

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

August 28, 2018

The South Carolina Commission on Disabilities and Special Needs met for a Special-Called Meeting on Tuesday, August 28, 2018, at 3:30 p.m. at the Department of Disabilities and Special Needs Central Office, Conference Room 180, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:

Eva Ravenel, Chairman – Via Skype
Gary Lemel – Vice Chairman – Via Skype
Vicki Thompson – Secretary – Via Skype
Chris Neeley – Via Skype
Lorri Unumb – Via Skype

Absent:

Sam Broughton, Ph.D.

DDSN Administrative Staff

Mr. Pat Maley, Interim State Director; Mr. Rufus Britt, Interim Associate State Director, Operations; Ms. Lisa Weeks, Interim Associate State Director, Administration; Mrs. Susan Beck, Associate State Director, Policy; Ms. Tana Vanderbilt, General Counsel, Ms. Sandra Delaney, Administrative Coordinator (For other Administrative Staff see Attachment 1 – Sign In Sheet).

Guests

(See Attachment 1 Sign-In Sheet)

News Release of Meeting

Chairman Ravenel called the meeting to order and Sandra Delaney read a statement of announcement about the meeting that was mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Adoption of the Agenda

On motion of Commissioner Neeley, seconded by Commissioner Thompson, the Commission adopted the August 28, 2018 Meeting Agenda. (Attachment A)

Draft Recommendation Memo to the House Legislative Oversight Committee

Mr. Maley explained the purpose of the meeting was to ensure the Commission approved the recommendations before submitting to the House Legislative Oversight Committee, as he will be testifying Thursday, August 30, 2018. Discussion followed. The Commission requested the following changes be made to the recommendations: (Attachment B – Recommendations Discussed)

1. Clarify in the beginning that the recommendations are not in prioritized order.
2. Make clear that No. 9c pertains to the Waiting List.

Commissioner Unumb moved to adopt the recommendations as presented, seconded by Commissioner Neeley, the motion passed.

Submitted by,


Sandra J. Delaney

Approved:



Commissioner Vicki Thompson
Secretary

SC COMMISSION ON DISABILITIES AND SPECIAL NEEDS Special-Called Commission Meeting

August 28, 2018

Guest Registration Sheet

(PLEASE PRINT) Name and Organization

- 1. Donna H Hall Babcock Center
- 2. Kathleen Carthen Pt A
- 3. Jason Pahlstky Parker Poe
- 4. Vick Parker "
- 5. Lanker Hiett "
- 6. Patrice H... Advocates
- 7. J. C. W... AITy
- 8. Zedias Brett
- 9. David Farhee
- 10.
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- 20.

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

**South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 180
Columbia, South Carolina**

August 28, 2018

3:30 P.M.

1. Call to Order *Chairman Eva Ravenel*
2. Notice of Meeting Statement *Commissioner Vicki Thompson*
3. Adoption of Agenda
4. To Discuss the DRAFT Recommendation Memo to the House
Legislative Oversight Committee
5. Adjournment

Patrick Maley
Interim State Director
Rufus Britt
Interim Associate State Director
Operations
Susan Kreh Beck
Associate State Director
Policy
Lisa Weeks
Interim Associate State Director
Administration



COMMISSION
Eva R. Ravenel
Chairman
Gary C. Lemel
Vice Chairman
Vicki A. Thompson
Secretary
Sam F. Broughton, Ph.D.
Chris G. Neeley
Lorri S. Unumb

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August 28, 2018

Chairwoman Phyllis J. Henderson
Healthcare and Regulatory Subcommittee, House Legislative Oversight Committee
522B Blatt Bldg.
Columbia, South Carolina 29201

Re: Department of Disabilities and Special Needs' (DDSN) Recommendations;
House Legislative Oversight Committee Performance Evaluation of DDSN

Dear Chairwoman Henderson,

DDSN is effective in accomplishing its mission of serving persons with intellectual disabilities, autism, head & spinal cord injuries, and conditions related to each of these disabilities. DDSN's service delivery system supports 40,339 eligible consumers with 24,622 consumers currently receiving services. However, DDSN is under stress to keep up with service needs, adequacy of provider reimbursement rates, and improve infrastructure efficiencies to support its efforts.

The below recommendations are structured into eight major issues and corresponding recommendations; a ninth issue/recommendation area encompasses 22 individual improvement initiatives; and a tenth area reports on the results of DDSN's five "internal initiatives" set forth in its May 2017 initial interrogatory to the House Legislative Oversight Committee.

The below recommendations may appear voluminous, but the agency is recovering from a period of management tentativeness from many years of friction with a variety of stakeholders. Friction can be viewed as negative, but it can also stimulate needed positive change. Getting all the issues "on the table" in detail for complete transparency tends to unite; focuses energy on problem solving; and breaks the cycle of ruminating on past friction points and moving forward. Clear targets creates the transparency for high expectations and accountability to support and motivate the agency towards progress/results. DDSN has opportunities to improve effectiveness primarily through management improving its systems and processes to better support those operating within the service delivery system.

A concern in preparing these DDSN recommendations is the risk of hamstringing incoming State Director Poole's latitude in assessing DDSN's challenges differently, as well as approach to address. In state government, if an agency agrees to do something, it is somehow perceived to be etched in stone forever and must be carried out regardless of the actual changing operational conditions on the ground. I disagree, and I suggest the House Legislative Oversight Committee would as well. Agencies need a plan, but plans are expected to be periodically revisited and nimbly changed as conditions dictate, to include a new leaders' differing views on issues and solution approaches. Agencies just need to be accountable to justify the "why" for the change and move out in the adjusted direction.

As an aside, one of DDSN's issues has been developing high altitude static strategic plans, but management has been reluctant or lethargic to convert substantial portions of these strategic plans into actionable tactical plans from which to be held accountable. There is no reluctance to commit in this memo. A commitment to a specific, transparent, and measurable plan is needed at this time to regain some of the lost confidence and trust from stakeholders.

ISSUE #1: DDSN's most significant organizational issue is a deficient capitated payment system supporting community service providers known as the "band system." This payment system causes a multitude of problems to include:

- Lack of transparency in non-actuarially based band payments causes systemic distrust and dissatisfaction by providers, advocates, and consumers.
- Lack of residential service standards for staffing (direct care; nurses; 1st line supervisors) prevents establishing appropriate funding levels. Additionally, a lack of a formal/auditable process to establish transparent and accountable staffing levels (mandatory or provider developed) creates a risk of understaffing—proper staffing is the primary factor impacting the health, safety, and welfare of consumers.
- Time consuming and lengthy cost settlement process undermines having recent and reliable data for consideration to adjust the system and justify possible rate increases.
- Does not maximize opportunity for more state funds to obtain Medicaid match.
- Does not incorporate a consumer needs assessment tool to adjust funding to match a consumers' acuity; this is increasingly reducing choice and access for higher needs consumers.
- Undermines DDSN's quality assurance mission by consuming too much time and relationship goodwill with providers on payment issues.
- The band benefits (i.e., vacancy rates, Medicaid ineligible risk, Medicaid billing, capital needs) can be duplicated, if so desired, in a simpler fee-for-service model except for the prospective payment.

RECOMMENDATION #1: DDSN will address its current payment system weaknesses through an evidence based process incorporating stakeholder input and industry best practices. In June 2018, Mercer Healthcare Consultants (Mercer) initiated a review of the DDSN payment system, which includes stakeholder input and incorporating national best practices. Mercer will produce a report due in the Fall 2018 recommending future payment system options to meet the needs of the DDSN service delivery system. Equally important, nearly all stakeholders have arrived at the conclusion the DDSN payment system has to be substantially changed, which is critical to support such a system-wide endeavor. Further, Mercer will update all SC DHHS service rates with DDSN via a second formal report in early 2019.

ISSUE #2: DDSN's most significant operational issue is recruiting/retaining direct care workers at regional centers and in residential community settings. Regional centers bobble between barely manageable to a near crisis as illustrated by currently experiencing a 44% turnover rate. Residential providers' problem has more variability across the state, but turnover still ranges from 20% to 40+%. Adequate staffing levels generally require over-reliance on overtime. This stress on the direct care staff has escalated since 2015. Historically, direct care staffing is challenged during economic upswings and tends to resolve when the economy slows. However, given the hiring pool demographics and the need for direct care workers throughout the healthcare field as baby boomers age, DDSN cannot rely on an economic downturn as a solution. Short-term plans and long-term plans are needed to ensure direct care staffing meets quality staffing level thresholds with sufficient capacity to lower overtime causing burnout and turnover. We have to continue to work the issue as a crisis.

RECOMMENDATION #2a: DDSN will continue to pursue direct care wage improvements through the legislative appropriation process sufficient to create a full and stable workforce to meet the needs of consumers.

RECOMMENDATION #2b: DDSN will pursue a career track for direct care, to include a tiered wage system to promote professional advancement and retention.

RECOMMENDATION #2c: DDSN will pursue the use of technology and corresponding policies to support consumers and mitigate the gap in hiring/retaining direct care workers for the foreseeable future.

RECOMMENDATION #2d: DDSN will solidify formalized targeted staffing levels in Regional Centers and the future community residential payment system rates should incorporate staffing level requirements based on consumer acuity.

RECOMMENDATION #2e: In conjunction with the develop of a new/modified payment system, DDSN will re-examine its portfolio of services and policies with an emphasis on making adjustments consistent with the future likelihood of challenges in hiring/retaining direct care workers.

RECOMMENDATION #2f: DDSN will continue to support, mature, and potentially expand a grass roots direct care professional training program provided through a local technical college.

RECOMMENDATION #2g: DDSN will examine its policies and practices to proactively identify community setting opportunities to serve Regional Center consumers.

RECOMMENDATION #2h: DDSN will start contingency planning beyond obtaining additional wage increases for direct care workers to safely staff Regional Centers to meet the needs of consumers if the direct care hiring/retention crisis is not reversed.

ISSUE #3: DDSN management needs to mature its capabilities to be more proactive with emphasis on a system/process improvement approach to problem solving. General business acumen training needs include factoring financial implications into operation and policy decisions; greater use of information to manage; and enhanced involvement in developing internal operating budgets and contributions to the agency's annual legislative budget requests. In short, DDSN tends to have a reactive posture rather than leaning forward towards continuous improvement.

RECOMMENDATION #3a: DDSN will establish a formal management training program to develop its management in a structured manner in both management/business acumen skills and a continuous improvement management philosophy. Much of DDSN's real and perceived reactive crisis management style can be traced to a lack of management investment in planning and system/process improvement to prevent problems from occurring.

RECOMMENDATION #3b: DDSN will redirect audit resources from community contract audits to conduct internal operational audits to provide assurance of effective operations through adequate objectives, process mapping, management information systems, and controls/performance measures.

ISSUE #4: There have been legislative hearings, proposed legislation, and public debate as to the proper organizational structure to support DDSN's mission, to include as a cabinet agency, a component of SC DHHS, or remain as a Commission.

RECOMMENDATION #4: DDSN recommends continuing its mission in its current structure as an independent Commission. A Commission form of governance permits heightened involvement by the families, stakeholders, and consumers through seven volunteer citizen leaders to ensure DDSN executes its mission with excellence to meet the complex needs of a highly vulnerable population. A single mission agency also creates the needed focus to support our highly vulnerable population.

The Commission recognizes stress in the DDSN delivery system over the past several years has caused some to question the proper organizational structure to support its mission. The Commission believes the stress was natural and needed as a precursor to stimulate deep change in DDSN due to complacency as well as resistance to change and transparency. The Commission's interventions has led to a new State Director being selected along with healthy executive staff turnover, a noticeably calmer operating environment with stakeholders, and management's proactive posture to engage issues backed up in the system as evident by the recommendations in this memo. The Commission believes its form of governance with greater stakeholder and citizen access and responsiveness can more reliably stimulate positive change than a more bureaucratic form of governance.

ISSUE #5: DDSN does not have a systematic approach to performance management across the agency; some work units lack relevant performance measures or inadequate information to support operational/performance management. DDSN has lost a level of trust and confidence from a variety of stakeholders in the manner it executes its mission, both financially and operationally, as illustrated with legislative oversight questioning the agency's information accuracy.

RECOMMENDATION #5: DDSN will operate in a more evidenced based manner through the continued use and maturing of its Enterprise Performance Management process and ensure public performance reporting to demonstrate transparency and accountability with accurate and reliable information to its many stakeholders.

ISSUE #6: DDSN does not have a formalized project management process, which has contributed to a pattern of both real and perceived under-performance in implementing major initiatives.

RECOMMENDATION #6: DDSN will establish a formal project management process for longer term agency-wide initiatives to ensure proper operational planning, proactive communication plans, and timely execution.

ISSUE #7: DDSN has experienced an inching up of Abuse, Neglect, & Exploitation (ANE) indicators over the past four years, particularly with providers serving high needs consumers. The uptick of these ANE indicators is not a function of inadequate ANE policies or management deficiencies to keep "predator" employees out of the system. Rather, it is a function of "real world" economic factors eroding direct care professionals' (DSP) capacity & capabilities, while the consumer population's increasing behavioral needs require DSPs with higher skill levels. DDSN's lack of required acuity based direct care staffing standards also contributed to this situation. This is not a crisis, however this capability "gap" is building pressure/stress in the delivery system driving the uptick. This is a national challenge not unique to South Carolina.

RECOMMENDATION #7a: DDSN will continue to deploy and refine its Residential Observation Audit technique to make unannounced residential setting visits to 25% of all settings (approximately 350/annually) and provide monthly reporting to the Commission. Of the first 147 residential settings audited, over 200 consumer and 170 staff (370 total) were interviewed; not one interview reported an ANE climate risk or a report of a previously unreported ANE allegation—most importantly, the consumers felt safe.

RECOMMENDATION #7b: DDSN will continue a robust participation in the National Core Indicators Program (NCI). The NCI has produced annual reports for 20 years and is considered the highest quality measurement tool in the Intellectual Disability service arena. The NCI survey obtains DDSN consumer input through interviews conducted by independent interviewers on wide variety of service areas. In Fiscal Years 15-17, South Carolina providers distinguished themselves in the area of consumer safety by being consistently rated at or near the top on four key safety questions compared to 32 other states.

RECOMMENDATION #7c: DDSN will continue to pursue wage enhancements for direct care workers and establish residential staffing standards based on acuity in its anticipated new payment system to address the current direct care capability gap.

RECOMMENDATION #7d: DDSN will develop a formal process to collect "lessons learned" from ANE arrests.

RECOMMENDATION #7e: DDSN will develop statewide policy and awareness training to address direct care workers' reaction to non-compliant/volatile consumer behaviors which precedes nearly 2/3rd of all ANE incidents leading to an arrest.

RECOMMENDATION #7f: DDSN will examine the direct care worker duties and compliance requirements, which have aggregated overtime. These increased duties may be undermining direct care workers' habitative responsibilities, which, in turn, lessens the direct care workers' ability to positively impact consumers' behaviors and prevent situations escalating into ANE incidents.

RECOMMENDATION #7g: DDSN will develop recurring safety bulletins based on lessons learned from ANE incidents, particularly vignettes (without attribution) from actual incidents to stimulate learning and continual awareness.

RECOMMENDATION #7h: DDSN will continue to mature its ANE Program data collection through similar enhancements as refining Critical Incident classifications clarifying issues of concern and the provider rating system.

ISSUE #8: DDSN has determined 24 existing South Carolina statutes impacting the agency would benefit from revisions or elimination to assist the agency in accomplishing its mission.

RECOMMENDATION #8: DDSN requests these 24 SC statutes modifications or eliminations as set forth in Attachment A be adopted by the House Legislative Oversight Committee for legislative action.

ISSUE #9: DDSN established a defensive posture for many years based on a variety of factors, which has led to a tentativeness to proactively address issues. Improvement initiatives to address backlogged operational issues include:

RECOMMENDATION #9a: DDSN will develop a residential setting building capacity and funding strategy for high needs consumers, as well as timely execution of appropriations to restore legislative confidence. Strategy will include establishing triage beds to address critical cases; enhanced tracking/measuring system capacity, needs, and placement times; and develop a legislative appropriation strategy to better communicate this critical need to justify a consistent future funding stream to keep pace with residential setting needs.

RECOMMENDATION #9b: DDSN will conduct a risk based review of licensing, contract review, residential observations, ANE Program (ANE; CI; Deaths), and other provider contract controls to identify opportunities to lesson or eliminate existing controls and corresponding administrative burden. A critical analysis will yield substantial risk mitigation and administrative cost/burden savings by combining higher quality controls to support the elimination of redundant controls or controls with a low cost/benefit.

RECOMMENDATION #9c: DDSN will implement a Waiver enrollment improvement plan to speed enrollment processing times and restore confidence to legislative appropriators of DDSN's ability to effectively executive budget enhancements.

RECOMMENDATION #9d: DDSN will compare Regional Center requirements and current budgets to assess adequate funding, equity between centers, and basis for legislative budget request for maintenance of effort resources.

RECOMMENDATION #9e: DDSN will develop an “at-risk” inspection protocol by subject matter experts for suspected “failed” residential settings based on Alliant residential observations triggering an “at-risk” inspection. The DDSN Quality Management process understands providers’ service levels may fluctuate due to a variety of short-term factors which DDSN can address through traditional audit findings, provider corrective action plans, and technical assistance. However, DDSN does not have a process to address major “failed” residential settings in a manner that both addresses operational deficiencies and addresses provider management’s failure to deter similar situations in the future. Additional emphasis needs to be placed on a strategy to improve residential providers systemically on the low end of performance scores.

RECOMMENDATION #9f: DDSN will establish at least a \$2 million annual cost settlement escrow account, which has not been done in the past six years creating a contingent liability likely in excess of \$20 million.

RECOMMENDATION #9g: DDSN will re-engineer its Comprehensive Permanent Improvement Plan (CPIP) capital account funded with ICF consumer fees to minimize excessive capitalization of routine maintenance needs in CPIP preventative maintenance accounts. This prevents unhealthy stockpiling of unused resources; streamlines project prioritization/execution; and improves capacity to execute through delegation of smaller maintenance projects to Regional Centers.

RECOMMENDATION #9h: As an interim step to whatever future payment system is approved by the Commission, DDSN will conduct a feasibility study to relieve DSN Boards’ as fiscal agents for in-home waiver bands (Band B – ID/RD; Band I – CS) with this function being absorbed by the Central Office Accounting Division. If feasible, this will achieve three outcomes: 1) relieve DSN Boards of this increasingly complex administrative function; 2) simplify QPL billing; and 3) convert \$17 million in residual state funds in B & I Bands not generating a Medicaid reimbursable match to be available to provide initial funding of Mercer community rate increases due in early 2019. This \$17 million in state dollars to fund new rates would create a Medicaid match to generate \$40 million additional service dollars in the community residential delivery system.

RECOMMENDATION #9i: DDSN will develop a specific program to lower the current average census of 25 consumers at Correct Care (state funded locked facility) through building additional dedicated community residual high needs capacity (Medicaid match). A reasonable goal would be to remove 15 current Correct Care consumers at a total net service savings of \$1.8 million per year, as well as improve the quality of services for these 15 consumers.

RECOMMENDATION #9j: DDSN will review all non-service expenses, assess value, and prioritize; appears historical approach has been to renew prior FY’s commitment without assessing value and compare to other needs, particularly given limited funds in this area.

RECOMMENDATION #9k: DDSN will pursue pre-file legislation prior to the next legislative session to address ambiguity in the Adult Health Care Consent Act.

RECOMMENDATION #9l: DDSN will decentralized budget execution from currently residing almost exclusively with the Associate State Director for Administration to other Associate State Directors. Decentralized decision making will make better tradeoffs and more timely decisions when operating within clear resource constraints. This will be particularly beneficial for Central Office and Regional Centers to improve clarity in fixing roles, responsibilities, and accountability to both establish initial FY budget allocations and execution throughout the FY.

RECOMMENDATION #9m: DDSN will develop a mechanism to improve communications with community providers focusing on standardized format, authority level to send, targeted distribution email lists, and a one webpage repository.

RECOMMENDATION #9n: DDSN will identify all residential consumers Medicaid ineligible for over 12 months to identify issue(s), which will lead to developing policy to minimize this situation and future occurrences; currently 91 non-Medicaid residential consumers create the opportunity cost loss of \$4.5 million in Medicaid match reimbursements annually.

RECOMMENDATION #9o: DDSN will review Respite Program delivery; respite is key to serving families, yet access and service availability is still an issue.

RECOMMENDATION #9p: DDSN will conduct a staffing and capabilities assessment of its financial operations, which have incrementally eroded since the 2010 recession creating a significant organizational risk, particularly with the unique knowledge base required to operate or modify the capitated band system.

RECOMMENDATION #9q: DDSN will review the individual employment program for opportunities to address current areas of ineffectiveness through training, policies, active monitoring, and authorization controls.

RECOMMENDATION #9r: DDSN will ensure Autism Program's eligibility process benchmarks are solidified and training/consulting resources targeted towards DDSN's core mission. Increase cost/effectiveness of Autism residential settings operated by DDSN through filling vacancies or contract with a provider to serve these consumers; if DDSN retains operations, consider moving this function from the Policy Division to the Operations Division.

RECOMMENDATION #9s: DDSN will revitalize the environmental modification process to reduce backlog from high of 200 in early 2018. Additional system refinements needed to coordinate or simplify operational execution between two divisions.

RECOMMENDATION #9t: DDSN will build infrastructure to support new Commission initiative to review new policy and recurring three-year policy updates on a quarterly basis in an efficient. Policies will be stratified by priorities to ease processing by stakeholders.

RECOMMENDATION #9u: DDSN will shift all employees to a universal performance review cycle (July 1 to June 30) to improve accountability, training, quality, and integrate into an annual equitable assessment to consider personnel merit increases.

RECOMMENDATION #9v: DDSN will examine Early Intervention Program to ensure consumers eligible for Medicaid become enrolled to maximize Medicaid reimbursement; in the recent past, Medicaid enrollment has dropped from 80% to currently at 65%.

In DDSN's May 2017 submission to the House Legislative Oversight Committee, it set forth five "internal initiatives" to improve. These five initiatives are set forth below with an update on progress/results located on Attachment B:

- Evaluation of Abuse, Neglect, and Exploitation reporting and follow up system.
- Changes to the tracking and reporting of critical incidents.
- Direct service operations.
- Plan review and service authorization.
- DDSN outcome-based provider evaluation.

The recommendations contained in this letter have been approved by the DDSN Commission.

Thank you in advance for your consideration of DDSN's recommendations. I am available 24/7 to discuss further and provide any clarifications needed.

Sincerely,

Patrick J. Maley
Interim State Director