

ALASKA MENTAL HEALTH TRUST AUTHORITY  
PLANNING COMMITTEE MEETING

December 12, 2016  
1:00 p.m.

Taken at:

Alaska Mental Health Trust Authority  
3745 Community Park Loop, Suite 120  
Anchorage, Alaska

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**OFFICIAL MINUTES**

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Trustees present:

Mary Jane Michael, Chair  
Jerome Selby (via Speakerphone)  
Laraine Derr (via Speakerphone)  
Larry Norene (via Speakerphone)  
Russ Webb  
Carlton Smith

Trust staff present:

Greg Jones  
Jeff Jessee  
Steve Williams  
Kevin Buckland  
Miri Smith-Coolidge  
Amanda Lofgren  
Heidi Wailand  
Carley Lawrence  
Luke Lind  
Michael Baldwin  
Carrie Predeger  
Katie Baldwin-Johnson

Others participating:

Faith Myers; Dorrance Collins; Dave Fleurant; Randall Burns; Chris Kowalczewski; Roy Scheller; Patrick Reinhart; Jim Gottstein; Diane Casto (via Speakerphone); Van Dusen (via Speakerphone); Kate Burkhart (via Speakerphone).

## **PROCEEDINGS**

CHAIR MICHAEL calls the Planning Committee meeting to order and recognizes the trustees that are present and online. She asks for any announcements. There being none, she moves to the agenda and states that there are a few modifications.

MR. JESSEE states that at 1:25, he will be presenting and discussing a memo in the packet concerning project updates around disability rights issues. He continues that Jim Gottstein is here and would like to present some information related to that particular topic.

MS. BALDWIN-JOHNSON notes that a discussion of the 1115 waiver and forensic evaluations at API was on the agenda and will be postponed because Stephanie Colston, who prepared a memo, is unable to be here today. She states that there will be a quick update, and then a more thorough discussion in January.

CHAIR MICHAEL asks for a motion to approve the agenda.

TRUSTEE SMITH makes a motion to approve the agenda, as modified.

TRUSTEE NORENE seconds.

*There being no objection, the motion is approved.*

CHAIR MICHAEL asks for a motion to approve the minutes of October 26, 2016.

TRUSTEE SMITH makes a motion to approve the minutes of the October 26, 2016, meeting.

TRUSTEE NORENE seconds.

*There being no objection, the motion is approved.*

CHAIR MICHAEL states that the first item on the agenda is the 115 waiver and forensic evaluation at API.

### **115 WAIVER AND FORENSIC EVALUATION AT API**

MS. BALDWIN-JOHNSON states that the question that was raised focused on reimbursement of the competency restoration evaluations, some of the implications, and what considerations on the behavioral health reform initiative will be taken. She asks Randall Burns to continue.

MR. BURNS states that the real question and major issue has to do with the process, the mechanics, and just the complications of performing the evaluations, and the existing system.

MR WILLIAMS asks Mr. Burns to briefly walk through the current process.

MR. BURNS replies that he can do that, but asks to wait until the January meeting.

MS. BALDWIN-JOHNSON requests that the trustees have a chance to review what Ms. Colston has prepared and forward any questions to Chair Michael so they can be included in the January 5<sup>th</sup> discussion.

CHAIR MICHAEL asks for any other comments.

MR. BURNS mentions that a contract with WICHE to do an evaluation of the forensic evaluation services was made. He adds, that report will be heard next time.

CHAIR MICHAEL asks Mr. Williams to send an e-mail to the trustees reminding them to send any questions regarding the document in the packet by Friday. She moves on to psychiatric disability rights.

### **PSYCHIATRIC DISABILITY RIGHTS**

MR. JESSEE states that the memo in the packet is a response to a request from Trustee Webb for some updates in a number of areas. He briefly goes through the memo beginning with the patient grievance procedures and states that there is a time line that shows what has been accomplished to date. He states that in November there was a meeting with the API advisory group chair, Brenda Moore, to establish a plan for identifying ongoing current problems and looking at tailored solutions to those. He adds that the plan is to continue to work with Ms. Myers and Mr. Collins, as well as the boards, the Disability Law Center and the partners to ensure that patient rights are protected and to pursue any necessary legislation and/or regulation changes. He asks for any questions or comments.

MR. COLLINS explains that, through committee, the grievance procedure was revised in 2007; but then management set about to rewrite it. He continues that it was then rewritten, and everything that was put in was taken out. Three months ago a new copy of the grievance procedure was received and patients have a right, by law, to bring their grievance to an impartial body. He states that it is a nurse that opens up the grievance box and takes out the grievance, which is not impartial. It is a terrible grievance procedure. He thinks that the law is poorly written. It is vague and allows the Department of Health and Social Services to create what they want for convenience, and, he adds, that patients are mistreated. He states that the only way to fix it is through revising the law.

MS. MYERS states that what is needed from the Trust Authority is a support letter calling for the improvement of rights for the disabled Trust beneficiaries starting with the grievance and appeal process. She adds that the Trust should also put improving patient rights on agendas, as it is an ongoing effort.

MR. COLLINS states that it is not just about API, but also Fairbanks Memorial, Bartlett in Juneau, which both do civil commitments. He continues that the Trust is the largest patient advocacy organization in the state of Alaska and has a role to say something. He adds that the Trust will be listened to.

MR. JESSEE states that the approach, from the Trust perspective, has been to work with the partners -- particularly the Mental Health Board and the Disability Law Center -- because this is an area of great importance and within their sphere of responsibility. He asks Ms. Burkhart to talk about the meeting in November and what the plan is coming out of that.

MS. BURKHART states that in the conversations around this issue it is important to understand that while the procedure by which patients register their concerns and complaints is important, it is also important to identify the root causes of negative patient experiences and to support the hospital in finding solutions. She adds that there are still patients that do not feel empowered to participate in their treatment, do not feel included in their discharge planning, and are not feeling respected or supported by staff. They often feel coerced in going along with treatment planning as well as medication recommendations and have also reported limited access to outside advocacy, particularly legal advocacy. She states that patients feel more comfortable raising their concerns and complaints with outside advocates. She continues that this group decided to dig in, see what the root causes are, and work with the hospital to solve them with the understanding that there are a lot of things going on. She states that there is the privatization study, reform issues, the recommendation from the criminal justice work group, the issues around the increasing demand for forensic capacity, and the pressure this is putting on the civil commitment capacity.

MR. JESSEE states that, by definition, nearly all the patents admitted in API are in some state of psychiatric crisis. It is not easy for them to effectively take advantage of a grievance procedure even if it is very detailed. He continues that having someone not connected with the hospital, on site, could help the patient take advantage of the procedure. He states that the work with the groups will be continued to come to an agreement on what statutory changes are necessary and then, as legislative liaison, it will be his task to get those passed. He asks for any questions.

CHAIR MICHAEL states that she heard the request to write a letter and asks if there is something that can be done in the meantime to show Trust support for this issue that has been on the record for a long time.

MR. JESSEE replies that a letter can be written for the trustees to review and approve that would state the importance the trustees feel on this issue.

MR. JONES states that there will be a draft letter at the January 5<sup>th</sup> meeting.

CHAIR MICHAEL agrees.

MR. FLEURANT states that there is a model in California where the state contracts with a nonprofit agency to provide the patient advocacy services that are being discussed here. He continues that he is in the process of getting more information about what that long-term contract with the State looks like. He adds that this type of planning cannot be done without acknowledging the fact that there are stressors on API that makes it difficult to protect any individual's rights, and those are the individuals that do not have a primary diagnosis of mental health.

CHAIR MICHAEL thanks Mr. Fleurant, and asks Mr. Jessee to continue.

MR. JESSEE states that the second section of the memo, as requested, is review of the criminalization of patients at API. He continues that there was a period of time where the incidents of reports and arrests spiked considerably and a lot of concern was raised by many people. Gavin Carmichael, the current director, provided a copy that gives an idea that that spike in arrests were where the staff were allegedly assaulted by patients. He adds that this chart shows a dramatic increase in arrests in 2014, and, subsequently, a very substantial decrease in 2015 as this issue was addressed at various levels. He goes through and explains in greater detail. He cautions about drawing any conclusions based on this data on the overall level of assaults. He states that the final section of this memo is the review of Alaska mental health statutes that was instigated with the Commission of the University of Nevada, Las Vegas, to work with the Criminal Justice Working Group and the Title 12 Legal Competency Subcommittee to take a complete review of Alaska statutes covering commitments for determining competency to stand trial and related involuntary civil commitments. He continues that the Criminal Justice Commission was created, by statute, and was charged specifically with making statutory recommendations to the Legislature and the Governor. At that point, it was believed that was the best way to handle the UNLV recommendations. He adds that the good news is that the Commission, recognizing the importance of continuing that work, agreed to continue the behavioral health subcommittee. There is a coordinating meeting coming up, with the expectation that the subcommittee will meet in early January.

MR. WILLIAMS adds that there are several considerations at play for taking the full report and all of its recommendations and moving them forward for statutory change.

MR. JESSEE asks for any questions. There being none, he recognizes Jim Gottstein.

MR. GOTTSTEIN states that he is with the Law Project for Psychiatric Rights. He handed out an affidavit from Dr. Peter Goetzsche, who gave a presentation in Alaska sponsored by the Trust. He adds that the video of that is online on YouTube on the psych rights channel. He also handed out his law review article, "Involuntary Commitment and Forced Psychiatric Drugging in the Trial Courts: Rights Violations as a Matter of Course." He states that the main thing he would like to talk about is the extremely counterproductive nature of the pervasive use of psychiatric drugs in the system and the rights part of it is where people are forced to take it. He continues that since this article the evidence just keeps piling in. People diagnosed with serious mental illness in a public mental health system are now dying 20 years earlier than the general population. He adds that there is no uproar about this dramatically decreased life span for this population, which shows how little society cares about the beneficiaries. He states that it is pretty clear that 80 percent of people suffering from a first psychosis can recover if a selective of neuroleptics are not used. He explains that neuroleptics are recognized as chemical lobotomies. If they can be avoided in the beginning, then 80 percent can get on with their lives and recover. He continues that with the ubiquitous use of these drugs, only 5 percent are recovering. He adds that, in the middle, when people are put on them and try to get off, only 40 percent recover. He states that it is critically important to establish a system that has a selective use of neuroleptics to try to determine who can get better and get through it without the use of them. He thinks that it is critically important for the Trust to totally take its focus away from supporting the use of

psychotropic drugs and support the use of nondrug alternatives that have been shown to be more effective. He states that there is a case in the Alaska Supreme Court where he is arguing that the State cannot constitutionally drug someone against their will if a less intrusive alternative could be provided. He adds, that will be decided in about a year or so. He states support for the efforts of Ms. Myers and appreciates being put on the agenda to give remarks.

CHAIR MICHAEL thanks Mr. Gottstein for all of his work for advocating for patient rights and the whole medication issue. She adds that he has made huge progress for people. She asks for any questions.

TRUSTEE NORENE states that he has attended a few of Mr. Gottstein's talks, and the part about the use of these drugs with children was impactful. He asks him to take a brief minute and explain why that is of interest to him.

MR. GOTTSTEIN replies that one of the reasons that Soteria did not get many first-timers is that their residents started out being drugged as children. He states that the absolute worst are children in foster care because they have been found to be the subject of abuse or neglect. The impact of yanking children out of their homes is what will cause them to be upset and act out. Often times the foster placements are pretty horrific and, almost all the time, they are not made to feel like part of the family, which makes them upset. He continues that there is this kind of universal mental health evaluation that tracks children into getting psychiatric treatment, which is virtually always drugs. These children are told that there is something wrong with their brain and they do not have any control over their behavior. They are told that they need to be on these drugs for the rest of their lives, which is a recipe for a disastrous life for these children. He states that most of the psychiatric drugs given to children on Medicaid are not actually authorized under Medicaid; they are not covered, and the government basically ignores that. From his perspective, the Bring the Kids Home project took them from kid-drugging prisons outside the state to building kid-drugging prisons here in the state, and we could do better than that.

CHAIR MICHAEL asks for any other comments. There being none, she calls a five-minute break.

(Break.)

CHAIR MICHAEL calls the meeting back to order and moves to Predevelopment Guidelines for Development.

## **PREDEVELOPMENT GUIDELINES FOR DEVELOPMENT**

MS. BALDWIN-JOHNSON states that the Trust has been a supporter of the predevelopment partnership program for a number of years, and trustees have authorized funding annually. She continues that requested at the April Finance Committee meeting was some more knowledge about the individual projects that are coming through predevelopment. She was asked to come back with a proposed process that would account for the vetting of the projects. She states that prior to deciding whether or not to move forward on an application, seven items are gone through: First, is to make sure that mission is to serve Trust beneficiaries; the services provided are

important and critical; the business plan can be articulated in a reasonable way; partners have been engaged; there is community support for that program and services; and that there is interest and support from other predevelopment partners. She states that there is a discovery phase when not much is known about the project. She continues that Ms. Kowalczewski needs to be able to designate some time for the contractor to meet with the organization and do that pre-discovery. At this point, there is no mechanism for that, and it is happening; but the contractor is not getting paid, and that is not a reasonable situation. She states that one of the recommendations discussed at the partnership meeting was that funding partners could authorize maybe \$10,000, or something in that vicinity, that could go into a pool for that discovery part.

MS. KOWALCZEWSKI gives an example of how that works using the Consumer Web project. She states that the complexity there is the need for an initial understanding of what was needed for new space and then looking for an existing facility that would be appropriate, which has not yet been successful. She continues that this pool will give some flexibility in continuing to be involved and to research facilities. Once an appropriate facility is found, then a full-fee proposal for providing the services is put together. Then, a concept design for how the facility would need to be renovated is done. She adds that the pool at the beginning would give the flexibility to do that research before a firm fee proposal is put together.

CHAIR MICHAEL asks if that would just be discretionary money.

MS. BALDWIN-JOHNSON states that the recommendation is that each partner organization contributes \$10,000 and it is pooled, creating a resource that can be accessed to do that front-end discovery.

A short question-and-answer discussion ensues.

MS. BALDWIN-JOHNSON asks if the trustees are okay with what has been proposed and if she can move forward to finalize it.

CHAIR MICHAEL asks for any objection from the trustees in going forward with this proposal. There were no objections and she moves to the developmental disability systems assessment. She introduces Roy Scheller, the executive director for Hope Community Resources.

MS. LOFGREN begins talking about the DD system assessment, how it came about, and where it is today. She states that the system has changed over time, for a lot of different reasons. She continues that the final rule from CMS catapulted it into a major change, particularly around conflict-free case management and to a developmental disability system with over 80 percent of people receiving services from the agency that also provided care coordination. She explains in greater detail.

MS. WAILAND talks about how this project fits into the comprehensive mental health program plan and what has been learned. She states that this project is a good example of how to approach comprehensive planning and explains how all of the forces that were impacting the developmental disability system currently were identified. She continues that the focus of the first phase of the project has been to establish the clear vision. She adds that families,

beneficiaries, providers and SDS have been engaged in providing the perceptions of the system, which underscores how important it is going to be to build a common vision in the coming month.

MS. LOFGREN states that there is a lot going on, and next is an opportunity to identify the gaps that need to be filled and get those worked on. She explains how the little steering committee came together and came up with a format for all of the focus groups with all of the target populations. She continues that the target is to be able to demonstrate that the services provided are effective and then start identifying what those evidence-based best practices are and do some more work around environmental scans. It will be an evolving process.

MR. SCHELLER states that it was a powerful moment for people to begin to understand how easy it is to slip down the slope and spend time talking about the politics and the problems rather than the vision and how it is done. He continues that this kicked off with a lot of positive energy, and explains more fully. He summarizes that a vision helps prevent the unintended consequences that have negative impacts on people.

CHAIR MICHAEL thanks Mr. Scheller, and also thanks him for his many years of service in which he accomplished a lot.

MS. LOFGREN states appreciation for Mr. Scheller keeping us on track, and recognizes his leadership in this project.

MR. JESSEE wants to let people know that Hope Community Resources under Roy Scheller's leadership is in the process of getting five of those people out of API into a community-based program.

CHAIR MICHAEL moves to the preliminary discussion of the trustees' work session on the 4<sup>th</sup> of January, and recognizes Greg Jones.

MR. JONES states that the Trust has to work to reconnect with the advisory boards, the partners, and rebuild the Trust's relationships with them, based on meetings that had been held. He continues that a method needs to be defined for doing that, and the agenda would be jointly conceived by all the participants. He adds that the Alaska Mental Health Board and ABADA are both going to be meeting before the workshop to coordinate their efforts and have suggested holding the workshop at the meeting later in January in Juneau. He states that this meeting is important to carry through because it is a foundation of what can be used to build the organizational assessment that the board has talked about going forward with. He adds that he will continue to pursue the workshop and try to make that happen as early as possible, at a time that is convenient for all.

CHAIR MICHAEL asks for any comments or questions.

TRUSTEE DERR asks if the committee meetings are still on January 5<sup>th</sup>.

MR. JONES replies yes.

TRUSTEE DERR states that something for the 19<sup>th</sup> was mentioned.

MR. JONES replies that the December 19 meeting was an invitation sent to the advisory boards to sit down and talk about planning the workshop. It would be a very informal meeting.

CHAIR MICHAEL states concern with waiting until Juneau, citing the need to be in alignment in going to meet with the Legislature.

A discussion ensues.

MS. BURKHART explains that their board representatives operate as entities and not individuals. The board chairs did not want to pursue a discussion where they and their representatives were not operating without the full support and input of their membership. She continues, that is why the board chairs directed her to work to schedule a meeting to develop consensus so that each organization can be fully represented in this discussion. She adds that the recommendation about coordinating with the trustee meeting was nothing more than a recommendation. She states that she will not be able to organize a board meeting before January 4<sup>th</sup>.

MR. JONES states that there is flexibility, and we may be able to meet in the second or third week of January, if schedules can be put together, and we will pursue that.

CHAIR MICHAEL asks for any further comments or questions from the trustees. There being none, she asks Mr. Jones to keep the trustees informed on what the plan is so people can make their travel arrangements.

MR. BALDWIN states that Patrick Reinhart is online and was wondering if he could have a few minutes on the ABLE account.

CHAIR MICHAEL recognizes Mr. Reinhart.

MR. REINHART states that he learned that the Department of Revenue is ready to launch the Alaska ABLE account as of this Friday, the 15<sup>th</sup>. It is a soft launch and a couple of months ahead of schedule. He continues that there is a lot of work to do in terms of training people up, based on public assistance and others around the state to get the word out. They will be available for families that qualify for them to start saving money and hopefully get them out of a cycle of poverty. He adds that he just wanted to pass that along and will keep everybody in the loop.

CHAIR MICHAEL thanks Mr. Reinhart, and states that it is great news to hear that it is finally getting operational. With that, she asks for a motion to adjourn.

TRUSTEE WEBB makes a motion to adjourn the meeting.

TRUSTEE SMITH seconds.

*There being no objection, the motion is approved.*

(Planning Committee meeting adjourned at 3:06 p.m.)