COMMISSION FOR MENTAL HEALTH,
DEVELOPMENTAL DISABILITIES AND
SUBSTANCE ABUSE SERVICES

Commission Minutes

Clarion Hotel
320 Hillsborough Street
Raleigh, NC 27603

Thursday, November 15, 2012

Attending:
Phillip Mooring, Dr. Diana Antonacci, Amie T. Brendle, James Bowman, Anna Cunningham, Carla Cunningham, Dr. James Finch, R. Michael Grannis, Dr. Tyehimba Hunt-Harrison, F. Michael Maybee, Roger Dillard, Ann Shaw, Dr. Peggy Terhune, Don Trobaugh, Dr. Richard Brunstetter, Pamela Poteat, Frank Edwards, Beverly Morrow, Kevin Oliver, John Owen, Dr. Marian Spencer, David Turpin, Carol Vale, Elizabeth Ramos

Excused Members:
Dr. Greg Olley, Dr. Ranota Hall, Nancy Moore

Other Absences:
Dr. John Carbone

Division Staff:
Jim Jarrard, W. Denise Baker, Marta T. Hester, Amanda J. Reeder, Andrea Borden

Others:
Ann Rodriguez, Irene Dwinnell, Ali Swiller, Andrew Moelscher, Larry Grant, Luckey Welsh, Corye Dunn, Michelle Edelen, Dawn Johnson, Manay Gunter, Stephanie Gilliam, Jeffrey Ruffin, Karen Dunn, Charlene Lee, William Bronson, Beth Melcher, Van Shaw

Call to Order:
Phillip Mooring, Vice Chairman, NC Commission for Mental Health, Developmental Disabilities and Substance Abuse Services (Commission) called the meeting to order at 9:32 a.m. He asked for a moment of reflection, welcomed everyone to the meeting and reviewed the ethics reminder. Following introductions, he announced agenda changes and reminded members about the attendance requirements set forth in Executive Order 34, the ethics training requirement, and the 2013 Commission meeting schedule.

Approval of Minutes:
Michael Maybee, Commission member, requested the following changes to the minutes:

During Jim Jarrard's Director's Report, he stated there is a PCS crisis for folks in I/DD homes, as DMA reports that 88% of DD consumers will not get funding through PCS once the revision takes effect 1/1/13. Further, he asked how the $4.3 million in funding that was taken from the Division's allotment would be restored. Mr. Jarrard stated that the reduction appeared to be inadvertent and might be restored. Mr. Maybee thanked him for his diligence in attempting to restore the funds.

Upon motion, second and unanimous vote, the Commission adopted the minutes of the August 23, 2012 meeting as amended.

Division Director's Reports:
Jim Jarrard, Acting Director, NC Division of Mental Health, Developmental Disabilities and Substance Abuse Services (NC DMH/DD/SAS), provided an overview on the topics below:

- **Housing**
  - Mr. Jarrard advised that Ken Edminister is the new MH/DD/SAS Housing Director, and is a member of the agency's Best Practice Team. Mr. Edminister is the point person for the Adult Care Homes (ACH) issue. The Centers for Medicare and Medicaid Services (CMS) received a complaint that the ACH were being utilized as Institutions for Mental Disease (IMD). NC is not the only state that uses ACH for placements; however, IMDs are not eligible to receive Medicaid payments. The Division of Medical Assistance (DMA) will review resident files at each facility to determine whether each resident has a primary diagnosis of mental illness. DMA will assess whether people are there due to mental illness or a medical diagnosis.
  - He further advised that during the last long session of the NC General Assembly, legislation passed requiring adult care homes to contact the Division of Social Services (DSS) or the Local Management Entities (LMEs) if residents were discharged and had no place to go so that steps can be in place to assist consumers in identifying adequate placement.

The Commission members asked the following questions on Housing:
- Kevin Oliver asked how many individuals might be affected by the change. Mr. Jarrard responded that worst case scenario would involve several hundred.
- Beverly Morrow inquired if we knew how many people fell through the cracks in the beginning. Mr. Jarrard replied that he did not believe it was a large amount. He also added that some individuals moved voluntarily while some were asked to move; DMA is taking action against two to three who have been resistant to moving.
- Anna Cunningham expressed concern that the patients who are the most difficult to care for are the ones being discharged. Mr. Jarrard said there is a database tracking the patients and residents in adult care homes who are moving.
- John Owen stated that many with adult mental health problems also have medical problems. Mr. Jarrard responded that there is a joint agency group to look at the issues consisting of the Divisions of Aging, Health Service Regulation, DMA and DMH/DD/SAS. He added that a Quality of Care Committee will examine concerns which rise above the norm.
- Michael Maybee asked about the status of the ACHs being evaluated as IMDs. Mr. Jarrard advised that 24,000 have been identified; there is a possibly that more may be added later. He also shared that as a member of the Blue Ribbon Commission, concerns have been shared about residents/patients "having a meaningful day" through supported employment opportunities.
- Carla Cunningham shared concerns about the population already in IMDS and Mr. Jarrard agreed to communicate her concerns to those addressing that issue.

- **Status Report on DHHS Waiver Advisory Committee (DWAC)**
  - Mr. Jarrard stated the DWAC Committee receives reports from LMES as they become Managed Care Organizations (MCOs).

- **Medicaid Budget Update**
  - Mr. Jarrard informed the Commission that funding for the three-way beds will be released if the Medicaid budget meets the budget goals in January 2013.
  - He also added Steve Owen, DMA, Chief Business Operations Officer, reported that the Medicaid budget is on target; however, the Legislative Research Division's report stated that the budget was underperforming.

- **Update on DHHS Leased Office Space**
  - Mr. Jarrard advised there is on-going discussion and he is uncertain of the status of this issue. In response to a question from Mr. Maybee, Mr. Jarrard added that decision must wait until the next Council of State meeting.

- **Agenda Items for the 2013 Legislative Session**
  - Only housekeeping items will be addressed such as making technical changes during the session. Both the Department and the Division have been working on transition documents for the new administration. Mr. Jarrard responded to Mr. Owen's inquiry about an update on Obamacare, which is the Patient Protection and Affordable Care Act (PPACA), or the federal health care law, by advising that no decision has been made at the state level yet. He proposed having the NC Department of Justice coming to a future Commission meeting to discuss the Supreme Court ruling.

- **Senate Bill 191 (Session Law 2012-151) LME Governance**
  - Mr. Jarrard commented on Section 10 of this Session Law as it relates to confidentiality of competitive health care information. He further advised he sent an email to Mark Botts at the UNC School of Government to obtain more information on this issue. Mr. Maybee added that he is aware of individuals who are advocates against it, because the information is created with public funds. Mr. Maybee stated that it should benefit the entire system.

- **Status of Blue Ribbon Commission**
  - The IMD and US Department of Justice (US DOJ) issue is being discussed by this body. Subcommittees will present their recommendations to the full Blue Ribbon Commission; the Blue Ribbon Commission will send forth recommendations for legislation to the NC General Assembly.

- **External Advisory Team**
  - Mr. Jarrard explained that it is a group of stakeholders established by NC DMH/DD/SAS; the group is going through transition.

Following the conclusion of Mr. Jarrard's report, the following questions and comments were received from the Commission:

- Don Trobaugh mentioned a demonstration led by NAMI the day before. Mr. Jarrard shared that the concern involves a reduction in Personal Care Services dollars. Approximately 85% of those receiving personal service money do not qualify under the new rules effective on January 1, 2013. A large number of group homes were counting on the funding provided by that service. However, there is a "stop-gap" measure in place. In response to a question posed by Mr. Owen, Mr. Jarrard responded that he does not know if these people have access to counsel.
- Peggy Terhune expressed concern about the Governor issuing an executive order preventing the passage of rules which require additional funding.
- Mr. Maybee stated that two years ago, a group met to discuss the 1915(i) option and was told by DMA that it could not be done.
- Both Dr. Terhune and Mr. Maybee expressed concern about the lack of regularly held Advisory Committee meetings. W. Denise Baker, Team Leader, Division Affairs Team, NC DMH/DD/SAS, informed the Commission that while the Commission meetings are required pursuant to NC General Statue, the committee meetings are not. She also noted the Commission and Division leadership both agreed that the regularly scheduled meeting of these committees should cease at this time due to lack of agenda items; the committees will then convene on an as needed basis. Frank Edwards, Advisory Committee Chairperson, said he can send out a conference call number so the Advisory Committee can meet that way.

- Mr. Mooring concluded the discussion by adding while the committee meetings are important, there are other forums available to address these issues and those should be sought out also.

Luckey Welsh, Director, NC Division of State Operated Healthcare Facilities, began his Director's Report with an update on the topics below:

- **New Education and Training**
  - Education and training is being provided for all staff to help eliminate abuse in the system, which is an issue due to the turnover rate within the facilities.
  - Training uses "Just Culture" which is how managers should be treated when they break a rule. Thus far, over 1100 managers have received training by the NC Hospital Association.

- **Implementation of Automatic Time-making System in the Hospitals**
  - A Request for Proposal (RFP) will be issued within the next 60 days and a vendor will be selected. It will take an additional 12 – 18 months to get the time system in place which will enable the Division to track costs.

- **Rollout of Financial Management System**
  - Mr. Welsh noted that many organizations within the state already use the same system and it will enable them to better understand cost.

- **Alcohol and Drug Abuse Treatment Centers (ADATCS)**
  - The Walter B. Jones Facility is beginning a new program providing perinatal and post-partum services for pregnant women who abuse substances.

- **Developmental Centers (DD Centers)**
  - As reported at the August meeting, Pamela Kuhno is the new director of the Murdoch Developmental Center.

- **Psychiatric Hospitals**
  - The search is underway for a new chief operating officer at Broughton Hospital and interviews for the position will begin in December.
  - Construction of the new Broughton Hospital is underway with a November 2012 completion date. There will be 100 additional beds after the facility is completed.

- **New Cherry Hospital**
  - Mr. Welsh showed the Commission a powerpoint presentation on the construction of the facility to be completed by April – May of 2013. He will assume his leadership role of the facility beginning January 2013. He added that he has enjoyed working with the Commission and this will probably be his last meeting. He also assured the Commission they will receive an invitation to the facility's opening.

Mr. Welsh received the following comments and questions from the Commission:

- Mr. Owen raised questions regarding traveling nurses and Mr. Welsh responded that it is a challenge finding the professionals they need. Mr. Owen also expressed concern about the new facility being built on the same site as Cherry and emphasized that some individuals have requested an itemized bill.
- Dr. Terhune questioned the number of Level II incidents and asked if anyone has looked at what other states are doing. Mr. Welsh advised that it is somewhat difficult to look at what other states are doing because North Carolina is so different. He elaborated that they have communicated with Tennessee and Texas but have found that the main issue is the use of seclusion and restraint. Therefore, they have tried to reduce seclusion and restraint within the facilities.

- Mr. Mooring thanked both Mr. Welsh and Mr. Jarrard for their service to the Commission and the people of the state of NC.

Plan for Implementing the U. S. Department of Justice (US DOJ) Settlement Agreement

Dr. Beth Melcher, Deputy Secretary for Health Services, NC Department of Health and Human Services, provided a presentation to the Commission on the *Implementation of the US DOJ Agreement.* Dr. Melcher stated that the Secretary signed the agreement with the US DOJ on August 23, 2012, and that she will supply the Commission members with a copy of the implementation plan. In her presentation, Dr. Melcher addressed the following:

- Guiding Principles
- Basis of Implementation Plan
- Agreement Components
- Budget

Dr. Melcher received the following questions and comments from the Commission:

- Mr. Maybee addressed the use of the Pre-admission Screening and Annual Resident Review (PASSAR), asking if it would be used for I/DD consumers. Dr. Melcher stated it would be used to screen everyone entering into an adult care home.
- Carla Cunningham questioned if DHHS will ensure that appropriation is available to handle caseloads since we are relying on LME-MCO care coordination.
- Ms. Morrow asked if individuals unable to live independently receive service and Dr. Melcher advised they will because it is all about choice.
- Dr. Diana Antonacci stated that the PASSAR process is slower; she expressed concern regarding how this plan impact people getting stuck in acute care settings.
- Dr. Melcher told the Commission she will invite Jessica Keith, Special Advisor on the Americans with Disabilities Act (ADA) for the Department to come to meet them and agreed to return to future meetings to provide updates on the US DOJ Implementation agreement.
- In response to Mr. Maybee's question regarding capitation rates, Dr. Melcher offered to invite a DMA specialist in that area to come to discuss the subject with the Commission.
- Dr. Melcher stated that she would be happy to give the Commission future updates on the implementation, noting that this process is moving forward rapidly. Ms. Melcher stated that DHHS anticipates posting weekly updates on the website.

1915 B/C Waiver Status Report: Update LME/MCO Conversion Schedule

Dr. Melcher presented a briefing on the status of the LME-MCO transitions. Mercer has completed the 120-day readiness reviews and the following are on track for January 1, 2013:

- Alliance Behavioral Healthcare
- CenterPoint Human Services
- Eastpointe
- Partners Behavioral Health Management

Dr. Melcher advised that the Department is working with Mecklenburg with a February 1, 2013 deadline, in response to Mr. Edward's inquiry.

Annual Report: *Study and Report on Use of Pseudoephedrine Products to Make Methamphetamine,* NCGS 114-19.01

Van W. Shaw, Deputy Assistant Director, NC State Bureau of Investigation, provided a briefing on the use of Pseudoephedrine Products in the manufacture of Methamphetamine in North Carolina. Report highlights included:

- 406 Methamphetamine Drug Lab incidents reported as of November 13, 2012.

- Use of the National Precusor Log Exchange (NPLEx) system in NC and its use as a national system. This system is currently being used by 25 states.
- Local Investigators can have access to NPLEx system by signing up with the State Bureau of Investigation (SBI).
- A change has been noted in the methamphetamine manufacturing method to the "one pot" method.

Mr. Shaw received the following questions and comments from the Commission:

- In response to Mr. Oliver's questions regarding whether pseudoephedrine purchases mimic the number of labs in the same area, Mr. Shaw acknowledged there is a pattern.
- Ms. Cunningham inquired about the amount of money involved in switching to the NPLEx system. Mr. Shaw responded that he did not track it due to involvement at the lower level. Ms. Cunningham also asked about the number of valid driver's licenses used to purchase pseudoephedrine and Mr. Shaw advised the does not know if the system is programmed to capture that information.
- Dr. James Finch inquired whether any evidence was available to show outsiders from other countries are exporting domestic production.

Public Comment Period

- Karen Kincaid Dunn, NOVA, expressed concern about group homes and providers and how costly and time consuming the issue is; she suggested a waiver should be available until the state legislature makes a final decision. She stated that because Cardinal Innovations Healthcare Solutions LME-MCO has ceased requirements for Clubhouses, it has made a substantial difference in the amount of required paperwork. Ms. Dunn also inquired as to whether there will be coordinators available at the local level because of the US DOJ settlement.
- Mr. Maybee questioned why the agenda for the Commission meeting was revised and the rules were removed. Ms. Baker advised the comments were still being compiled on the Proposed Amendment of Rule 10A NCAC 27G. 0504 – Local Management Entity Client Rights Committees and Provider Client Rights Committees and that she was awaiting clarification on an issue from Rich Slipsky, Special Deputy Attorney General. She informed the Commission this rule should be presented for consideration at the February 2013 meeting.

There being no further business, the meeting adjourned at 2:22 pm.