questions/Comments:**

Commissioner Ho asked the OIO staff to follow up with Ms. Meyers and be the central point of contact.

**b) Bradford Teslow, member of the public**

The Public Comment Intake form was offered at the meeting. An outline of Mr. Teslow's comments was received after the meeting. Highlights of his comments were about substance use disorder and mental health treatment centers and included:

- He requested last year's reports for licensing violations in order to tally the number of violations. He has not yet received a response from DHS. He asked if there was an existing report available through the licensing division.
- He would like to see a goal established to specifically focus on the reduction of violations at substance use disorder and mental health treatment centers.
- He suggested establishing a work group to further support the reduction of violations.

**Questions/Comments:**

Deputy Commissioner Wilson (DHS) stated she is not aware of a specific report that compiles the data that Mr. Teslow is seeking. She explained that details of licensing violations are public information and can be looked up that way. She will check with the DHS licensing division about what reports are available.

**c) Ken Bence, Association of Residential Resources in Minnesota (ARRM)**

The Public Comment Intake form was offered at the meeting. An outline of Mr. Bence's comments was received after the meeting. Highlights of his comments included:

- ARRM is the trade association that represents providers of residential services, supporting people with disabilities.

- ARRM is one of the community organizations that partnered on workforce surveys presented at this Subcabinet meeting.
- The Institute on Community Integrations (ICI) created a film called “Invaluable: The Unrecognized Profession of Direct Support”, which is a documentary-style film that illustrates the rewards and challenges of a direct support professional.
- ICI is seeking opportunities to show the documentary. contact Jerry Smith at ICI at the following email address: [smith495@umn.edu](mailto:smith495@umn.edu)

**d) Noah McCourt, member of the public**

The Public Comment Intake form was offered at the meeting. An outline of Mr. McCourt’s comments was not received. Highlights of his comments included:

- Mr. McCourt stated he serves on the Governor’s Council on Developmental Disabilities and does a lot of advocacy work around the state, specifically about public safety.
- He announced that July 26, 2019 is the 29<sup>th</sup> anniversary of the Americans with Disabilities Act (ADA). Although progress has been made, discrimination against people with disabilities continues.
- He requested the establishment of a workgroup with the focus of public safety so that people with disabilities and mental illness can become part of the conversation.
- He cited a report announcing a workgroup on police involved shootings. There is not one person with a disability on this workgroup even though people with disabilities are more likely to be shot.

**Questions/Comments:**

Commissioner Ho affirmed the announcement made this morning by the Attorney General and the Commissioner of Public Safety about the formation of a working group on police involved shootings.

**10) Adjournment**

The meeting was adjourned at 4:34 p.m.

**Next Subcabinet Meeting:** August 26, 2019 – 3:00 p.m. – 5:00 p.m.

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