



November 8, 2021

To: North Carolina Department of Health and Human Services
through Technical Assistance Collaborative c/o Jenn Ingle
ncolmstead@tacinc.org
communications@disabilityrightsnc.org

From: Peer Voice North Carolina
Re: NC DHHS Olmstead Draft Plan 2021

Dear NC DHHS:

Peer Voice NC (PVNC), which is North Carolina's statewide mental health consumer network and is federally funded by the Mental Health and Substance Use Administration, is highly disturbed about the draft of our state's proposed Olmstead Plan. PVNC's members are comprised of people that have direct experience with the very issues that the Olmstead ruling sought to remedy. As such, we are outraged about the limited offerings in this report because of our state's known history of institutional bias and poorly implemented remedies regarding this. We know that more can be done to effectively offer supports that help people live valuably in their communities and not in institutional settings. Therefore, PVNC members offer the following comments to the 2021 draft NC Olmstead Plan.

Despite recommendations promulgated within the April 2021 Technical Assistance Collaborative (TAC) report and the DOJ 2020 Statement regarding Olmstead Plans, the existing Olmstead draft plan continues to lack any measurable, specific, and timely benchmarks that would fundamentally shift our behavioral health system's bias toward congregate, segregated, institutional care for which it is mandated (see TAC report, April 30, 2021).

By neglecting to follow the mandate from the Department of Justice as described in the Statement of the Department of Justice for Enforcement of the Integration Mandate of Title II of the Americans with Disabilities Act and *Olmstead v. L.C. (2020)*, NC will continue to have an ineffective roadmap for moving individuals to integrated settings. As cited, the Olmstead Plan,

cannot “offer vague assurances of future integrated options or describe the entity’s general history of increased funding for community services” (p. 6, number 12).

Further, it states that an Olmstead Plan must:

- “Reflect an analysis of the extent to which the public entity is providing services in the most integrated setting and must contain concrete and reliable commitments to expand integrated opportunities”;
- “Have specific and reasonable timeframes and measurable goals for which the public entity may be held accountable, and there must be funding to support the plan and “reasonably modify their programs by re-allocating funding from expensive segregated settings to cost-effective integrated settings”” and (see examples of reallocating service dollars below); and
- “Include commitments for each group of persons who are unnecessarily segregated, such as individuals residing in facilities for individuals with developmental disabilities, psychiatric hospitals, nursing homes and board and care homes, or individuals spending their days in sheltered workshops or segregated day programs”;

Throughout the NC draft Olmstead Plan, mischaracterization of the existing mental health service system exists. As one example, the role of the Direct Support Professionals in NC is limited to individuals with I/DD yet is emphasized as the “workforce crisis” that is inclusive of behavioral health services. A second example, under crisis diversion from unnecessary institutional settings, the draft plan argues that it will “track ambulance transport to an alternative location other than ED’s to assist in quantifying the need for expanded peer-run respite services.” In NC, transport to ED’s is not primarily through ambulances, rather through law enforcement. Secondly, alternative locations do not exist widely in NC. Thirdly, given the depth of data that has been collected and reported regarding the overuse of emergency departments and involuntary commitments, the need for peer-run alternatives, such as peer respites, has been well documented and justified.

Key areas of concern to Peer Voice NC that were outlined in the TAC report include:

- 1) Focus on DSP’s as a primary workforce in the behavioral health service array:
The language, scope of practice, training and role of DSP does not convey in community based behavioral health settings where the primary workforce are Peer Support Specialists, Qualified Professionals, and the emerging Community Health Worker roles. These positions have a very different lens, tasks, and competencies than a DSP, yet there is a lack of commitment in this plan to invest in this workforce which is also critically underpaid and in shortage.
- 2) Guardianship as a consistent barrier to community inclusion: The draft plan lacks **clear systems levels changes** that demonstrate that a willingness to lessen the bias toward guardianship and the reduction of the use of guardianship for individuals with mental

health challenges. Relatedly, no mention is made of the use of representative payees or the significant risk of termination of parental rights with parents that have been labeled with mental illness or substance use disorders. When combined with guardianship, all three expanding issues demonstrate a systemic bias toward individuals with MH/SUD challenges.

- 3) Crisis Prevention and Diversion issues as actual prevention and diversion: North Carolina's crisis surrounding emergency department boarding, use of involuntary commitment, and police transport has been widely documented and reported. Priority Area 3 is fundamental to allowing individuals the opportunity to work, live and receive services in the least restrictive, community setting. Furthermore, while mobile crisis for children was identified as a focus, it was not addressed for adults. A variety of alternative prevention and diversion options exist; Promise Resource Network's peer-run respite was cited as one. However, the state of NC does not invest in, nor has sought to replicate or scale peer-respites. In fact, Promise Resource Network's respite and statewide warm-line are funded without any financial support from NC DHHS. A commitment to fund, replicate and scale peer-run prevention, diversion and response options is CRITICAL to Priority Area 3 being operationalized.
- 4) Input from Individuals with Lived Experience: A significant emphasis by TAC was the need for not only representation, but a valued partnership with the statewide mental health consumer organization. PVNC, as stated in the plan, is that entity that over the past two and a half years has repeatedly reached out to the state, requested partnerships and authored numerous White Papers, formal recommendations, and thorough reports (see below for a brief list of these items). Despite this, there has been no meaningful effort by the state to establish a valued partnership with PVNC and there is no intention to do so as it was not identified in the draft Olmstead Plan.
- 5) Racial Inequity as a consistent barrier to unbiased care: PVNC is deeply concerned about the disproportionate approach to funding that consistently undermines the unique needs of Black North Carolinians. At a recent roundtable discussion among a coalition of NC Black Leaders in mental health recovery as well as via a state-wide survey surrounding issues that impact Black leadership, a strong concern is that Black leaders are often not at important meetings where decisions are made about their health and welfare. They call for at least 50% representation of Black leaders at every advisory committee influencing policy surrounding Black health and wellness. The alarming lack of funding of Black-Led organizations in our state serves only to reinforce the problem, intensifying the need for recovery programs in Black and Brown communities. Black and Brown voices should be elevated, valued, and included in this draft.
- 6) Recovery that demonstrates a belief that people living with disabilities are capable of thriving: It is alarming to PVNC that there is no mention of mental health recovery as the overarching framework for the behavioral health system. Mental health recovery is well researched and has been demonstrated through 12 longitudinal studies that most people who are labeled with SPMI are capable of recovery. It is also well documented that to achieve recovery, the system of care utilized by the patient must be designed to **recognize, fund, and establish accountability for mental health recovery** by expectation, rather than exception. In fact, one of the presenters during the Olmstead

planning process emphasized the need to shift to a Recovery-Oriented System of Care framework in policy, processes, funding, outcomes, and service delivery if it is to ever realize the vision of Olmstead. The draft plan does not even mention mental health recovery.

- 7) Trauma-Informed education that is long-term and ongoing to support providers learning a new element of treatment: Another alarming observation from PVNC membership is the absence of a focus on trauma-informed systems, services, and practices. Establishing a trauma-informed behavioral health system requires fundamental, on-going, substantial changes in the way the system operates. Based on research, we know that over 90% of individuals served in the public behavioral health system have experienced trauma and that the approaches they are met with through services must recognize and resist re-traumatization. And yet, there is no commitment in the plan to do so.

For all these reasons and many more, the current attempt to outline an Olmstead Draft plan begs the question: Is there even any desire in the state to address their blatant discrimination of people with disabilities?

In sum, the draft proposal demonstrates a continuation of the practices that have persistently undermined the needs of individuals living with psychiatric disabilities. Written as it is, the Draft Olmstead Plan promises to replicate an existing biased mental health system that continues to discriminate and perpetuate gross violations of Olmstead, the safety net that legally enforces the unjustified segregation of all people with disabilities. The state of North Carolina must curb efforts to discriminate against individuals with disabilities, the very community for which they are entrusted to ensure a life in the community, satisfying work, and receiving safe, healing, effective services in the community. The state *can* move forward with a sound Olmstead Plan by adhering to the guidance clearly outlined in the Department of Justice Integration Mandate, which advises on the requirements needed for an Olmstead plan to end discriminatory practices by the state of North Carolina; and, by partnering with peer-led experts with lived experience through Peer Voice NC as designated by federal SAMHSA funding.

North Carolina absolutely has the models, materials and the resources needed to begin to make sustainable and life-changing restructuring of their current systems, but lacks the prioritization required of them to act. This ultimate protection of the discriminatory status quo leaves our state vulnerable for the inevitable future. It is time for the general assembly and all of those with the ability to shift and influence where tax dollars are spent to examine whether North Carolina is satisfied with being a state known for its perpetual discrimination or whether it would prefer to be known for the innovative opportunities it creates for recovery and daily life satisfaction for people living with disabilities.

Peer Voice NC echoes the detailed breakdown provided by Martha Knisley of Peer Voice NC (list other titles/orgs) where she outlines each priority and shares what absolutely must be addressed for this plan to be an effective agent of change. Peer Voice NC is also formally requesting that NC DHHS representatives make time for a roundtable discussion regarding each

of the priorities included in the current Olmstead Draft Plan in October 2021 so that we may present a more comprehensive outline of our concerns in greater detail.

Sue Jamieson, Lawyer with Atlanta Legal Aid said, “The Olmstead decision wakes us up as a society to the reality of segregation and to be free from segregation is a civil right.” The impacts of the Olmstead decision are meant to inform victims of their rights. As advocates, PVNC will continue to show up and combine skills with a common goal of ensuring that discriminatory practices are stopped forever in the state of NC. We will continue to advocate and speak for ourselves and our family and community members. Our sustainable energy is fueled by our fear of what will happen to our loved ones and our communities if the individuals at the heart of the Olmstead plan are left to the plans the state of NC has for them now. We look forward to meeting with you soon.

Kind Regards,

Peer Voice NC

Important LINKS

Included below are links to reports, papers, recommendations and articles authored by or about PVNC’s efforts to address mental/behavioral health as it relates to NC and the Olmstead decision (not an exhaustive list):

May 19, 2021

NC House bills set to provide professionals to help police with mental health calls

<https://myfox8.com/news/nc-house-bills-set-to-provide-professionals-to-help-police-with-mental-health-calls/?fbclid=IwAR3ngzTYIG4t3QiCAH-P6uhQXpYb5Ww0q4-VSdWkh5sA7qd17XjxnitnneA>

August 31, 2020

Recommendations of the NC Peer Support Expert Commission

<https://drive.google.com/file/d/1KxuGEQxPjh06fneulc8WwrUKUoS7v6CJ/view?fbclid=IwAR042T0w3f0-61jspDA4CsZowsvFVe9lhdDDfnTZ9vUfVP5y59NbnlYaaQA>

August 5, 2021

WHITE PAPER Best Practices in Peer Support: It All Starts Here (6/29/2020)

https://drive.google.com/file/d/1v8J2ETCYsKVLkV1gPfbUw9IGuWXndVDd/view?fbclid=IwAR0p03hCECm1F8xLcbMuPxO62ggyHckq79lNoQYR_h9wgdN1pzQf4eTbfg

“Peer Support’s Next Chapter: Bringing NC Into Better Alignment with Best Practices” Report

https://drive.google.com/file/d/1DLkER9-axVl4nOQvO_d6xIMF2esxPVmN/view?fbclid=IwAR0mgA5pXxePwOxot8q1dq81U6ZTAXiYel-LhQ1wExq8CNqNfXYTDz1Mmk4

PVNC's Peer Wellness Center Recommendations (Sept. 5, 2019)

<https://files.constantcontact.com/9dff4e59601/dc5a34e7-e839-4dbf-acbd-0a8e57e5c7b0.pdf>

PORS Recommendations Report (July 11, 2019)

<https://files.constantcontact.com/9dff4e59601/2c7282cb-fe42-4163-a795-2661970a965b.pdf>

Articles Citing PVNC's Efforts:

Despite pitfalls, counties leave psych patient transport in sheriffs' hands

<https://www.northcarolinahealthnews.org/2021/03/23/psychiatric-patient-involuntary-commitment-transport-in-sheriffs-hands/>

NC didn't track the data on mental health commitments, so some advocates did it instead.

<https://www.northcarolinahealthnews.org/2020/12/21/nc-didnt-track-the-data-on-mental-health-commitments-so-some-advocates-did-it-instead/>

More NC psych patients are ending up handcuffed in a police car. Why?

<https://www.northcarolinahealthnews.org/2020/12/14/more-nc-psych-patients-are-ending-up-handcuffed-in-a-police-car-why/>