Massachusetts Autism Commission

Meeting Minutes

February 13, 2020– 2:00 p.m. – 4:00 p.m.

One Ashburton Place, Boston, MA

Present: Katie Mick, Undersecretary for Human Services, Carolyn Kain (EOHHS), Vinnie Strully, Jane Ryder (DDS), Elizabeth Morse (DDS), Janet George (DDS), Rep. Christine Barber (HOU), Johanna Wakelin for Sen. Joan Lovely, Ann Reale (Undersecretary EOE), Sacha Stadhard (EOL), Sam Aigner-Treworgy (EEC), Mary Price (DHE), Theresa Schirmer, Christine Hubbard, Russell Johnston (DESE), Amy Weinstock, Bronia Clifton (DHCD), Julia Landau, Michele Brait, Joan Butterfield (DPH), Katherine Canada (DCF), Dania Jekel, Sue Loring, Joanne Simons, Judith Ursitti, and Dan Burke.

**Welcome - Review and Approval of Meeting Minutes from December 9, 2019**

Undersecretary Katie Mick called the meeting to order and welcomed the Autism Commission members. There are new members to the Autism Commission and Undersecretary Mick asked new members to introduce themselves. Mary Price from the Department of Higher Education and Jason King, representing Senator Ryan Fattman, both introduced themselves to members of the Commission.

Undersecretary Mick asked the commission members for a motion to approve the minutes from the meeting in December - the minutes were approved unanimously.

**Presentation on the Increasing Role of Venture Capital in Autism Services**

Mr. Strully arranged this presentation as a follow up to the discussion during the last Autism Commission meeting in December. There are growing concerns about ABA Center Based Programs and the lack of oversight or license requirements.

Mark J. Macenka, Chair of the Business Law Department of Goodwin Proctor, presented on private investments in the Autism Sector.

*Overview*

* The autism treatment services sector for people 21 and under is worth approximately $15 billion
* It is rapidly growing due to accelerating demand, increased prevalence and diagnosis, and expanded insurance coverage
* Venture Capital – invest in early stage companies. Private Equity – buy companies and leverage buyouts (invest and own almost 100% of companies)
* Roll up strategy – find a fragmented industry and buy multiple organizations across the country
* Acquisitions of autism treatment providers have had an unprecedented surge: \*approximately 50 M&A deals in 2019 and 90% were completed by private equity firms
* Major PE firms are now entering what has been a relatively niche investment market and are acquiring ABA Center Based Programs
* Currently, all the investing activity has focused on early intervention and services for children but many experts raised the question about the unmet needs for adults on the autism spectrum
* Some have suggested that we will see a new wave of M&A activity involving service providers who cater to adults with alternative care models
* The idea is to buy “10 smaller companies” that all have individual CFO’s, CEO’s, accountants etc. and combine to have one position oversee all 10 small companies – it is a cheaper business model and the profit margins will go up. Do more for less, decrease costs and quality will drop
* Lobbyists are owned by venture capital organizations – this will affect services. Most private companies are driven by profit margins
* The issue here is that centers are not licensed and regulated – the license should be a priority

**Update from Undersecretary Reale on the status of meetings regarding the licensure and oversight of ABA Center-Based Programs in the Commonwealth**

Ms. Kain commented on this issue and that we would not want to create additional barriers for individuals trying to access services but there is a need to address the health and safety issues of these programs.

Undersecretary Reale met with several of the state agencies that may be involved in the oversight of the Center-Based Programs. She created a document summarizing their conversation and focused on the health and safety of facilities.

*Summary of EOE, DESE, EEC, EOHHS and DPH discussion regarding ABA Center-based program oversight*

* There are 18,500 children in Massachusetts 6-20 years old with Autism (DESE data)
* MassHealth covers the cost of ABA services, but the approved treatment plan can’t include education. MassHealth only contracts with with ABA centers if they also do home-based services.
* Commercial insurers may not know if ABA services are delivered in-home or “center-based”, but could identify organizations that have billed for ABA services
* FY19 MassHealth data - $109M/year for all ABA services
* For children under 6:

-3,000 receiving some ABA services funded by MassHealth – 750 through CBP @ average of 15 hours per week

For 6-20 year olds:

* 2,500 receiving some ABA services funded by MassHealth
* 350 (14%) in center-based programs during school year
* 900 (36%) in center-based programs during summer

Examples of criteria for receiving an EEC license exemption:

* Not operating on a “regular basis”- “1 day per week or for no more than 10 weeks per year.”
* Provides “occasional care”- “no child attends the program more than 4 hours per day and no child attends the program on more than 6 days per month.”
* “Not separate from parents/guardians or other caretakers who accompany the child to the program…and are immediately available to perform all caretaking tasks…”
* “Offers a class or lesson that are of an “instructional nature” where a child may sign up for a time specific class or lesson and leave the program at the end of that class or lesson.”
* “A “private organized educational system”, unless the services of such a system are primarily limited to kindergarten, nursery or related pre-school services.” (Provided the program is approved by the local education authority, and at least 50% of children enrolled are 6 years old.)
* “Summer Camp”- “licensed by the Department of Public Health or by the Board of Health in the community where it is located”

*Discussion*

* Open issue on who has oversight responsibilities
* Questions regarding Saturday and afterschool programs – part time (could be 2 hours a day or 6 hours a month)
* Attention should be paid to the Autism Support Centers – remove their exemptions?
* A survey will be created and will help focus efforts in certain areas
* Start by looking at the smaller centers that are billing, but we don’t know if they meet health and safety regulations
* Suggestions to include providers as part of this effort – they can also look at the language of the survey
* Question added to survey – ask if the organization is already licensed
* Define “Center Based” in the survey.
* Ms. Kain had added a proposed recommendation at the end of the report and there was a discussion to adjust the recommendation to not include programs already licensed, and to frame it as possible licensure and regulatory requirements to allow for flexibility on the outcome.

**Next Steps:**

* *February:* Discuss initial review with Autism Commission  
  Finalize survey of ABA programs to understand ages served, schedule of care, and current oversight.
* *March:* Conduct survey, analyze results, and determine next steps and recommendations.
* *April:* Discuss recommendations with Secretaries and Commissioners and confirm next steps.
* *May:* Share recommendations and next steps with Autism Commission.
* *May/June:* Finalize implementation plan and begin implementing recommendations to establish  
  health and safety oversight.

**Final Review and Approval of 2019 Draft Annual Report**

Ms. Kain had previously sent the draft report to the commission members for final review. Additional updated data has been added to the report including the MassHealth data on dedicated and non-dedicated devices – the data was broken down by age groups. There were a few minor changes that were made as well. Ms. Kain will file the report on or before March 1, 2020 once approved.

Joanne Simons motioned to approve the 2019 Draft Annual Report, Mr. Strully seconded. All members were in favor of approving the report.

With no further business to discuss, the meeting was adjourned at 3:20 p.m.