

DEVELOPMENTAL SERVICES QUALITY COUNCIL
MEETING MINUTES
AUGUST 10, 2010

Attending Members: Kathy Bates, NH Council on Developmental Disabilities; Robin Carlson, Enhanced Family Care Provider; Matthew Ertas, Bureau of Developmental Services; Sue Fox for Mary Schuh, Institute on Disability; Jan Larsen, ABLE NH; Cynthia Mahar, Community Support Network, Inc.; Debra McClure, Family Support Council – Region V; Jennifer Pineo, Family Support Council – Region I; Cathy Spinney, Area Agency Board – Region X; and Carol Stamatakis for David Ouellette, NH Council on Developmental Disabilities

On Conference Call – Dick Cohen, Disabilities Rights Center; Laurie Giguere-Thomas, Family Support Council – Region X; Michelle Jarvis, Autism Society of NH; Kirsten Murphy, Area Agency Board – Region II; John Richards, Brain Injury Association

Absent Members – Debra Hopkins, Private Provider Network; and Chrystal Johnson and Janet Hunt, People First

Quality Council Coordinator – Denise Sleeper, Bureau of Developmental Services

Presenter – Alan Greene, representing Community Support Network, Inc.

Facilitator – Susan Covert

Members of the Public – Sara Aiken, Mike Fitz, Jill Lucier, Ken Nielson, Lori Raymond, and Faith Smith

The August agenda for the Developmental Services Quality Council meeting included: 1) acceptance of meeting minutes, 2) follow up on June action items, 3) presentations by Dick Cohen, Alan Greene, and Robin Carlson concerning proposed changes to He-M 202 regulations, and 4) Council discussion and vote on the SB138 Committee's recommended changes to He-M 202 regulations.

MEETING MINUTES

Jan Larsen moved, Kathy Bates seconded, and the Council unanimously voted to accept the May meeting minutes. Jan Larsen moved, Jennifer Pineo seconded, and the Council unanimously voted to accept the June meeting minutes.

UPDATES

POSTING A LINK TO THE QUALITY COUNCIL - John Richards reported that the Brain Injury Association has posted the Quality Council's link on their website. Cynthia Maher of CSNI has notified Area Agency directors and asked them to post the Council link on their agencies' website.

BDS SITE VISIT FINDINGS – Matthew Ertas reported that the findings from the BDS unannounced site visits that were conducted this spring have been sent to all Area Agency Board Presidents. They were asked to share this information with their fellow Board members and area agency management staff.

ARTICLES ABOUT THE QUALITY COUNCIL – Susan Covert reported that the Summer Issue of the *Rap Sheet* includes an article about the Quality Council. Jan Larsen said that the upcoming issue of the *NH Challenge* will have an article about the Council.

STATUS OF THE REGIONAL MEETINGS - Regional meetings will be held this fall to introduce the Quality Council to families and service providers. Denise Sleeper reported that these meetings will include an opportunity for those attending to learn more about the draft “Employment Policy” and find out how to provide feedback and ideas to the state’s Employment Policy work group designed to continuously improve NH’s employment services for people with disabilities. Jan Larsen said she would do an article about the Regional Meetings for the *NH Challenge*.

Denise circulated a sign up sheet for help with the regional meetings. A work group to plan the regional meetings will meet before the September Council meeting; members include: Dick Cohen, Cathy Spinney, Matthew Ertas, Jan Larsen, Jennifer Pineo and Denise Sleeper.

ANNUAL MEETING AND COUNCIL MEMBERSHIP

Cathy Spinney reminded members that according to the by-laws the Quality Council’s annual meeting is held in September; the Council Chair and Vice Chair will be elected at this time. Denise Sleeper reported that she has contacted agencies to confirm their representation on the Quality Council. Changes include: Mary Schuh who is taking Janet Williamson’s place as the IOD representative and David Ouellette who is replacing Gordon Allen as the representative from the NH Council on Developmental Disabilities. Council members Susan Gunther (Area Agency board member appointed by CSNI) and Jan Bevacqua (Direct Support Provider appointed by the Council on Developmental Disabilities) have resigned. Denise has requested that CSNI and the Council on Developmental Disabilities appoint new members as soon as possible to fill these vacancies.

PROPOSED CHANGES TO HE-M 202

Among its findings, the SB 138 Committee recommended that the Bureau of Developmental Services (BDS) assume primary responsibility for conducting investigations of abuse, neglect, and exploitation. Currently, this responsibility resides with the Area Agencies; the SB 138 Committee found that having agencies investigate themselves presented an inherent conflict of interest. The Bureau of Developmental Services is seeking the Quality Council’s endorsement of the proposed changes to He-M 202 regulations.

Council member Dick Cohen of the Disability Rights Center made a presentation to the Council advocating for a centralized and independent authority to conduct complaint investigations in the developmental services system. Cohen noted that to avoid actual or perceived conflicts of interests, both public services and private industry utilize independent investigators. He cited the SB 138 report in noting that such a change will inject greater independence, confidence, and integrity to the complaint process and will help ensure needed improvements at both individual and systemic levels. (Cohen’s full

report will be posted online on the BDS website's Quality Council link at <http://www.dhhs.state.nh.us/DHHS/BDS/qualitycouncil.htm>)

Alan Greene, representing CSNI, spoke in opposition to the proposed changes. He argued that having BDS assume responsibility for investigations would be more costly and redundant, as the Area Agencies will continue to conduct their own investigations. He further noted an Area Agency investigator has a better understanding of the situation and players involved and is better able to access information than an outside investigator. While opposing changes to the investigative authority, Greene said CSNI recommends improving the investigative process by: 1) requiring all Area Agencies to have a policy to protect whistle blowers; 2) strengthening BDS oversight of the process, including instituting a certification process for investigators; 3) creating greater transparency by strengthening feedback mechanisms; 4) having CSNI assume responsibility for conducting investigations; and 5) giving BDS discretion to reopen investigations. (Greene's report to the Council will also be posted online on the BDS website's Quality Council link.)

In preparation for this meeting, Council member Robin Carlson surveyed Direct Support Professionals about their concerns with the complaint investigation process. She summarized the survey findings stating as the lowest rung on the agency ladder, DSPs often feel powerless and are hesitant to bring forward a complaint against their employer for fear of losing their job. Having a neutral investigative body would remove the conflict of interest for agency employees and reduce the fear of reporting incidents of abuse or neglect. Kathy Bates said this fear of reporting also extends to those who are receiving services. She offered her perspective as a person with a disability, "You don't complain against the agency giving you support – you just don't." She went on to give examples of trying to bring up issues with her support provider and being told that instead of complaining she ought to be thankful for what she has.

Cynthia Mahar of CSNI countered that families do not want the State to be involved in their lives. She said she was concerned that reports of abuse and neglect will be reduced if people have to deal with BDS rather than their local Area Agency.

Asked to weigh in on the pros and cons of endorsing changes to the investigative process, Council members offered the following thoughts.

Reasons for Supporting the Change

- Under a centralized investigative authority real and perceived conflicts of interests would be eliminated.
- As a former Area Agency employee, who was also a complaint investigator, I did believe there was a conflict of interest.
- This is an opportunity to create consistency in the investigation process.
- An independent complaint investigation process is the most credible and fair.
- While Area Agencies with strong leadership do a good job with internal investigations, you have to guard against that mythical Agency 13 that does not adhere to those same high standards.

- Ideally, the investigative body would be completely private and independent, but change is incremental and placing BDS in charge of investigations would be an important interim step.
- Increased independence of the investigative process moves the system in a positive direction.
- This change would shine a brighter light on Area Agency management and help identify what changes are needed at this level to better safeguard individuals.
- A centralized authority would allow better tracking of statewide trends.

Reasons for Opposing the Change

- Given budget constraints, will there be adequate resources to support BDS taking over this responsibility?
- With BDS funding services, there is still a conflict of interest. It seems we are just changing the names on the letterhead, rather than making real systemic improvements.
- People may be less willing to report abuse and neglect to a State agency.
- A centralized investigative body is too far removed from the situation; Area Agency investigators know the individuals and staff best.
- The process we have now works and shouldn't be changed.

Other Ideas

- Can we look at what role the Family Support Councils could play in the investigative process?
- We should be committed to greater transparency and ensure individuals and families have access to information about the quality of services.

QUALITY COUNCIL VOTE In a roll call vote the Quality Council voted in favor 11 to 3 to support the SB 138 changes to the He-M 202 regulations (there was one abstention).

VOTING YES

Kathy Bates
 Robin Carlson
 Dick Cohen
 Matthew Ertas
 Sue Fox
 Laurie Giguere-Thomas
 Michelle Jarvis
 Kirsten Murphy
 John Richards
 Cathy Spinney
 Carol Stamatakis

VOTING NO

Cynthia Mahar
 Deb McClure
 Jennifer Pineo

ABSTAINING

Jan Larsen

ADDITIONAL ISSUE

Kathy Bates asked that the requirement of a valid NH drivers' license in the job description for complaint investigators be looked into, as this requirement has nothing to do with the ability to be a competent investigator and is a violation of the ADA.

PUBLIC COMMENT

Faith Smith spoke in favor of having BDS take on investigative responsibilities. Ms. Smith said she had filed a complaint with her Area Agency that did not go anywhere. When she made a complaint through the NH Bureau of Elderly and Adult Services that agency did follow through.

Jill Lucier commented that she wished those providing direct care were surveyed about how to improve the quality of services. She said in the past she has had complaints, but did not know where to turn.

Lori Raymond said she supported an independent investigator. As a Direct Support Professional she has experienced problems; she observed that when your supervisor is the one doing something wrong you have nowhere to go. People don't bring up complaints because they are fearful of losing their jobs.

LONG TERM GOALS

In March, Cathy Spinney recommended that Council minutes include reference to any long-term goals that the Council has discussed, but is not yet prepared to implement. Long-term goals from the August meeting included:

- Increase transparency about the quality of developmental services and making sure that individuals and families have access to this information
- Look into creating a truly independent privately run investigative process.
- Consider what role the Family Support Councils might play in complaint investigations.

EVALUATION OF THE MEETING

What worked – People were able to have a respectful conversation about a difficult issue. Cathy Spinney's organization helped the meeting to go well. Going around the room and giving every Council member the opportunity to speak was helpful.

What didn't work – no comments

What would be helpful for future meetings? – no suggestions

AGENDA ITEMS FOR THE SEPTEMBER MEETING

- Approve August minutes
- Updates
 - Report on requirement of a NH drivers' license for complaint investigators – Matthew Ertas
- Election of Quality Council Officers
- Report from Janet Hunt, Kirsten Murphy, and David Ouellette about the National Reinventing Quality Conference
- Planning Regional Meetings – Review Dick Cohen's power point on the QC

ACTION ITEMS –

All Members –Share information about the Quality Council with your networks

Dick Cohen – Work group to plan Regional Meetings

Matthew Ertas – Look into the job requirement that complaint investigators must have a valid NH drivers' license.

Janet Hunt – Report on Reinventing Quality Conference

Jan Larson- Do an article about the Regional Meetings for the NH Challenge

Cynthia Mahar – Arrange for CSNI to provide lunch for the September meeting

Kirsten Murphy– Report on Reinventing Quality Conference

David Ouellette– Report on Reinventing Quality Conference

Denise Sleeper – Work group to plan Regional Meetings. Contact CSNI and Council on Developmental Disabilities about appointment of representatives to replace retiring Council members.

Cathy Spinney – Work group to plan Regional Meetings

THE NEXT MEETING IS TUESDAY SEPTEMBER 14TH – WE WILL BEGIN PROMPTLY AT 11:00