

RESIDENTIAL OMBUDSMAN AND PUBLIC GUARDIAN ADVISORY BOARD
(ROPGAB) MEETING

(Face to Face)

July 21, 2017

at the

Office of the Long-Term Care (LTC) Ombudsman

Training Room

3855 Wolverine NE, Suite 6

Salem, Oregon 97305

MINUTES

MEMBERS PARTICIPATING:

Michele Edwards, Chair

Bill Bard

Kelly Breshears

Jan Friedman

Tom Giles

Joe Leykam

Dwight Mowry

JW Terry

Susan Schreiber

STAFF PARTICIPATING:

Fred Steele, Director/State LTC Ombudsman

Rebecca Fetters, Deputy Director

Toni Larson, Residential Facilities Ombudsman

Marissa Payne, OLTCO Admin

MEMBERS NOT PARTICIPATING:

Claudia Kyle

GUESTS:

Linda Setchfield

Roberta Janssen

Jackie Harris

Candice Dayton

Travis Wall

CALL TO ORDER: Call to order 9:02am.

COMMITTEE BUSINESS

APPROVAL OF JUNE 16, 2017 MINUTES: Jan asked if the minutes were meant to be more detailed or an overview. Jan commented on wishing to see more detail from Holly's comments last month. Bill commented that we used to make tapes. Mickey delineated between two issues- approval of minutes and the issue of how minutes are taken. Joe motioned to approve the minute as written, Bill seconded. All approved.

Kelly motioned to approve agenda, Joe second, all approve.

Mickey welcomes guests and thanked Marissa and Rebecca for setting everything up now that Mary Ann is gone. Introductions of all present. Guests: Jackie Harris- Professional guardian, Candace Dayton- Details and Dignity.

Bill- passed out handout to show layout of new Nursing Facility Rights poster. Not mandatory for Oregon, but it could be interesting to buy one to see what the posters say. It may take a few years to become Federal rule. There is a newsletter for LTC residents- 4 articles per newsletter and is free to subscribe. There has been a change in arbitration rule/clause. Discussion of arbitration clause in light of the recent Supreme Court ruling. There is a new publication for CMS guidelines for nursing facilities: 700 pages of rules, electronic for searchability. Guidelines are provided how to interpret the rules. The Iowa LTCO only has an active 800 number- they are not doing visits to facilities.

Mickey reports she sent a thank you to Claudia Kyle for her service to the committee now that her term has ended.

Kelly notes that the OPG job is now posted through GCA.

Guest Jackie- How do you get care for someone that's not an emergency but can't sign on their own due to capacity. Mickey wants Tom and Jan to handle that in new business.

OLD BUSINESS

Election of Officers – Proposed slate is Jan vice chair, Tom chair. Mickey, as outgoing chair, thanks the board for never being dull. Mickey will fulfill her next 2 years as a committee member. She notes that when you volunteer, that makes statements about the type of community we want to live in; advising within the committee reflects overall advocacy. This group has changed as legislation has changed; we need to revisit our bylaws and vision and make sure that they are still aligned and make changes as needed. She believes transparency, coordination and cooperation are needed going forward.

Election: Tom chair, Jan vice chair- all approved.

NEW BUSINESS

Meeting Schedule - Tom raised the issue of the meeting schedule going forward. Currently there are alternating meetings between face-to-face and teleconference. It is much easier to have discussions in person, but budget is \$2400 for every face-to-face meeting. Costs are made up of mileage, lodging, lunch, and meals. Teleconference is a complete cost savings. The cost of meetings is same line item as volunteer support for LTCO and, at the current schedule, meeting costs would end up being about 1/3 of the travel budget.

Comments about future meetings:

Susan- Can some of the work of the committee be done in smaller groups? Cuts to volunteer supports are insulting.

Mickey: We must be careful with small groups because of public meeting laws.

Bill: We can go over 2 hours on teleconference, if needed.

Jan: We should be able to be flexible, but not spontaneous.

Susan: As issues come up, we should be able to meet as needed.

Bill: Weather is typically the reason we do not have December face-to-face meetings

Tom: Face-to-face for September, but teleconference all other months. We will look at the meeting schedule again in January.

Ongoing Discussion about Meeting Minutes- There was a general desire for more detailed minutes, although Mickey cautioned that with more detail, things can be taken out of context or misunderstood. Others noted that if someone were to miss a meeting, they would like to be able to be able to read the minute and know exactly what they missed. Jan expressed that she does not believe our current minutes comply with rule requirements. However, it was also recognized that the level of detail being requested would be difficult for the agency to provide given existing FTE and time constraints. Volunteer supports for this function were suggested. Ultimately it was decided that a small discussion group be formed to explore options and advise the agency about desired minute contents and format. The group will consist of Susan, Jan and Kelly.

Public Comment - Jackie and Candice from Details in Dignity noted that they receive calls on a daily basis regarding individuals in long-term care who lack the capacity to make medical decision. Guardians are asked or needed to fill this role but Jackie believes DHS is saying that this is not a need for guardians because and will not allow them to be paid from Medicaid as a medical expense even if the service is to provide medical consent. It was agreed that the need for individuals to have some level of assistance with decision making is a systemic issue across all program areas. While some systems have ISP team processes to assist with this, this generally does not translate to medical consent. Tom would like an update provided on this topic at the September meeting.

DIRECTOR'S REPORT

Fred briefly reported on the outcomes of the recent legislative session including HB 2170, policy bills, and agency bills. While HB 2170 did not pass there are likely to be more conversation around foster child and parent Ombudsman down the road.

Current program status and goals:

RFO- Amra is still functioning in multiple roles due to hiring free. They continue to roll out towards a statewide delivery of services. The development of volunteers needs to be a key focus in the next two years.

LTCO- The program has successfully built and expanded from 150 volunteers to almost 200, but is facing budget cuts. The staff and volunteers have taken on a second strategic initiative to improve rights and care facilities in the form of the Food Initiative. 360 reports have been filed thus far. Complaint intake numbers continue to rise steadily.

OPG- Has a solid foundation in HRT and referral processes but the program has experience substantial budget hits. How can we best to proceed with robust growth plan that we need if program is going to survive? There is the potential for OPG reinvestment in the February session.

Positions and hiring- OPG posted. LTCO AS2 posted. Hiring freeze until Governor signs budget. DAS is able to get exceptions. The RFO AS2, RFO PA1, and LTCO PA2 also positions need to be filled.

RFO UPDATE

Toni provided an overview of the populations being served by RFO, what the residences look like for those individuals, and how this impacts the type of volunteer opportunities and services that can be provided in the RFO program. RFO serves adults with I/DD, children with I/DD, adults served in MH residential treatment facilities. Do not cover secure facilities for MH. 2300 of the homes are 1-5 capacity. 30 homes are 1-16 capacity. 220 (of 2300) are MH. All individuals are expected to be served at their highest level of independence for that particular person. In some residences PSRB, parole, sex offender individuals being served. A high number of individuals served are nonverbal. All of these factors contribute to the possible risks to volunteers. Therefore, a buddy system may be a necessary approach. Also volunteers will never visit a home that a deputy has not already been. Advocacy approach is also different because most decisions are not made at house level. All are made at case management level, ISP team level.

A brief overview of some of the more complicated and concerning cases was then provided. Not allowing individuals to determine who attends their ISP meeting, not allowing individuals legal counsel, and evictions due to behavior and without proper notice were discussed.

10 minute break.

OPG UPDATE

There are currently 18 active cases, 2 pending appointment and, 2 getting prepared to file. OPG is asking that one case be terminated as it is no longer of benefit to the individual and the purpose for which OPG was appointed has been fulfilled. There are currently 14 cases in assessment. Weekly or every other week meeting are being conducted with the OPG team to staff all cases. The OPG position is posted- 3 week posting- can extend if we need to. Job posting out on list servs. Up to 14 P&Ps have been completed. Anxious to get something formalize and in place, but needing to vet the processes that are already in place. Wanting someone from the committee to review them- Kelly and Dwight volunteer. The contract with SCCCC in place and we have identified first case to move over to them. SEM case management software contract in place. Training will start next week.

Travis asked for an update on guardianship leg 501, 502 and 503. It was noted that none of these moved in the current session, in part due to fiscal impacts. The issues involved, however, will likely be revisited in the future.

There was \$600,000 cut from the budget in this session, primarily in the contracts/professional services. Reduces capacity by at least 45 people. Did not affect staffing levels and allows us to continue Clackamas contract for up to 14 individuals. There is the opportunity for \$200,000 to be returned to the budget when we report back to Ways and Means in February. At that time, the legislature will want to hear how the program has maximized capacity via contracted case

management, pro bono services, contracted guardianship, volunteer usage, reduced Department of Justice fees, etc. Essentially the legislature wants to know whether OPG is a fiscally sustainable program.

Many cost savings measures have already been implemented. To reduce AG costs the program has changed how those services are utilized. The program is not engaging in conversation until a petition is ready to file, petitions and guardian reports are being created and reviewed internally and provided to AG only for legal sufficiency review and filing. This is also decreasing turn around time considerably. OPG is also looking to other entities to bear the cost of the proceeding when that opportunity exists. Since the average cost of the AG filing a proceeding has been many thousands of dollars, this realizes considerable savings. Jan and Travis cautioned against this approach although it was noted by staff that the petitioner is not the driver of the proceeding, they are only asked to utilize their resources at the point in time that the case has gone through the same intake, assessment and vetting process as all other cases.

The legislature will also want to see the program functioning at a fuller capacity, although cases needed to be added responsibly. It was noted that the majority of current case have a MH condition as the primary reason for guardianship. Holly Berman recommended diversifying. OPG will be reaching out to OSH and APS to facilitate this. Jan noted that this sound like cherry picking cases and that OSH should not receive special treatment. It was also discussed that guardianship solely for the purposes of placement is not the primary purposes of the program. The guardianship needs to benefit the person in some other way beyond placement.

The use of volunteers was discussed and it was noted that other guardianship programs such as GAPS and MPG use volunteers. Volunteers could be ideal for quality of life services such as phone calls, getting cards in the mail, shopping, etc.

Search Committee- OPG interviews- committee members need to be on interview panel. When time is closer, Rebecca will let Tom know and Tom will send out an email to ask for volunteers.

GOAL ORIENTED DISCUSSION QUESTIONS

How can the committee assist with the budget issues currently being faced by the program, particularly for volunteer supports? The committee discussed a variety of grant options and recommended these be explored, and perhaps written by interns or volunteers. Also reducing volunteer costs by doing things such as on line training vs. reducing reimbursements. Training curriculum revisions should be completed by the end of the summer and the use of Go To Meeting for at least some of the five training days has already been implemented as a cost savings measure. Lastly, keeping volunteers and the committee involved in legislative days and making the legislature aware of how budget cuts have impacted volunteer supports.

It was noted that other state agencies, such as the ODVA have foundations or not-for profit arms that are able to fund raise and support specific purchases or supports. Could this be an option for OLTCO?

BUDGET UPDATES

Rebecca presented a brief overview of the 17-19 budget preparation process and final outcomes, specifically the differences between the 15-17 budget, the current service level, what the agency

requested, what the governor recommended and what was ultimately approved by the legislature. The post Ways and Means omnibus bill that imposed a hiring slow down and additional travel reduction was also discussed.

Of specific note was the LTCO travel shortfall. Mileage makes up 64% of the travel line item, but lodging and meals are also included. To address shortfall reimbursement rate was lowered to .38 cents. The question as to why this was not done for staff as well was asked. It was shared that this would be difficult with the collective bargaining agreement. However, if reimbursement consistently exceeds \$250, a DAS state vehicle will be requested.

The overall agency IT shortfall was also discussed. It is difficult to make reductions in this area. DAS has confirmed that costs are roughly consistent with what they would charge if they could provide IT support to the agency, which they cannot.

The meeting was adjourned at approximately 2:12 PM.