

OLMSTEAD CONSUMER TASKFORCE AGENDA

Friday December 3, 2010, 12:30 p.m. – 4:30 p.m.

Conference Phone 1-866-685-1580, Conference Code 8957365810

Urbandale Public Library Meeting Room B

Urbandale, Iowa

- 12:30 Introductions and Comments -Chair Jerry Mayes
- 12:40 Minutes and Approval from September 10 Meeting
- 12:45 Update on Reimbursements-Becky Flores
- 12:50 Remarks-Theresa Armstrong, Bureau Chief, Community Services Bureau, Mental Health and Disability Services
- 1:00 Olmstead State Plan Update and Discussion-Liz O’Hara, Donna Richard-Langer and others
- 2:30 Break
- 2:45 Olmstead State Plan Forum Update-Connie Fanselow
- 3:00 Legislative Agenda from Mental Health and Disability Services Commission and Mental Health Planning Council
- 3:30 Bylaws Discussion and Vote- Jim Paprocki
- 4:15 Updates from Members and Public Comment
- 4:30 Adjourn

DHS Internal Olmstead: 18-month (January 1, 2011 – June 30, 2012) ACTION AGENDA

Strategic Priority 1

Educate Iowans about the potential of people with mental illness, brain injury or other disabilities to make positive contributions.

1.1.c: SFY11/SFY12

Think Beyond the Label – Build on the national media campaign by customizing the message within the State, to promote public awareness and to make the business case for hiring people with disabilities.

Strategic Priority 2

To promote full community inclusion for people with mental illness, brain injury or other disabilities.

1.6.a: SFY11/SFY12 (see Strategic Priority 7: 3.3.b)

Develop a common language and definitions for community and facility based providers to improve communications, that reflects a commitment to empowerment of individuals, and a focus on strengths and functional needs rather than a diagnosis.

Strategic Priority 3

Improve access to services for individuals in crisis and their families.

2.1.a: SFY11/SFY12

Promote alternatives and complements to hospital-based emergency and inpatient services for urgent behavioral health care needs of adults and children through the development and expansion of community-based access centers and crisis stabilization beds.

2.1.b: SFY11/SFY12 (see Strategic Priority 7: 3.3.a)

Expand provider capacity to address behaviors related to co-occurring mental illness and intellectual disabilities through deployment of I-PART.

2.1.c: SFY11/SFY12

Expand the capacity of the state mental health facilities as resource centers for the community provider network, in helping individuals to stay in the community.

2.1.f: SFY11/SFY12

Develop emergency mental health services in pilot areas.

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2.1.g: SFY11/SFY12

Expand access to training for community based providers (including primary care providers as well as non-prescribing mental health professionals) in behavioral health medication management.

2.3.b: SFY11/SFY12

Maintain and continue to enhance Iowa's web based Information & Referral services for people with disabilities and older Iowans and make cross-training of information regarding services and supports regarding all disabilities available.

2.3.c: SFY11/SFY12 (see Strategic Priority 6: 3.2.d)

Develop a network of trained parent mentor navigators and educators for parents of children with disabilities, including Serious Emotional Disturbance.

2.4.a: SFY11/SFY12

Expand educational programs for law enforcement and the judicial branch on the symptoms of and supports for mental illness and other disabilities.

2.4.b: SFY11/SFY12

Continue the work of the Court Mental Health Work Group.

2.4.c: SFY11/SFY12

Establish vehicles for communication among law enforcement, the judicial branch and MHDS about options available for diversion, and alternatives to arrest, detention, incarceration and commitment.

2.8.g: SFY12 (see Strategic Priority 7: 3.3.c)

Identify opportunities to improve discharge planning to meet the needs of individuals for services in the communities of their choice.

2.10.g: SFY12

Work with the Veterans Administration, the Iowa Dept of Veterans Affairs and veterans' organizations to develop collaborative approaches to meeting the needs of veterans with mental health issues and/or brain injuries and their families.

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Strategic Priority 4

Ensure appropriate services and settings by strengthening the tools and processes used to assess individual support needs.

2.8.a: SFY11/SFY12

Strengthen implementation of PASRR for lowans prior to admission to nursing homes, to identify individuals with mental illness or intellectual disabilities and to insure that placement is appropriate and needed services are available.

2.8.b: SFY11/SFY12 (see Strategic Priority 7: 3.4.e)

Develop and implement policies and procedures for Implementation of new federal requirements to ensure the rights of nursing home residents to choose where they receive their long term supports and services, including referral to local contact agencies for options counseling, and transition services as appropriate.

2.8.c: SFY12

Explore use of a standardized functional assessment tool (the Supports Intensity Scale) in determining service and support needs for people with intellectual disabilities.

Strategic Priority 5

Establish the leadership, necessary partnerships and infrastructure for a service system expanding opportunities for competitive employment.

1.3.b: SFY11/SFY12

Analyze current policies and practice regarding transition, and determine, with engagement of the Dept of Education, how these can be strengthened to support integrated employment as a preferred outcome for students moving into the adult service system. This should include clarity of post secondary and national service options to further prepare students for adult life.

3.1.a: SFY11/SFY12

Continue current work in collaboration with the SELN and other State agency partners, including Dept of Education, IVRS, IWD, Dept for the Blind, Iowa DD Council, Dept of Human Rights and others to develop and implement a statewide competitive employment plan for people with disabilities or mental illness.

3.4.d: SFY12

Build community provider capacity for Supported Employment services.

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Strategic Priority 6

Develop frameworks for advancing the integration and coordination of primary care, mental health, substance abuse, disability, and other services.

3.2.a: SFY11/SFY12

Develop and maintain a mental health delivery system that meets the needs of children with SED in the community by extending children's mental health systems of care: (1) Continue to build the sustainability of the NE Iowa Community Circle of Care; (2) Support state-funded systems of care for children in Polk/Warren Counties; (3) Seek support for the E Central Iowa Children's Mental Health Initiative; (4) Promote expansion to additional regions in Iowa, with emphasis on the western region of the State.

3.2.c: SFY11

Develop service definitions and expectations regarding the use of remedial services and integration of remedial services with other services. Improve coordination and quality of mental health services by transferring remedial services administration to the Iowa Behavioral Health Plan.

3.2.d: SFY11

Continue to develop and support a statewide network of trained family navigators and educators, that help families of children with developmental disabilities and other special health care needs make informed healthcare decisions and navigate the service system, and offer web-based resources (DHS Family 360/Family to Family Health Information Center initiative).

Strategic Priority 7

Deploy the resources of public residential institutions and Iowa's Money Follows the Person grant, in tandem with other federal and state initiatives, to maximize support for community integration and reduce reliance on institutionally based services.

3.3.a: SFY11 (see Strategic Priority 3: 2.1.b)

Expand provider capacity to address behaviors related to co-occurring mental illness and intellectual disabilities through deployment of the Iowa Program Assistance Response Team (I-PART).

3.3.b: SFY11/SFY12

Develop a common language and definitions for community and facility based providers to improve communications, that reflects a commitment to empowerment of individuals, and a focus on strengths and functional needs rather than a diagnosis.

3.3.c: SFY11/SFY12 (see Strategic Priority 3: 2.8.g)

Continue to strengthen discharge planning at Resource Centers and orient internal operations to reductions in length of stay.

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3.4.a: SFY11

Explore extension of Iowa's MFP demonstration to 2016 (with continuation of operations to 2019) to assist individuals living in facilities transition to more independent community settings.

3.4.b: SFY11

Explore expansion of MFP transition services and supports to additional populations receiving facility based care.

3.4.c: SFY12

Build provider capacity to ensure access to community based crisis intervention, behavioral programming and mental health outreach services.

3.4.e: SFY11/SFY12 (see Strategic Priority 4: 2.8.b)

Develop policies and procedures for implementation of new federal requirements to ensure the rights of nursing home residents to choose where they receive their long term supports and services, including referral to local contact agencies for options counseling, and transition services as appropriate (MDS 3.0 Section Q).

3.5.a: SFY12

Work with the Iowa Finance Authority to ensure availability of HCBS Waiver Rent Subsidies to support MFP participants and other individuals on Waivers.

3.5.b: SFY12

Advocate for system changes or accommodations for people with disabilities at local public housing authorities in the federal Housing Choice Voucher (Section 8) application process to enable the same access as individuals without disabilities.

Strategic Priority 8

Improve service outcomes by promoting efficient and cost effective best practices.

4.1.c: SFY11/SFY12

Continue to collaborate with the IDPH to review accreditation standards and policies used for both mental health and substance abuse services and develop protocol to cross-accept accreditation determinations made by each agency, similar to deemed status applied to national accreditation by IDPH and DHS.

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Strategic Priority 9

Develop and expand workforce competencies.

4.3.a: SFY11/SFY12

Partner with the IDPH and other agencies and organizations to identify and define direct support professional competencies and the curricula needed to provide effective services to individuals with mental illness and other disabilities, including, as appropriate, training supporting the expansion of evidence-based practices in Iowa.

4.3.d: SFY11

Explore developing an incentive strategy to assist providers that improve retention and performance of direct support professionals, including strategies linking reimbursement to competency-based skill development training and on-site supports.

Strategic Priority 10

Implement an effective performance and accountability infrastructure.

5.1.b: SFY12

Provide for annual stakeholder review of this Plan and recommendations for updating.

Strategic Priority 11

Develop a plan for long term system financing.

5.5: SFY12

Collaborate with counties and key stakeholders in the development of recommendations for long term system funding, to include an assessment of the options available under the Affordable Care Act, including mental health parity, health home and the benchmark plan.



Iowa Human Needs Advocates

THE AFFORDABLE CARE ACT and the IOWA DHS OLMSTEAD PLAN

Iowa Human Needs Advocates support full implementation of the Patient Protection and Affordable Care Act (PPACA), the strategic priorities outlined in the DHS Olmstead Mental Health and Disability Services Plan, and state funding for the 10% non-federal match (FMAP) to promote PPACA initiatives.

The Patient Protection and Affordable Care Act (PPACA), also called the Affordable Care Act, is best known for its provisions extending health insurance to an estimated 32 million additional Americans currently lacking coverage. This will be accomplished in part by the expansion of Medicaid eligibility to individuals up to 133% of federal poverty level in 2014, to be fully funded by the federal government until 2016. (Federal funding gradually declines to 90% of total costs between 2016 and 2020.) This will open the door to health coverage for many previously uninsured adults with mental illness and other disabilities who have had inadequate access to primary care.

What is less well known about the Affordable Care Act are its many provisions to improve the quality of health care, including important opportunities for States to expand home and community based services for lowans with mental illness or other disabilities and to reduce reliance on institutionally-based care. These opportunities come at a time when the Iowa Department of Human Services, in consultation with hundreds of stakeholders across the State, is developing an Olmstead Plan for Mental Health and Disability Services geared precisely to this objective. The support of the Legislature for this Plan is critically important in moving Iowa towards full compliance with the U.S. Supreme Court's 1999 *Olmstead* decision, which found that people with disabilities are entitled to receive the supports they need in the least restrictive setting consistent with their needs.

A fully supported Affordable Care Act means that hundreds of thousands of lowans would gain access to the primary care, behavioral health and disability services they need, with substantial federal support. Iowa's efforts to comply with *Olmstead* principles could receive a significant boost through participation in such initiatives as extension and expansion of the Money Follows the Person grant to help people transition out of institutions. The Affordable Care Act can also help states to promote the "health home concept," using a 90% federal match (FMAP) to support coordination of primary, mental health, specialty and prevention services across service settings. This, too, will improve the quality of life for lowans with disabilities.

Policy Recommendations

- 1. Support full implementation of the Affordable Care Act (Patient Protection and Affordable Care Act-PPACA)**
- 2. Support strategic priorities identified by DHS in its Olmstead Mental Health and Disability Services Plan, such as community emergency crisis services to reduce reliance on hospitalization and other institutionally-based care.**
- 3. Provide funding for the non-federal match, as required, for such important PPACA initiatives as development of health home service delivery models and the extension and expansion of Money Follows the Person.**

For more information contact:
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Casey Westhoff, The Arc of Iowa, 515-210-6686

IOWA MENTAL HEALTH AND DISABILITY SERVICES COMMISSION

2011 LEGISLATIVE PRIORITIES

The Iowa Mental Health and Disability Services (MHDS) Commission recognizes that the members of this General Assembly face an unusually daunting task in allocating scarce resources and maintaining a balanced State budget. In making those difficult decisions, we remind you to carefully consider the health and safety needs of our most vulnerable citizens and recognize the human as well as the financial costs associated with policy and funding choices.

When essential and cost-effective supportive services to people with mental health and disability-related needs are not adequately funded, the result is more emergency room visits, more emergency psychiatric hospitalizations, more involvement with law enforcement, corrections, and the courts, more abuse and neglect, and potentially more preventable deaths. We urge you to preserve the necessary and basic supports of daily living for Iowans with special needs by fully funding the MHDS Commission's modest allowable growth recommendation to the Governor, and by supporting cost effective mental health and disability-related services that are needed more than ever in these difficult economic times.

At a time when so many Iowans are suffering because of lost income, jobs, health care benefits, and homes, are struggling to recover from natural disaster losses, and are facing the challenges of returning from military deployments, our community mental health and disability services system is a critical safety net for a growing number of individuals and families. We have identified the following four priorities for mental health and disability services in Iowa:

PRIORITY 1:

ENSURE THE BASIC MENTAL HEALTH AND DISABILITY NEEDS OF IOWANS

Fund cost-effective mental health, intellectual disability, developmental disability, and brain injury services at a level adequate to meet basic needs.

PRIORITY 2:

BUILD COMMUNITY CAPACITY

Take steps designed to build community capacity to serve Iowans with mental health, intellectual and developmental disabilities, and brain injuries in non-institutional settings.

PRIORITY 3:

ADOPT PROPOSAL FOR REVISING IOWA CODE CHAPTER 230A

Adopt recommendations for revisions to Iowa Code Chapter 230A, governing the organization and operation of Community Mental Health Centers in Iowa.

PRIORITY 4:

LAY THE FOUNDATION FOR REVISING IOWA CODE CHAPTER 229

Further develop recommendations for revisions to Iowa Code Chapter 229, governing mental health commitments in Iowa.

PRIORITY 1:

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Approved December 2, 2010

ENSURE THE BASIC MENTAL HEALTH AND DISABILITY NEEDS OF IOWANS

Fund cost-effective mental health, intellectual disability, developmental disability, and brain injury services at a level adequate to meet basic needs.

PRINCIPLE: Maintain needed services and allow growth necessary to eliminate waiting lists and prevent more expensive interventions and placements, give counties flexibility in determining when growth is needed, and take steps to integrate primary health care, mental health care, and substance abuse services.

STRATEGIES:

- (1) ***SUPPORT OLMSTEAD PLAN*** - Adequately fund the services and activities identified and prioritized in the DHS Olmstead Plan for Mental Health and Disability Services to make the plan a reality.
- (2) ***REPLACE PROPERTY TAX CAP*** - Replace the dollar cap on county property tax levies with a levy rate cap and allow counties flexibility in determining which base year to use as the capitation rate. The dollar cap has remained unchanged since 1997. It has been estimated that if the 1996 levy rates were applied today, there would be approximately \$50 million more county dollars available to fund current service needs.
- (3) ***PROTECT COUNTY FUND BALANCES*** - Hold counties harmless for increased fund balances resulting from the enhanced FMAP (Federal Medical Assistance Percentage) for FY 2010.
- (4) ***PROMOTE MENTAL HEALTH PARITY*** - Build on the Affordable Health Care Act to achieve Mental Health Parity for all insurers. Parity in private insurance coverage would reduce reliance on public mental health services and would better support a comprehensive array of services statewide.
- (5) ***RETAIN OPEN ACCESS*** - Retain open access to mental health medication. Preferred drug lists requiring prior approval for exceptions may be a generally effective cost containment measure, but create the potential for even greater costs when applied to mental health medications. The medications with the fewest side effects are often the newest and not the 'preferred medications.' Consumers who experience unpleasant side effects from older medications are less likely to stay on them and, as a result, are more likely to be hospitalized or require other more expensive forms of treatment.
- (6) ***ALLOW MEDICAID SUSPENSION*** - Allow for the suspension rather than the termination of Medicaid benefits for persons entering a correctional facility for up to 12 months. If it is determined that person remains eligible for benefits at the time of release, benefits could then be immediately reinstated and the individual would have prompt access to mental health medications and necessary treatment that will help deter re-offending.
- (7) ***SHIFT COMMITMENT COSTS*** - Transfer the costs of commitments and persons in state hospitals from counties to the State as another step toward the elimination of legal settlement. Increase the use of mental health jail diversion programs and special needs courts and promote other appropriate alternatives to commitment.

(8) **INTEGRATE SERVICES** - Develop an implementation plan for integration of primary health care, mental health care, developmental disability, brain injury, and substance abuse services as a part of federal healthcare reform, following a the basic characteristics of a comprehensive, continuous, and integrated System of Care model.

(9) **PROMOTE SYSTEM EFFICIENCIES** - Promote cost-saving efficiencies and less-restrictive service options including:

- **COMMUNITY-BASED** - Redirecting resources from expensive institutional care to more cost-effective community-based services Initiating or increasing client participation for some services
- **CONSISTENT** - Evaluating Medicaid program integrity, regulations, and policies for efficiency and consistency in meeting the needs of lowans
- **EFFECTIVE** - Replicating programs that demonstrate cost-effectiveness and positive outcomes for people
- **MODERN** - Utilizing technology to improve system efficiency
- **FOCUSED** - Insuring that federal funds received for health care purposes are obligated to health care and not diverted for other use
- **SIMPLIFIED** - Minimizing processes and paperwork to reduce costs

PRIORITY 2:

BUILD COMMUNITY CAPACITY

Take steps designed to build community capacity to serve lowans with mental health, intellectual and developmental disabilities, and brain injuries in non-institutional settings.

PRINCIPLE: Adults and children should have access to needed services and supports in their communities and should not have to resort to nursing home or institutional living.

STRATEGIES:

(1) **ADDRESS WORKFORCE SHORTAGES** - Address the critical shortage of mental health and other professionals by:

- **SUPPORTING TRAINING & CREDENTIALING** - Supporting efforts to develop a competency-based curriculum and credentialing system for direct support professionals that values and promotes community-based services mental health and disability-related services through the use of established learning systems such as the College of Direct Support. Building competent direct support professional workforce also requires that training become a direct cost.

- **EXPANDING MENTAL HEALTH RESIDENCIES** - Developing and implementing a plan to expand opportunities for community psychiatry residency positions and training for psychiatric physician assistants, psychiatric nurse practitioners, and psychiatric social workers at multiple locations in Iowa.
- **UTILIZING PEER SUPPORT** - Expanding the use of trained and credentialed peer support specialists and family support services.
- **EXPANDING ASSERTIVE COMMUNITY TREATMENT (ACT)** – Building on the five existing Assertive Community Treatment (ACT) teams to establish statewide coverage.

(2) **DEVELOPING CRISIS STABILIZATION** - Developing crisis stabilization beds and sub acute care beds statewide utilizing a recovery model as recommended by the Acute Care Task Force and further supporting recovery with wellness centers, drop in centers, and peer support services.

(3) **EXPANDING CHILDREN’S SYSTEMS OF CARE** - Building on Iowa’s two current children’s system of care projects in northeast and central Iowa to create a comprehensive statewide system for children’s disability services.

(4) **INCREASING WAIVER FLEXIBILITY** - Raising the monthly individual cap on waiver services for children to provide flexibility and support the ability of families to keep their children at home, in school, and out of expensive residential placement. If families cannot access critical services such as respite care when they need it, children are vulnerable to abuse and neglect or out-of-home placement.

(5) **EXPANDING BRAIN INJURY SERVICES** - Eliminating the need for a waiting list for brain injury services by fully funding the HCBS Brain Injury Waiver at the projected level of growth approved by the Centers for Medicare and Medicaid Services (CMS) and by removing the dollar funding cap that prohibits the provision of services at a level necessary to prevent institutionalization or out of state placement.

(6) **EXPANDING ID WAIVER** - Amending the HCBS Intellectual Disabilities Waiver to include individuals with autism spectrum disorders and determine eligibility through an individual clinical assessment based on functional impairment.

PRIORITY 3:

ADOPT PROPOSAL FOR REVISING IOWA CODE CHAPTER 230A

**Adopt recommendations for revisions to Iowa Code Chapter 230A,
governing the organization and operation of
Community Mental Health Centers in Iowa.**

PRINCIPLE: Community mental health centers should play a critical role in the statewide system that serves Iowans who have mental health disorders and/or experience mental health related crises. The recommendations are proposed with a long-term vision of (1) Establishing a statewide organized public safety net of services for Iowans of all ages who have mental health disorders; (2) making an array of core safety net services available to Iowans regardless of their place of residence or economic circumstance; and (3) assuring to provision of quality services.

STRATEGY: **UPDATE CHAPTER 230A** - Revisit the original proposal presented in 2010 for updating the statutory provisions governing the role and operation of community mental health centers to reflect current needs and expectation as one step in implementing improvements to Iowa's system of public mental health and disability services. Consider the role of CMHCs in the implementation of federal health care reform and the establishment of a comprehensive, continuous, and integrated System of Care model, including the use of technological enhancements such as telemedicine.

PRIORITY 4:

LAY THE FOUNDATION FOR REVISING IOWA CODE CHAPTER 229

**Further develop recommendations for revisions to
Iowa Code Chapter 229, governing mental health commitments in Iowa.**

PRINCIPLE: The number of mental health commitments in Iowa is growing and too often individuals go through commitment proceedings because it is the path of least resistance to a "bed," not because the person truly needs to be committed. Alternatives need to be developed that are less expensive and more effective in addressing the needs of individuals in need of mental health services.

STRATEGY: **REVISE CHAPTER 229** – A workgroup including representatives of the judicial system and the mental health system is currently meeting to develop recommendations for changes in the commitment process. We support coordinated and continued efforts to review and update Chapter 229 to better meet the needs of Iowans with mental illness, to alleviate the burden of unnecessary commitment proceedings on the services system, and minimize the disruption in the lives of individuals experiencing mental health crises. Our recommendations to develop crisis stabilization services, expand Assertive Community Treatment statewide, and increase the use of mental health jail diversion programs and special needs courts are examples of systemic changes that can also contribute to the reduction of unnecessary commitments.



Iowa Olmstead Consumer Task Force

January 12, 2011

Dear Iowa Legislators,

In the Americans with Disabilities Act of 1990 (ADA), Congress described the isolation and segregation of individuals with disabilities as a serious and pervasive form of discrimination. 42 U.S.C. § 12101(a)(2), (5). Title II of the ADA, which proscribes discrimination in the provision of public services, specifies, *inter alia*, that no qualified individual with a disability shall, “by reason of such disability,” be excluded from participation in, or be denied the benefits of, a public entity’s services, programs, or activities. §12132. Congress instructed the Attorney General to issue regulations implementing Title II’s discrimination proscription. See §12134(a). One such regulation, known as the “integration regulation,” requires a “public entity [to] administer ... programs ... in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” 28 CFR § 35.130(d). A further prescription, here called the “reasonable-modifications regulation,” requires public entities to “make reasonable modifications” to avoid “discrimination on the basis of disability,” but does not require measures that would “fundamentally alter” the nature of the entity’s programs. §35.130(b)(7).

In *Olmstead v. L.C.* (527 U.S. 581, 1999) the U.S. Supreme Court held that:

- It is illegal to force individuals with disabilities to live in institutions to receive services they could receive in community settings with the appropriate supports.
- Unnecessary institutional segregation constitutes discrimination *per se*, which cannot be justified by a lack of funding.

Each state must make sure waiting lists for community services move at a reasonable pace.

DHS convened a statewide steering committee, later given the name of the Iowa Olmstead Real Choices Consumer Task Force, which gathered input that shaped an early working plan called the 2001 Iowa Plan for Community Development.

Today, the Iowa Olmstead Consumer Task Force includes people with disabilities, family members of people with disabilities, advocates for disability rights, and representatives of key state agencies. Over the past eight years the Task Force has worked to implement Governor Vilsack's Executive Order 27. This order specifically directs the Task Force to do the following:

“The Olmstead Real Choices Consumer Task Force and the Department of Human Services shall advise the Governor's Office on workable strategies for addressing barriers to community integration for individuals with disabilities and for developing a well-coordinated and seamless service delivery system, wherein State agencies, counties, and localities work together in a more cohesive manner to deliver needed services, including the identification of specific state law, administrative rules, or policy changes that could eliminate existing barriers, and recommended strategies for on-going communication and coordination of efforts between agencies.”

To learn more about the Olmstead Decision and its implementation in Iowa,
visit <http://www.olmsteadrealchoicesia.org>

Iowa still has much work to do to comply with these *Olmstead* mandates. As such, the Iowa Olmstead Consumer Task Force recommends the following legislative priorities for 2011:

Iowa Olmstead Consumer Task Force 2011 Legislative Priorities

- The Iowa Olmstead Consumer Task Force supports the 2011 Legislative Priorities of the Iowa Mental Health and Disability Services Commission, with the understanding that these priorities serve all Iowans with disabilities as described in the Americans with Disabilities Act (ADA). Especially Priority 1. Strategy 1. SUPPORT OLMSTEAD PLAN, the development of which the Taskforce has been very involved with for the past year. The four Commission Legislative Priorities for 2011 are as follows, and further details of these priorities are listed in the attached document “Iowa Mental Health and Disability Services Commission 2011 Legislative Priorities”:

Priority 1: Ensure the basic mental health and disability needs of Iowans.

Priority 2: Build community capacity.

Priority 3: Adopt proposal for revising Iowa Code Chapter 230A.

Priority 4: Lay the foundation for revising Iowa Code Chapter 229.

- The Iowa Olmstead Consumer Task Force supports the 2011 Legislative Priority of the Iowa Human Needs Advocates regarding the Affordable Care Act and the Iowa DHS Olmstead Plan. There are three policy recommendations, and further details of these priorities are listed in the attached document “Iowa Human Needs Advocates – The Affordable Care Act and the Iowa DHS Olmstead State Plan”.

Policy Recommendation 1: Support full implementation of the Affordable Care Act (Patient Protection and Affordable Care Act – PPACA).

Policy Recommendation 2: Support strategic priorities identified by DHS in its Olmstead Mental Health and Disability Services Plan, such as community emergency crisis services to reduce reliance on hospitalization and other institutionally-based care.

Policy Recommendation 3: Provide funding for the non-federal match, as required, for such important PPACA initiatives as development of health home service delivery models and the extension and expansion of Money Follows the Person (a federal grant that Iowa received to move people out of Intermediate Care Facilities for the Mentally Retarded (ICFMRs) and into home and community based living so they can live independently).

Respectfully,

Jerry Mayes, Ph.D.
Chair, Iowa Olmstead Consumer Task Force

Olmstead Consumer Taskforce Bylaws

ARTICLE I - NAME

The name of this organization shall be the *Olmstead* Consumer Taskforce.

ARTICLE II - MISSION

The purposes of the *Olmstead* Consumer Taskforce (hereinafter referred to as "the Taskforce") are:

Section 2.1. Duties and Activities

- A. To monitor Iowa's response to the U. S. Supreme Court's Olmstead decision and to collaborate with state agencies in the implementation of Olmstead in Iowa.
- B. To advocate for lowans with disabilities and long term care needs.
- C. To organize as a proactive and effectively working Taskforce.
- D. To educate lowans about the *Olmstead* Decision and its implications for public policy in Iowa.
- E. To inform and advise policy makers about the needs, rights, and preferences of lowans with disabilities and long term care needs.
- F. To monitor existing laws and pending legislation and make recommendations to promote consistency with the *Olmstead* Decision.
- G. To support systems change that promotes choice, fairness, equity, accessibility, and availability of individualized services for people with disabilities and long term care needs.
- H. To assist and encourage the departments and agencies of the state of Iowa to ensure compliance with the Olmstead decision.

Comment [J1]:

The order of Paragraphs B, C, D, E, F, and G has been changed in this Section.

Section 2.2. Records

- A. The Iowa Department of Human Services shall maintain all official records of the Taskforce, in accordance with state law.
- B. The Executive Committee shall maintain copies of any records deemed necessary for Taskforce activities.

Comment [J2]:

This change provides a focus on the departments of state government and not just the Iowa Department of Human Services.

ARTICLE III - MEMBERSHIP

Section 3.1. General

The membership of the Taskforce shall represent the diverse population of the State of Iowa, to the fullest extent possible. The Taskforce will make every effort to represent a cross-section of people with all disabilities or long term care needs.

The Iowa Department of Human Services has been designated by the Governor as the lead agency for Olmstead activities and as such, will provide staff support to the Taskforce.

Section 3.2. Requirements

The *Olmstead* Consumer Taskforce shall abide by the following membership requirements:

- A. At least 50 percent of the members of the Taskforce shall be individuals who are not State employees and are not providers of disability related or long term care services. A provider of disability related services is an individual who receives money, from any source, to provide disability related services to consumers either directly or through a contractual agreement.
 - 1. Advocacy organizations, and their employees, shall not be considered providers of disability related services solely because of such status.
 - 2. Volunteers and members of advisory and governing boards shall not be considered providers solely because of such status.
 - 3. Peer support specialists shall not be considered providers of disability related services solely because of such status.

Section 3.3. Membership Categories

A. Voting Members

The membership shall be twenty-one (21) voting members, designated as follows:

- 1. Over one-half of the members [at least eleven (11) members] shall be people with disabilities or long term care needs or family members of people with disabilities or long term care needs.
- 2. At least two (2) of the members shall be people over age 60 who can effectively represent the interests of older Iowans with disabilities or long term care needs.
- 3. At least two (2) of the voting members shall be people who can effectively represent the interests of children and youth with disabilities or long term care needs.

Comment [J3]:
This language had previously been designated as (1) but appears to express the intent much better when it supplements the language in (A).

Comment [J4]:
There has been considerable discussion within the Bylaws Committee on this proposal.

Peer Support Specialists meet the definition of providers of disability related services in Paragraph A. This proposed change is being suggested to ensure that *Peer Support Specialists* are not excluded from participation on the Taskforce.

This change could open the door to offering an exception for other providers.

For Example:
Does a person with a disability who teaches *Living Well with a Disability* require an exception as a provider of disability related services?

Does a person with a disability who provides direct care for another person require an exception as a provider of disability related services?

Paragraph A does allow 50% of the Taskforce to be composed of providers of disability related services or long term care services.

Comment [J5]:
The *Bylaws Committee* proposes that the size of the Taskforce be reduced from thirty (30) members to twenty-one (21) members.

This change is being suggested because the Taskforce has historically had difficulty recruiting thirty (30) members who will regularly participate in meetings.

4. At least **one (1)** ~~(2)~~ of the voting members shall be **a person** who currently resides or **has** resided in an institutional or congregate care facility and can effectively represent the interests of institutionalized persons.
5. At least **two (2)** of the voting members shall be people who represent statewide advocacy organizations which promote community integration for people with disabilities or long term care needs.
6. The remainder of the voting members shall be individuals who represent advisory or governing boards, county governments, providers of disability related services, or other groups with an interest in promoting community integration for people with disabilities and long term care needs.

B. Non-Voting Members

The membership shall also include up to thirty (30) non-voting ex-officio members representing agencies of state government and the Iowa General Assembly.

- Board of Regents
- Department of Administrative Services
- **Department on Aging**
- Department for the Blind
- Department of Civil Rights
- Department of Corrections
- Department of Economic Development
- Department of Education
- Department of Human Rights
- Department of Human Services
- Department of Inspections and Appeals
- Department of Management
- Department of Public Health
- Department of Public Safety
- Department of Transportation
- Department of Veterans Affairs
- Department of Work Force Development
- Iowa Finance Authority
- Iowa Veterans Home

Individuals representing the Iowa General Assembly will be nominated by the Majority and Minority Leaders of their respective chambers.

Comment [J6]:
This language has been moved from Section 3.4 *Nominations* (C).

The Taskforce always has listed members of the General Assembly as non-voting members. However, the leadership in the House and Senate has not assigned any representatives to the Taskforce.

Section 3.4. Nominations

- A. All new and reapplying members will be subject to a written application process for each term. **The written application for Taskforce membership must be received by a designated recipient at the Iowa Department of Human Services by close of business on the due date specified in the announcement for applications.**

Comment [J7]:
The language in the original (B) has been added to (A).

Section 3.5. Terms of Office

- A. The term of office of a Taskforce member shall be three years.
- B. Membership terms shall be staggered so that one-third of the total number expires each year.
- C. To maintain the staggered term structure, each full membership term will begin with the first meeting after the annual meeting.
- D. Members elected to fill an unexpired term will begin their term at the first meeting following their election.
- E. Members elected to fill an unexpired term will be subject to a written application process at the end of the unexpired term.
- F. No Taskforce member shall serve for more than two (2) consecutive three (3) year terms. Upon completion of two (2) full terms, a Taskforce member must rotate off the Taskforce for one (1) year before being eligible for a new appointment.

Comment [J8]:
This language is being suggested so that no member may serve indefinitely as a Taskforce member.

The intent of this language is to challenge the Taskforce to regenerate itself over a period of time by recruiting new members.

Section 3.6. Vacancies

- A. Taskforce membership ends based on the following circumstances:
 - 1. A member resigns or dies.
 - 2. A member is deemed inactive by the Taskforce upon the relevant facts having been presented.
 - 3. A member does not reapply for another term at the conclusion of his or her term.
 - 4. A member fails to meet the minimum attendance policy of the Taskforce as defined in Article V, Section 2.
 - 5. The Taskforce votes to terminate the member for just cause, as defined by the procedures required in Article IV, Section 1.
 - 6. In the case of an ex-officio State agency member, the member's term ends when a new individual is nominated by the State agency and confirmed by the Taskforce.

ARTICLE IV - RIGHTS OF MEMBERS

Section 4.1. Termination for Just Cause

- A. Any member or members who feel just cause exists for another member to be terminated pursuant to Article III, Section 6, (E), must present a written statement of the reasons for the proposed termination to the Executive Committee.

- B. The Executive Committee shall review any such written statement and determine if the matter has merit to be presented to the full Taskforce.
- C. The Executive Committee only is empowered to present a motion for termination of a member for just cause before the full Taskforce.
- D. A motion for termination for just cause must be accompanied by a written statement of the reasons for the proposed termination.
- E. The member who is the subject of the motion must be given an opportunity to respond to the written statement before the Taskforce, prior to any action being taken.
- F. The member may be removed from the Taskforce for just cause following a due process hearing by majority vote of the voting members.

ARTICLE V - MEETINGS

Section 5.1. General

- A. The Taskforce shall have regular meetings at least four (4) times a year at a time and place designated by resolution. Regular and special meetings of the Taskforce shall be called by either:
 - 1. The Executive Committee; or
 - 2. Ten (10) or more Taskforce members
- B. The Taskforce chair or a designee shall provide notice of a meeting through mail or electronic communication not less than fourteen (14) days before the date of the meeting. The notice shall state the place, date, and hour of the meeting. The notice will be deemed delivered when deposited in the United States mail, addressed to the member as it appears on the records of the Taskforce. Meeting agendas shall be posted as required by law.
- C. The Annual Meeting shall take place in March of every year, unless otherwise scheduled by majority vote of the Taskforce and upon at least three months notice to all Taskforce members of record.
- D. Taskforce members may participate in a meeting in person, by telephone call or other similar communication. All members participating in the meeting shall have needed accommodations provided, and participation in a meeting pursuant to this provision shall constitute presence in person at the meeting.
- E. Taskforce members who are unable to attend a meeting may designate a proxy in writing, by either contacting the chairperson or the representative from the Iowa Department of Human Services, prior to the date of the meeting.

Comment [J9]:
This new language clarifies that a Taskforce member may participate in a meeting either in person or by telephone.

Comment [J10]:
This new language provides that a Taskforce member may designate a proxy to vote on his or her behalf if that member is unable to participate in the meeting.

- F. All Taskforce meetings, or other meetings and events sponsored by the Taskforce, shall be held in a location accessible to all people. Prior reasonable accommodation requests that are necessary for persons with disabilities to fully participate shall be provided for these meetings. All meeting notices sent out and materials shall be in an accessible format.

Section 5.2. Attendance

- A. All members will be required, at a minimum, to attend one-half of the regular (quarterly) meetings of the Taskforce for each year. A member may request to be excused from attending a meeting by either contacting the chairperson or the representative from the Iowa Department of Human Services prior to the date of the meeting. After two (2) consecutive unexcused absences, a member shall be notified by priority mail with delivery confirmation that his or her position may be declared vacant for nonattendance. After three consecutive unexcused absences, a member shall be notified by priority mail with delivery confirmation that his or her position has been ~~may be~~ declared vacant for nonattendance. Failure to notify the member does not constitute a waiver of the attendance requirements.

Comment [J11]:
This new language establishes a procedure for contacting Taskforce members following two(2) consecutive unexcused absences

Comment [J12]:
This is a change from the current Bylaws language that provides for informing the Taskforce member his or her position may be declared vacant following three (3) consecutive absences..

Section 5.3. Voting Rights

- A. Each member of the Taskforce in attendance shall be entitled to one (1) vote.
- B. Each members shall act in accordance with General Ethical Principles Regarding Conflict of Interest in Iowa Code Chapter 68B (Conflicts of Interest).

Section 5.4. Quorum

- A. A quorum will constitute no less than two-thirds of the Taskforce members eligible to vote. The number of members eligible to vote if all Taskforce positions are filled is twenty-one (21). If all Taskforce positions are filled, quorum is fourteen (14) members.
- B. Taskforce members present at a duly called and held meeting at which a quorum is initially present may not continue to do business after the loss of a quorum.

Section 5.5. Parliamentary Authority

- A. Meetings shall be conducted according to the current version of Roberts Rules of Order, as periodically revised, and comply with the requirements of Iowa Code Chapter 21 (Open Meetings) and Iowa Code Chapter 22 (Open Records).
- B. A Parliamentarian may be elected by majority vote of the Taskforce to interpret and enforce procedural rules.

ARTICLE VI - OFFICERS

Section 6.1. General

- A. The officers of the Taskforce shall be a chairperson, vice chairperson, and secretary. The Taskforce may appoint other officers and assistant officers as may be deemed necessary and may prescribe their authority and duties

Section 6.2. Election and Term of Office

- A. Election of officers shall normally take place at the Annual Meeting, but may be called at another date at the discretion of the Executive Committee.
- B. Officers shall be elected for a one-year term by majority vote of the voting members. An officer shall hold office until a successor shall have been duly elected and qualified, or until resignation, or death.
- C. The Taskforce may re-elect an officer for another term but no officer shall serve for more than two (2) consecutive one (1) year terms.

Comment [J13]:
This language is being added so that no officer may serve indefinitely on the Taskforce.

The intent of this language is to challenge the Taskforce to regenerate leadership over a period of time by recruiting new officers.

Comment [J14]:
This new Section clarifies that only a voting member is eligible to serve as an officer. The language further states that when a member ceases to be eligible to serve as an officer, that office shall be considered vacant.

Section 6.3. Qualifications

- A. A Taskforce member must be a voting member to qualify for election as an officer and must continue to qualify at all times while in office.
- B. When a member ceases to qualify as an officer for any reason, such member shall be ineligible and that office shall be deemed to be vacant.

ARTICLE VII - DUTIES OF OFFICERS

Section 7.1. Chairperson

- A. The chairperson shall preside at Taskforce meetings.
- B. The chairperson, in cooperation with the Executive Committee and a representative of the Iowa Department of Human Services, shall:
 - 1. Ensure members are notified of meetings in a timely manner;
 - 2. Establish and publish the agenda for Taskforce meetings;
 - 3. Establish and publish an annual calendar for Taskforce meetings;
 - 4. Report to the Director of the Iowa Department of Human Services and the Governor of the State of Iowa, on matters relating to the implementation of Iowa's response to the *Olmstead* Decision;

- 5. Serve as liaison between the Taskforce and other groups and organizations, including the Iowa Department of Human Services and its many advisory bodies;
- 6. Communicate with and regularly report to the Taskforce;

C. The Taskforce chairperson casts a vote only in the event of a tie.

Comment [J15]:
This language has been moved from Article V, Section 3 (E).

D. The chairperson shall perform other duties as determined or designated by the Taskforce.

Section 7.2. Vice Chairperson

- A. The vice chairperson shall assume the duties of the chairperson in cases when the chairperson is unable to do so.
- B. The vice chairperson shall act as temporary chairperson until the Taskforce elects a new chairperson.
- C. The vice chairperson shall perform other duties as determined or designated by the Taskforce.

Section 7.3. Secretary

- A. The secretary shall approve minutes of any and all Taskforce meetings.
- B. The secretary shall monitor and verify the accuracy of votes of Taskforce business and motions.
- C. The secretary shall ensure that all minutes of meetings and records of Taskforce business are compiled and maintained by the Iowa Department of Human Services to be retained in perpetuity.
- D. The secretary shall perform other duties, as determined or designated by the Taskforce.

ARTICLE VIII - COMMITTEES

Section 8.1. Standing Committees

- A. **Five (5)** committees are authorized by these Bylaws: (a) Executive Committee; (b) Nominations Committee; (c) Legislative Study Committee; (d) Public Information Committee; **and (e) Strategic Planning Committee.**
- B. Committee members shall be appointed annually at the meeting following the Annual Meeting. In appointing committee members, efforts will be made to reflect the diversity of the Taskforce membership categories.

Comment [J16]:
This language clarifies that Taskforce members elect members to the *Executive Committee* but no other Standing Committee.

Comment [J17]:
The language in the original (D) has been added to (B).

- C. The **chairperson** of each committee shall be elected by majority vote of the committee members.

Section 8.2. Executive Committee

Comment [J18]:
The order of Paragraphs C, D, E, and F has been changed in this Section.

- A. The Executive Committee shall **regularly** consist of **seven (7) members**: the **chairperson**, the **vice chairperson**, the **secretary**, and the **chairpersons** of each of the other standing committees. **The immediate past chairperson shall serve for one (1) year following service as Taskforce chairperson.**
- B. **The Executive Committee shall exercise all powers and duties of the Taskforce between meetings. All proceedings of the Executive Committee shall be subject to revision or alteration by a majority vote of the Taskforce. All acts of the Executive Committee deemed pursuant to emergency situations shall be promptly brought to the full Taskforce for review and ratification.**
- C. The Executive Committee, in cooperation with a representative of the Iowa Department of Human Services, shall:
 - 1. Ensure members are notified of meetings in a timely manner;
 - 2. Establish and publish an agenda for Taskforce meetings;
 - 3. Establish and publish an annual calendar for Task Force meetings;
 - 4. Report to the Director of the Iowa Department of Human Services and the Governor of the State of Iowa, on matters relating to the implementation of Iowa's response to the *Olmstead* Decision;
 - 5. Serve as liaison between the Taskforce and other groups and organizations, including the Iowa Department of Human Services and its many advisory bodies;
 - 6. Communicate with and regularly report to the Taskforce.
- D. **The Executive Committee shall annually review *Conflict of Interest Disclosure Statements*, and make recommendations to the full Taskforce on Conflict of Interest issues. **Whenever a new member is appointed to the Taskforce, the Executive Committee shall review the *Conflict of Interest Disclosure Statement*.****
- E. The Executive Committee shall establish ad hoc committees as needed.
- F. The Executive Committee shall perform other duties, as determined or designated by the Taskforce.

Comment [J19]:
This new language grants authority to the Executive Committee for any decisions that need to be made between Taskforce meetings.

Comment [J20]:
This language requires the Executive Committee to review *Conflict of Interest Disclosure Statements* annually and whenever a new member is appointed to the Taskforce.

Section 8.3. Nominations Committee

- A. The Nominations Committee shall consist of no less than five (5) Taskforce members.

- B. The Nominations Committee shall [recruit officers and bring forward a slate of qualified members](#) for the offices of chairperson, vice-chairperson, and secretary for consideration by the entire Taskforce.

Section 8.4. Legislative Study Committee

- A. The Legislative Study Committee shall consist of no less than five (5) Taskforce members.
- B. The Legislative Study Committee shall study existing State laws, regulations, and pending legislation to identify areas of existing conflict with or potential support for the *Olmstead* Decision. [This Committee shall work collaboratively with the Strategic Planning Committee to resolve barriers to full participation by persons with disabilities through regulations or State laws.](#)
- C. The Legislative Study Committee shall make recommendations to the Taskforce, including strategies that advance its mission.

Section 8.5. Public Information Committee

- A. The Public Information Committee shall consist of no less than five (5) members.
- B. The Public Information Committee, in cooperation with the Executive Committee, shall prepare information for public distribution regarding issues before the Taskforce.
- C. The Public Information Committee shall organize events, as deemed necessary by the Taskforce, which may further the goals of the Taskforce.
- D. The Public Information Committee shall work to establish collaborative relationships with other organizations, to further the goals of the Taskforce.

Section 8.6. Strategic Planning Committee

- A. [The Strategic Planning Committee shall consist of no less than five \(5\) members.](#)
- B. [The Strategic Planning Committee shall identify barriers that prevent persons with disabilities from full participation in their communities. This Committee shall work collaboratively with the Legislative Study Committee and the full Taskforce, in monitoring progress toward full participation, and by planning and developing solutions to overcome barriers to full participation.](#)

Comment [J21]:
This new language establishes a Strategic Planning Committee in the Olmstead Consumer Taskforce Bylaws

Section 8.7. Ad Hoc Committees

- A. The Executive Committee shall create and appoint ad hoc committees to carry out any necessary Taskforce business or activities that are not expressly provided for in these Bylaws.

ARTICLE IX - CONFLICT OF INTEREST

The Taskforce respects the rights of all members in their activities outside of their association with the Taskforce, should such activities not conflict with or adversely reflect upon the Taskforce. It is Taskforce policy to place trust in each member's integrity, judgment, and dedication. It is also important to avoid even the appearance of a conflict of interest. Accordingly, the policy set forth below has been adopted:

- A. All members are expected to declare any financial or personal affiliations that could interfere with their effectiveness in representing the interests of individuals with disabilities and long term care needs on the Task Force, or on their effectiveness in representing the Taskforce to the public.
- B. All members shall complete a *Conflict of Interest Disclosure Statement*, including information on any of the following situations:
 1. Holding a financial interest in a company, organization, or agency that provides services to individuals with serious mental illness or serious emotional disturbance.
 2. Holding a financial interest in any company, organization, or agency that bills or contracts with Medicaid, Medicare, or the Department of Human Services for services rendered.
 3. Membership on other taskforces, boards, commissions, or public bodies that may have interests conflicting with those of the *Olmstead* Consumer Taskforce.
- C. In the course of Taskforce business, members will be expected to identify instances when a conflict or the appearance of a conflict of interest exists and voluntarily abstain from voting in those situations.
- D. Each member shall sign and place on file with the Taskforce a *Conflict of Interest Disclosure Statement*. ~~The member shall execute the *Conflict of Interest Disclosure Statement* at their first Taskforce meeting. The *Conflict of Interest Disclosure Statement* shall be updated annually. (See Appendix A).~~
- E. Any conflict of interest issues that come to the attention of the Taskforce shall be reviewed by the Executive Committee.

Comment [J22]:

This new language has been added to make sure each Taskforce member signs a *Conflict of Interest Disclosure Statement*.

ARTICLE X - AMENDMENTS

These Bylaws may be altered, amended, or repealed, by a majority vote of the Taskforce members at any regular or special meeting of the Taskforce, following a reading, provided that:

1. The proposed amendments have been given a first reading at a prior meeting, and
2. The proposed amendments were submitted to the membership in writing at least two (2) weeks in advance of the meeting where the vote will take place.

An ad hoc Bylaws Committee shall be created by the Executive Committee when necessary for the consideration and development of amendments proposed by Taskforce members or by the officers.

First reading: _____

Second reading: _____

These Bylaws accepted and adopted by majority vote of the Iowa *Olmstead* Consumer Taskforce on _____, 20____.

- Adopted by the *Olmstead Consumer Taskforce* on April 18, 2008.
- Revised by the *Olmstead Consumer Taskforce* on _____, 20____.

Appendix A
Conflict of Interest Disclosure Statement

Ethical Considerations of Taskforce Membership:

(1) Individual Taskforce members have no authority apart from the full Taskforce and cannot act on their own or take action on behalf of the Taskforce without being authorized to do so by the bylaws or the official act of the Taskforce.

(2) All Taskforce members are expected to support the decisions of the Taskforce. Taskforce members are discouraged from taking personal action to discredit the dignity and integrity of the Taskforce, staff, or individual members.

I, _____, have read the Iowa Olmstead Consumer Taskforce Conflict of Interest Policy and state by my signature below that I am in compliance with it and will continue to observe this policy carefully throughout my association with the Taskforce.

In addition, I am disclosing possible conflicts of interest or the potential for the appearance of conflicts of interest, as follows:

Signed: _____

Date: _____

The information in this Conflict of Interest Disclosure Statement will be reviewed by the Executive Committee of the *Olmstead Consumer Taskforce* and maintained as part of the official record of the Taskforce by the Iowa Department of Human Services. If any actual or potential conflict requires attention, the Executive Committee will attempt to resolve the perceived conflict(s).