

OREGON DISABILITIES COMMISSION

Thursday • January 7, 2009 • 1:00 P.M. – 4:00 P.M.

Large Conference Room • DHS Cherry Ave. Building • 3420 Cherry Ave., NE Salem,
Oregon 97301

MEMBERS PRESENT:

Ann Balzell

Janet Campbell

Judith Cunio

Cindy Helvington

Marcie Ingledue

Bill Lynch

Ruth McEwen

Bob Pope

Kedma Ough

Martha Simpson

Sherry Stock

Frank Synoground

Tina Treasure

Bill Wellard

MEMBERS EXCUSED:

Frank Armstrong

GUESTS:

Sara Gelser

Neil Feldman

Kelly Breshears

Travis Wall

Joe Miller

STAFF PRESENT:

Max Brown, Advocacy Coordinator

Kelsi Eisele, Administrative Staff

AGENDA ITEMS:

CALL ALL TO ORDER

- Introductions
- Review and Approval of Agenda
- Review and Approval of Minutes
- Updates/Announcements

CURRENT ISSUES

- Representative Sara Gelser Presentation of the Adult Abuse Bill
- Questions and Discussion

COMMISSION BUSINESS

This document can be obtained in an alternate format for individuals with disabilities upon request by contacting: Kelsi Eisele, 503-945-6482, Fax: 503-373-7823, or TTY: 1-800-358-3117. Available formats are: large print, Braille, audio tape recording, electronic format and oral presentation.

- Update and Action on Legislation Priorities
- Legislative Process Chart
- Policies and Procedures Document
- Report to the Legislature and Governor

LIAISON REPORTS (SELECTED)

PUBLIC COMMENT

ADJOURN

CALL TO ORDER

Bill Lynch called the meeting to order at 1:15 p.m.

Introductions

Commission members, staff, and guests introduced themselves.

Review and Approval of Agenda

Members reviewed and approved the agenda as written.

Motion: Marcie Ingledue moved to accept the agenda as written. Jan Campbell seconded the motion.

Vote: 14-0-0-1

Yeas: Balzell, Campbell, Cunio, Helvington, Ingledue, Lynch, McEwen, Pope, Ough, Simpson, Stock, Synoground, Treasure, Wellard

Nays: 0

Abstentions: 0

Excused: Armstrong

Motion carried.

Review and Approval of Minutes

Members reviewed and approved the minutes.

Motion: Ruth McEwen moved to accept the minutes as written. Judy Cunio seconded the motion.

Vote: 14-0-0-1

Yeas: Armstrong, Balzell, Campbell, Cunio, Helvington, Ingledue, Lynch, McEwen, Pope, Ough, Simpson, Stock, Synoground, Treasure, Wellard

Nays: 0

Abstentions: 0

Excused: Armstrong

Motion carried.

Updates/Announcements

- Ruth McEwen reported that she has a copy of the revised budget and talked about how it effects Seniors and People with Disabilities.

Action Item: Ruth McEwen asked Max Brown to distribute the revised budget to the rest of the commission.

CURRENT ISSUES

Representative Sara Gelser Presentation of the Adult Abuse Bill

Representative Sara Gelser introduced herself, shared her background, and then presented on Protecting Vulnerable Victims Act of 2009. Sara reported on improving investigations, increasing accountability, and enhancing consumer protection and transparency.

Oregon's record on Vulnerable Victims

- Inconsistency in investigations and abuse statues
- Few substantiated allegations of abuse are prosecuted in court
- Lack of information to help employers hire a safe workplace
- Inadequate availability of consumer information.

Oregon DD Victims: 2006

- 660 substantiated cases referred to law enforcement for further action
- Law enforcement acted on 71 of these cases (15%)
- District Attorneys prosecuted 21 of these cases

Types of Abuse

- Burned back of hand with a cigarette

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- Left victim in clothes covered in feces, urine and vomit
- Pinched and grabbed victim in scrotum, willfully inflicting

Consumer Information Database for Developmental Disabilities

- Searchable by facility name, address, city and owner/operator
- Includes all violations sustained on or after July 1, 2003

Consumer Protection: Notification

- When abuse or neglect is substantiated, all other residents of the home or facility must be informed (along with their caseworkers, guardians, family, advocates, etc)
- New 1.0 FTE ombudsman for people receiving residential services through DD/Mental Health

Fines and Civil Penalties

- Increased fines and civil penalties

Abuse Reporting

- Annual report to be provided to appropriate legislative committees, Disability Rights Oregon, and the Oregon Council on Developmental Disabilities

Abuse statute update

- Abuse statute will be consistent across all vulnerable adult populations
 - Seniors
 - Developmental Disabilities
 - Physical Disabilities
 - Mental Health

New abuse statute will include

- Abuse
- Neglect (including neglect likely to result in harm)
- Isolation/mental cruelty
- Theft of medications and controlled substances
- Financial crimes/exploitation/fraud
- Sexual abuse/exploitation

Under the new statute, all vulnerable adults will be granted right of civil action

- Eligible to recover legal fees
- Minimum recovery is \$2000 or 3 times actual damages, whichever is more

Centralized Investigations

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- Requires DHS, by rule, to develop a centralized investigation system by January 1, 2010.

At a minimum, rule must ensure that:

- Investigators may not serve
- Department must immediately notify law enforcement upon discovery of a potential crime
- Department must re-notify law enforcement within 48 hours

Office of investigations and training must complete investigation of allegation even if the alleged perpetrator is terminated or resigns employment prior to completion of investigation.

- Bill creates 1 FTE at the DOJ for a forensic investigator skilled at interviewing vulnerable victims to serve as a resource to local law enforcement and prosecutors.

County Multi-Disciplinary Teams for Vulnerable Adults

- Each county MDT for Vulnerable Adults shall facilitate interagency agreements to improve the coordination of services to vulnerable adults.

These protocols shall include:

- Photography protocol
- Timelines and formats for referrals of abuse complaints

County MDTs'

- County MDT will submit annual report to the Department of Justice and the criminal Justice Commission to be submitted by Sept 1 or each year. The reporting requirement shall sunset after 2015.

Corpus Delecti Rule:

- A narrow exception

Employment

Fingerprinting wrap-back:

- Saves duplication for Criminal Records Unit
- Saves employees time and money
- Reduces back log for services to begin
- Creates a "good guy" registry
- Employees may opt out and choose not to have prints on file
- Employers must ask for on the job application whether applicant has any prior substantiated abuse complaints

- Criminal records unit must inform ANY prospective employer or prior substantiations or criminal convictions that show in background check.

The bill will provide statutory protection for employers to provide disclosure during reference checks when an employee is terminated due to real harm caused to a client due to substantiated abuse, neglect or exploitation

- The bill will include a statutory list of criminal convictions
 - Convictions barring employment
 - Conviction of manufacture or delivery of a controlled substance will bar an individual for employment as a direct care provider for 10 years.
 - When a conviction is not listed in statute, the Department of Human Services will continue practice of weighing crimes

Update Abuse Statute: Effective September 1, 2009

Convictions barring employment: Effective September 1, 2009

Rest of bill: Effective January 1, 2010

Sara Gelser informed the commission of the 46 sections to this bill and answered questions of the commission.

COMMISSION BUSINESS

Update and Action on Legislative Priorities

Bill Lynch reported on the Employed Persons with Disability program and informed James Toews via email that the EPD program is one of the top priorities of ODC. Bill shared with James the importance of ODC creating a workgroup to discuss the EPD program. James replied that in fact it would be a good idea for the ODC to facilitate the advisory group and that SPD would offer staff for assistance and research as time permitted. Judy Cunio and Ruth McEwen would like to be on the workgroup.

Motion: Judy Cunio makes a motion that ODC forms an advisory group for the EPD program. Sherry Stock second the motion.

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Vote: 14-0-0-1

Yeas: Balzell, Campbell, Cunio, Helvington, Ingledue, Lynch, McEwen, Pope, Ough, Simpson, Stock, Synoground, Treasure, Wellard

Nays: 0

Abstentions: 0

Excused: Armstrong

Motion carried.

Action Item: Max Brown will email the commission James Toews response to Bill Lynch's email regarding the EPD workgroup.

Bill Lynch discussed the handout on Legislative Priorities for ODC for both short and long term.

1. Employment (long term) and Employed Persons with Disabilities Program (short term)
2. Transportation (long term) and SB 716 (short term)
3. Americans with Disabilities Act- public awareness (short and long term)
4. Community Mental health (long term)
5. Protective Services (short term)

Legislative Process Chart

Bill Lynch informed the commission that the Legislative process chart was distributed earlier and was revised for today's meeting. Bill asked the commission to review the process prior to the start of Legislative session.

Policies and Procedures Document

Bill Lynch discussed the policies and procedures document that was supplied in the packet. Page 5 of 7 is where the Accessible Materials Policy is located and Bill asked commissioners to add comments of the new addition to the policy.

Commissioners discussed the materials in advance policy – how strict should Commissioners be in saying that materials not given with advance should not be distributed until after the meeting? Should there be some flexibility? Bill suggested that the Accessible Materials Policy be brought forth to the Executive committee for further discussion.

Motion: Ruth McEwen moves to approve the ODC Policy knowing that the Accessible Materials section will be reviewed by the Executive committee. Marcie Ingledue second the motion.

Vote: 14-0-0-1

Yeas: Balzell, Campbell, Cunio, Helvington, Ingledue, Lynch, McEwen, Pope, Ough, Simpson, Stock, Synoground, Treasure, Wellard

Nays: 0

Abstentions: 0

Excused: Armstrong

Motion carried.

Report to the Legislature and Governor

Max Brown informed the commission of a report that needs to be generated to the Governor on an annual basis on what the commission has accomplished over the past year/biennium. Bill Lynch suggested that a small workgroup compile what they want to include in the report then share with full commission by the February commission meeting.

Motion: Ruth McEwen made a motion to have the Executive committee compile a report to the Governor. Bill Wellard second the motion.

Vote: 14-0-0-1

Yeas: Balzell, Campbell, Cunio, Helvington, Ingledue, Lynch, McEwen, Pope, Ough, Simpson, Stock, Synoground, Treasure, Wellard

Nays: 0

Abstentions: 0

Excused: Armstrong

Motion carried.

Action Item: Ruth McEwen will send Bill Lynch information on the Campaign for Seniors and People with Disabilities.

LIAISON REPORTS (SELECTED)

- Ruth McEwen was supposed to be attending the Durable Medical Equipment meeting but decided to attend the ODC meeting instead.
- Judy Cunio reported that she reapplied for the Home Care Commission
- Bill Wellard reported that the Building Code Structure has not met since the last ODC meeting.

PUBLIC COMMENT

Neil Feldman introduced himself and voiced his concern of what will happen to those who receive less than 80 hours of in home services if that program is cut.

Travis Wall and Joe Miller introduced themselves and discussed the Rehabilitation Act. Joe shared that medical costs have risen greatly due to compounding budget problems from inflation and that many states are facing the same problems as Oregon. Travis distributed and discussed the brochure on Understanding Order of Selection for vocational rehabilitation services. Travis gave the definition of the order of selection as under federal law if Oregon does not have enough money to provide vocational rehabilitation services to all eligible persons. OVRS must set priorities to serve those with the most significant disabilities. If you are found eligible for VR services, your counselor assigns you a priority category based on the severity of your disability. Joe informed the commission that Oregon has four priority levels. Priority one is considered most significantly disabled and is defined as individuals that have at least three serious functional capacity limitations and require at least two vocational rehabilitation services over an extended period of time. Those who will fall under priority one will be helped first because those who are significantly disabled will need more assistance. A counselor will determine the priority levels based on how severely the ability to work is limited. Sherry Stock questioned whether a person with traumatic brain injuries is likely to be considered a priority one. The determination of what Order of Selection priority an individual falls under is made on an individualized and not categorical basis.¹ Joe Miller asked that everyone has his contact information. Joe's office number: 503-945-6375

¹Original approved language of these minutes stated that people with traumatic brain injuries would be considered priority one. However the determination has to be made on an individual basis and not a category of disability.

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Action Item: Bill Lynch asked staff to gather additional training materials from Commissioners' organizations to send to VR.

Meeting Adjourned: 3:54 p.m.