

MINUTES
of the
Mental Health Planning Advisory Council
Consumer & Family Member Advocacy Committee
meeting on
Wednesday, March 23, 2011
held at
Substance Abuse Treatment & Prevention Agency (SAPTA)
4126 Technology Way, Second Floor Conference Room
Carson City, Nevada 89706

A discussion took place while the group was waiting for a quorum. Roger asked Jack to speak in regard to the budget reductions for the mental health budget. Jack said he attended the mental health budget hearings. Nevada Disability Advocacy & Law Center (NDALC) is charged with protecting and advocating for people with disabilities. One of the areas they emphasize is protecting the rights of individuals with mental health issues, specifically in receiving services. In reviewing the State's budget, they have several concerns. They compiled them and that is the document Roger sent on Tuesday. This was specifically put together related to mental health. They do have concerns in other areas of the budget as well. They are bringing their concerns and the possible legal issues with the budget that is being presented. Specifically with this document, they are talking about the Olmstead Supreme Court decision which is under the Americans with Disabilities Act. It states that it is a form of discrimination to force people to receive services in institutions when they can receive the services in a community based setting. Based on this they have some concerns, through the different categories and eliminations. They are concerned about rural mental health being disproportionately affected. There are not any institutions in the rural areas, so they are limited to what services are available as community based services. They are concerned about the elimination of positions with SNAMHS in Southern Nevada. They are concerned about the potential for abuse between the consumers and consumers and staff. They are concerned about the elimination of the Mobile Outreach Safety Team in Washoe County. They are very concerned about the reduction of the PACT program, outpatient counseling, and supportive living arrangements. These affect people living in the community. Many have heard about the proposed shifting of funding from the State to the County. One of the areas that will have the biggest impact is the Mental Health Courts. He believes everyone agrees they have been very effective. If they were not to be funded, people would end up in jail, when in fact they probably just need treatment. Some of the other areas that are not specific to mental health are developmental services. They are concerned about the money for projected growth. It is level funding and they believe this will lead to a waiting list, and those have been legally challenged under the due process rights to get access to services. They are concerned about the cut and reduction in autism services. They are also concerned about Vocational Rehabilitation. They are proposed to receive a million dollar cut and the way their matching funds work out, when they receive a million dollar cut that will equal a 4 million dollars total. Over the two year period, their budget is reduced by 2 million dollars and therefore they will lose a total of 8

million dollars. NDALC is charged with ensuring the rights of people with disabilities. They have enforced those rights and they intend to if some of the budget cuts go through because they are concerned about the impact they will have on the constituents.

Roger asked about AB94. Jack said NDALC is opposed. They respect the people behind it and their intentions; however, they feel that it criminalizes people with mental health issues. More or less they are being put on probation and if they do not do what they are told, they go to jail. As a philosophical policy position, they believe resources should be put into helping people who want help as opposed to forcing people into treatment that do not want help.

Barbara said she would like to explain the conflict she has. She is a consumer and she is a state employee. As a consumer, this frightened, angered, and she felt they were being ill treated like slavery. Her first instinct was to pack her bags and move out of Nevada. As a state employee, she understands why this is being pushed. There could be jobs lost. When taking into consideration the health care reform, the majority of the clients in State Mental Health will become Medicaid and Medicare eligible. The State may lose a number of clients. As a consumer this bill is so offensive, she does not understand why it is even being considered. She said it is good to hear that someone else is against the bill, because it seemed to her that she was the only one against it. Once something like this spreads, it will move into other parts of people's lives. It can spread rapidly, especially when discussing budget cuts. She can not believe that Nevada keeps taking steps backward. Nevada is already 30 years behind other states. Lydia said she understands where Barbara is coming from. She would hate for someone to be able to go up to her and say they have a court order stating the person is going into an institution. She is not behind AB94, but as someone who works in the field, she understands why. She is not sure why the state believes they can make that decision for people. Roger said he believes Dr. Cook made some suggestions to the bill sponsor to make the provisions more permissive rather than mandatory, and he has not heard back from the Assemblyman. Jack concurred with Roger. Barbara asked if someone would explain the more permissive. She said if a bill is wrong or offensive why would it continue to be considered. Roger said Dr. Cook did not provide the exact language. Jack believes there is a section where it states the court shall do, and Dr. Cook suggested instead of shall changing it to may. The individual may be picked up and put in jail. Barbara asked what that would mean to a consumer. Jack said that would give the court more flexibility. If the bill reads shall, it is automatic that the person gets picked up, if it states may then there is discretion. He agrees that if it is a bad bill, then it is a bad bill. Rene said when people come out of prison, one of the conditions of their parole is they have to go to therapy. It does not work because the person is not choosing to go, so why are they doing this. Jack said this can also be used to take pressure off the hospitals, so they can be monitored in the community instead of the hospitals. If they are not following Dr.'s orders, they would be put back in the institution. There are concerns on the other side too. There are family members concerned about loved ones who do not want to follow a treatment plan. Everyone has the right to choose what medical advice they would like to follow. Barbara said this bill is stating they no longer have a choice. Jack agreed. Barbara said with any other illness a person has a choice and they are not penalized. She

can choose not to go to a Dr. or take treatment. She feels she can be penalized and put in jail because the treatment that she does not have any control over does not work for her. Not every treatment will work for everyone. She has found that being brought into a program and buying into it and be a part of the program works better, but if she is forced, it does not work. This bill will keep the door revolving.

1. CALL TO ORDER, ROLL CALL, INTRODUCTIONS – PATRICIA PETERMAN, CHAIR

Alyce acted as Chair in Patricia's absence. Alyce called the meeting to order at 9:10 am. Verbal roll call completed. Tanya completed the sign-in sheet.

Members Present:

- Norris, Rene – Family Member (via teleconference in Las Vegas)
- Snead, Lydia – Family Member (via teleconference in Reno)
- Thomas, Alyce – Consumer (via teleconference in Las Vegas)
- *Wilhelm, Layne - SAPTA

Members Absent:

- Herrera, Corrie – Family Member (excused)
- Peterman, Patricia – Family Member (excused)
- *Phinney, Cody – MHDS (excused)
- *Polakowski, Ann – DCFS (excused)

Staff and guests:

- Benitez, Tanya – MHDS/MHPAC Admin. Asst.
- Crowe, Kevin Dr. – Commission
- Jackson, Barbara – Consumer
- Mayes, Jack – Nevada Disability Advocacy & Law Center
- Mowbray, Roger – Grant Writer

2. REVIEW AND APPROVE MINUTES FROM PRIOR MHPAC CONSUMER & FAMILY MEMBER ADVOCACY COMMITTEE MEETING ON 3/8/11

Alyce asked for comments and/or changes for the minutes from 3/8/11. Rene motioned to accept the minutes as written. Lydia seconded the motion.

UNANIMOUS VOICE VOTE: MOTION CARRIED

3. REVIEW AND DETERMINE WHETHER TO SUPPORT, OPPOSE, REMAIN NEUTRAL, OR OTHER ON AB94

Roger said there are currently no meetings/hearings scheduled for this bill. Jack said a bill is not truly dead until the session is over. The Legislature has been primarily focused on budget hearings and getting bills introduced. Monday was a deadline for bills and they introduced close to 300. There have been some hearings on some bills, but they were bills that were in some ways left over from last session or came up in between sessions and were higher on the list. They have been having hearings every day, but it has only been two or three bills at a time. Jack said NDALC is opposed to any outpatient civil commitment. They believe it violates the individual's rights and resources should be focused toward individuals that want help. Lydia, Rene, Barbara, and Alyce agreed with Jack. Roger said the Committee can have him draft a letter expressing their concern and send it either to the sponsor of the bill right a way or to the Committee. Lydia said it would be a good idea to do a letter on AB94. Roger asked if they want to send it to the Committee. Jack suggested sending it to the sponsor of the bill and carbon copy the Committee. Dr. Crowe said the Commission has not taken a formal stance on this bill. He said if the Council does develop a letter, it would be helpful if they would copy the letter to the Commission. Roger went over the protocol from the last meeting.

Lydia motioned to draft a letter outlining the Committees concern of the violation of civil rights and the refocusing scarce resources on those who want services. Rene seconded the motion.

UNANIMOUS VOICE VOTE: MOTION CARRIED

Lydia asked if they would receive a copy of the letter. Roger said they will.

4. REVIEW LEGISLATIVE BILLS

Roger asked Jack for his input on the DCFS BDR for the Children's Mental Health Plan. This BDR moves some of the DCFS staff from direct services to an oversight capacity to implement this plan. Jack said he is aware, but does not know the details. They are hesitant to support or oppose until they see the

language. He asked if the BDR has become a bill yet. Roger said it is still in BDR form. Jack said in general they are opposed to taking away services. They have great concerns of just shifting services back and forth between the State and Counties. They have done some research on that, and there is State Statute which says the Counties are responsible for children's services, but they are allowed to provide those services through a contract, which at this time is a contract with the State. The State can opt out and say they no longer wish to contract to provide the services, therefore it would fall back on the County. As far as shifting staff around internally, he would like to see the bill and the language before they make a formal comment on it. Rene said she thought Patty Merrifield said the positions they were changing were supervisory. Jack said they are interested to see how they are proposing to merge some of the administration services, and they are stating this will improve service. For NDALC, the question is what is the impact opposed to how it is arranged internally. They will be watching for the bill. Roger said if anyone sees a bill that they would like the Committee to monitor, please let him know and he will put it on the list.

Roger went through the Assembly bills.

AB33: Approved by the Assembly and sent to the Senate Labor Commerce and Energy. There are no hearings scheduled.

AB48: Approved by the Assembly and sent to the Senate. It looks like it is viewed favorably

AB50: Approved by the Assembly and sent to the Senate Health and Human Services Committee.

AB51: There are not any hearings at this time.

AB59: Amended, in the Assembly Government Affairs Committee waiting to receive the amendments. No further hearings are scheduled at this time.

AB61: Heard on 2/25 in Assembly Government Affairs, amended and due pass as amended.

AB65: In the Assembly Commerce and Labor, amendments to be considered at a future meeting. This bill has one of the greatest number of opinions registered with six in favor and 249 opposed. Roger asked Jack if he had any information. Jack said he believes there is an internal conflict. The parents want services for their children; however, if there is too much licensing or regulations it limits the pool of providers.

AB93: No action taken at this time. Layne said it is being redone so it will be workable within the Department of Corrections. It should be resurfacing shortly.

AB94: Discussed earlier

Jack suggested the Committee look at AB181. It provides for the involuntary civil commitment of sexually dangerous persons. The reason he suggests the Committee watch this is that it put them in the care of MHDS. His concern is where the individuals will be housed. Would they be placed at Lake's Crossing Center or the general population? NDALC would be concerned about sexual predators at that point. Roger asked if there are any hearings scheduled. Jack

said it is in Assembly Judiciary. They want to make sure that the people who are inpatient receiving treatment are not at risk. Lydia said instead of the victim receiving treatment, this is basically stating the perpetrator will be locked up in the facility. Jack read “section 15 of this bill authorizes the District Attorney to file a petition seeking the civil commitment of a sexually dangerous person, which means a person who has been convicted of sexually dangerous offense, who suffers from a mental disorder and is dangerous to the public because the person is likely to commit again. Section 17 of this bill requires a court hold the individual for 72 hours for evaluation. If they determine that there is such probable cause, the court is required to schedule a hearing before a jury. If the jury unanimously finds the person is a sexually dangerous person and that the person requires a commitment, the court must enter an order committing the person to the custody of a program for the treatment of sexually dangerous persons established by the Division of Mental Health & Developmental Services for the Department of Health & Human Services.” Roger pulled the fiscal note from MHDS and it states “MHDS currently has no capacity to treat sex offenders. To add this capacity would require a facility and the staff and resources to provide the facility based treatment program and the alternate treatment program. It would require 77 million in general funds in the first year and then ongoing expenses of 3.3 million per year in general funds.” Jack said there are 17 co-sponsors of this bill. The bill may go forward as it is or they may modify it as a less expensive version that would scare people. Roger will add it to the list. Roger asked if Jack thought there were any others the Committee should monitor.

Roger went over the Senate bills.

SB23: Clarifies the State and County responsibilities. Lydia said it should focus on the adoptive parents, because too many times, the foster parent states it is not their job. Roger will look into the information for the bill and see if they address anything in regard to the foster parents.

SB28: There has been one hearing of this bill. There is some opposition to the bill. Those opposed feel that it makes the process not as thorough and effective as it has been in the past.

SB44: Heard on 3/17. Amended and passed out of the Senate Health & Human Services Committee. Roger referenced the amendments of the bill. Those included “the regulations developed pursuant to this section conclude the following qualifications for a consumer to be eligible for services 1) a documented diagnosis of a mental disorder based on the most recent version of the American Psychiatric Associations Manual 2) must not be eligible to receive the services through another public or private entity for example if the consumer has private insurance coverage for mental health services or access to care through another public/private program such as the veterans administration, they must access the care through that mechanism. MHDS will be the provider of last resort in these cases. In addition the cases where the Division is not able to provide the necessary service of care, the Division will refer individuals to the most appropriate organization or resource for care.” Roger asked Jack for any

observations on the bill. Jack said it is 90 pages mostly changing the language from client to consumer. It comes down to how this is applied. He would hate to see people excluded that need help. He will be watching the bill to see how it progresses. Roger said Senator Leslie also expressed that thought. He thought the response from Dr. Cook was they are seeking the flexibility to provide services to clients as the changes with the health care reform take place.

Establishing regulation is a long process.

SB105: Lydia asked what benefit it has. Layne said it allows the family member to be the care giver of an individual that needs controlled substances (prescription drugs). It will allow the care giver to have the controlled substances in their possession to administrate it to the individual. It will more likely be under the Health Division or the Bureau of Health Care Quality and Compliance. Roger said this one may not be directly related to mental health.

Jack suggested watching SB201. This creates an Ombudsman office for people in prison to file complaints with. One of the complaints NDALC hears is access to mental health treatment in the prison system. SB275 & SB276 addresses bullying. Often they see children who are different tend to get bullied. Roger will add them to the list and get background information on them.

5. REVIEW EXECUTIVE BUDGET PROPOSALS PERTAINING TO MENTAL HEALTH

Roger provided information in regard to the questions that arose during the last meeting.

E660: Eliminate the Psychosocial Rehabilitation program and 13 positions. Roger referenced the handout that describes psychosocial rehabilitation. He also provided a three page document, which is from the MHDS budget presentation on 3/9/11, where they explain how they made their decisions on what programs to cut and which ones to keep. They use the Priorities of Government Service (POGS). Every agency in the state had to evaluate their activities and give a low, medium or high priority to every activity they do. High priority is generally mandatory by some authority. Medium priority is critical to the mission of the agency. Low priority is not mandated. Roger said in the low priority section is psychosocial rehabilitation, the mobile outreach team, developmental services, behavioral health, community triage center, senior outreach, self directed autism, and self directed family support. Roger wanted to share the information with the Committee, because there was conversation at the last meeting about supporting psychosocial rehabilitation being added back into the budget. The Committee needs to be aware of how the Division came to the decision to eliminate psychosocial rehabilitation and then consider if they do not want that eliminated, then what are they going to eliminate. The budget targets are still the same. The question is if they continue with psychosocial rehabilitation, how will it be paid for. Roger asked for questions.

Jack said NDALC has some legal concerns regarding the budget as it is presented. They will be working to resolve those in the process and follow it up if those issues remain. They have concerns that the budget potentially violates the Olmstead Supreme Court ruling, which states it is discrimination to unnecessarily institutionalize persons with mental illness just for the purposes of treatment. They are concerned with several of the eliminations because it will force people into institutions. Reduction of the PACT program, outpatient counseling, supportive living arrangements, and mental health court are concerns. They are also concerned about regional center services, and the fact that there is not any money for growth, which will lead to a waiting list and rights violations. Then with Vocational Rehabilitation budget being cut, the matching is four to one. The budget is being cut by 2 million over the biennium that will result in a loss of 8 million dollars in Federal funds. They will be working to address this through the budgeting process.

During the budgeting process, the Legislature has collected a lot of information, they have been holding hearings. The next step is in the beginning of May, the Economic Forum will release its new budget projections, and that will state how much money Nevada expects to have over the next two years. By statute, those are the numbers that must be used in compiling the budget. If the economic forum says it looks like they will have more money, then everyone will negotiate behind the scenes on where the money should be spent, and hopefully mental health and other service needs will rise to the top and be put back into the budget. There is also the potential that they can say things are not looking as good as they thought and they will not have this money. Then they would discuss further cuts. At this point, people are indicating that they are on target and they may pick up a little money. Roger said on 3/29/11 there is another budget hearing that includes MHDS. Jack asked if the agenda is out. Roger said it is MHDS & DHHS. Jack said they may be bringing individuals back to ask questions. Roger said it will be awhile yet before the real hard decisions are made.

6. DETERMINE APPROPRIATE ACTION ON ABOVE ITEMS

The Committee took no additional action aside from sending the letter regarding AB94. The Committee will continue to monitor the bills and budget.

7. PUBLIC COMMENT

Dr. Kevin Crowe said the Commission is having their Legislative Subcommittee meeting on April 15, 2011 and the full Commission meeting on May 22, 2011.

8. SET DATE AND TOPICS FOR FOLLOW-UP MEETING

Rene motioned to have the next meeting on April 12, 2011 at 8:30 am. Lydia seconded the motion.

UNANIMOUS VOICE VOTE: MOTION CARRIED

9. ADJOURNMENT

Rene motioned to adjourn. Lydia seconded the motion.

UNANIMOUS VOICE VOTE: MOTION CARRIED

Meeting adjourned at 10:15 am