

# Virginia's *Olmstead* Initiative

Presentation to the  
Virginia Disability Commission

December 17, 2004

**Julie A. Stanley, J.D.,** *Director*  
*Community Integration for People With Disabilities*

## Overview and Timelines

- 1999: The *Olmstead v. L.C.* decision
- 2002: Virginia's *Olmstead* Task Force
- 2003: *Olmstead* Task Force Report
- 2004: Executive Order 61 (2004)  
2005-2006 Budget Initiatives  
Oversight Advisory Committee Report

## ***Olmstead v. L.C., 527 U.S. 581 (1999)***

- Unjustified isolation is properly regarded as discrimination based on disability under Title II of the ADA.
- States have a duty to make reasonable modifications to programs to provide community-based treatment if:
  - the affected persons do not oppose it,
  - treatment professionals determine it is appropriate, and
  - the state can reasonably accommodate the placement.
- If challenged, a state must be able to show that it has:
  - a comprehensive, effectively working plan for placing qualified persons with disabilities in less restrictive settings, and
  - a waiting list that moves at a reasonable pace not controlled by the state's endeavors to keep its institutions fully populated.

## The *Olmstead* Task Force: 2002-2003

- Item 329 M of the 2002 Appropriation Act directed DMHMRSAS to convene a task force to develop recommendations to implement *Olmstead* in Virginia.
- 70 members and 55 others, including *all* disability populations, family members, advocates, providers, local government, legislators, and 15 state agencies
- Final Report submitted 9/15/03 to Governor Warner, Joint Commission on Health Care, and Chairs of the House Appropriations and Senate Finance Committees:
  - Identifies issues and barriers to community integration
  - Proposes 201 recommendations

## Executive Order 61 (2004)

- January 6, 2004: Governor Warner issued Executive Order 61 (2004), *The Olmstead Initiative*, establishing and specifying responsibilities of:
  - State Agency Community Integration Implementation Team;
  - Stakeholder Community Integration Oversight Advisory Committee; and
  - Director of Community Integration for People With Disabilities.

# Community Integration Implementation Team

- 23 Members:

- Four Secretaries: voting *ex officio* members
  - Commerce and Trade
  - Education
  - Health and Human Resources
  - Transportation
- Designees from 18 state agencies; Director chairs

- Roles:

- Decide type of action needed for implementation
- Cost out and update recommendations; prioritize and prepare legislative and budget proposals for Governor's consideration
- Seek advice from/report annually to Oversight Advisory Committee on status of *Olmstead* implementation in the Commonwealth

# Community Integration Implementation Team, cont'd

- Activities to date:
  - Assigned “lead agency” to each recommendation to cost out the recommendation and identified additional state agencies and stakeholders to assist
  - Divided recommendations into two phases for cost out and costed out 112 “Phase 1” recommendations this year
  - Submitted report to Oversight Advisory Committee July 15
  - Met with agency ADA Coordinators
  - Met with Oversight Advisory Committee

# Community Integration Oversight Advisory Committee

- 19 stakeholder members:
  - 7 with mental, physical, developmental and sensory disabilities;
  - 11 family members of individuals with mental illness, mental retardation, brain injury, autism and Alzheimer's disease;
  - A private provider of transportation services to people with disabilities and statewide representatives of providers of employment, mental health, mental retardation, substance abuse, nursing facility and private sector health care services; and
  - Advocates of individuals with various disabilities
- Roles:
  - Oversee *Olmstead* implementation in Virginia
  - Advise Implementation Team
  - Receive annual reports from Implementation Team
  - Report recommendations to Governor prior to October 21, 2004

# Community Integration Oversight Advisory Committee, cont'd

- Activities to date:
  - Provided advice to Implementation Team
  - Formed two subcommittees to address specific issues
  - Reviewed Phase 1 cost outs with each lead agency
  - Received public comment on parts of Implementation Team Report
  - Made recommendations in *First Annual Report* submitted to Governor Warner October 19
  - Held joint meeting with the Implementation Team

## ***Olmstead* Budget Initiatives: 2004 Session**

- 105 IFDDS waiver slots for people with developmental disabilities
- Medicaid Buy-In Program
- Expanded DSS Caregivers Grant Program
- Core funding for Centers for Independent Living
- Continuum of brain injury services to people in unserved or underserved regions of the Commonwealth
- Personal care provider rate increase: 5% effective July 1, 2005

## ***Olmstead Budget Initiatives: 2004 Session, cont'd***

- Minimum of 860 mental retardation waiver slots:
  - 160 for persons in state mental retardation centers
  - 700 for persons in the community
  - Additional 180 slots for persons in the community if capacity is found to be sufficient to absorb the 180
- 300 slots for new day support waiver
- Two DMHMRSAS licensing specialists
- Expedited transitioning persons with disabilities from hospitals to rehabilitation centers (to include Medicaid disability determinations within seven business days)
- Restored funding for sheltered workshops

## ***Olmstead Budget Initiatives: 2004 Session, cont'd***

- 77 individualized discharge assistance plans (“DAP”)
- Community mental health services for children and adolescents
- 5 new Public Guardian and Conservator Programs
- 3 new Programs of Assertive Community Treatment (PACT)
- Expanded purchase of inpatient treatment in community hospitals
- New Medicaid waiver for persons with Alzheimer’s Disease and related dementias
- Dementia-specific training for long-term care workers; Alzheimer’s training for public safety/health personnel

## ***Olmstead Budget Initiatives: 2004 Session, cont'd***

### Other provider reimbursement increases:

- MR waiver providers: 3% as of July 1, 2005
- Nursing homes: \$3 per patient per day on July 1, 2005
- Inpatient hospitals: from 72 to 75% of allowable costs on July 1, 2005
- Assisted living facilities: Auxiliary grant increase of 3.2% as of July 1, 2005 and funding for 140 residents of ALFs who will become Medicaid-eligible due to that increase

# **Committee's *First Annual Report*: October 19, 2004**

- Adopts vision, values and goals from Task Force Report
- Makes recommendations in three major areas:
  - Providing Virginians With Disabilities an Opportunity to Live in the Most Integrated Setting Appropriate if They Choose to Do So;
  - Providing Adequate Oversight and Monitoring to Assure that Virginians With Disabilities Are Able to Live in the Most Integrated Setting Appropriate When They Choose to Do So; and
  - Valuing, Encouraging, and Providing Opportunities for Interagency and Stakeholder Collaboration and Learning at All Times.
- Addresses “Lessons Learned” from Phase 1
- Recommends “Next Steps”

# Committee's *First Annual Report*: October 19, 2004, cont'd

- Examples of Recommendations:
  - Plan to establish/maintain discharge waiting lists of residents in nursing facilities and assisted living facilities
  - Create a housing assistance fund
  - Add Medicaid-reimbursed transition benefits to waivers
  - Implement a brain injury waiver
  - Eliminate Waiver and mental health facility discharge waiting lists
  - Continue to increase Medicaid reimbursement rates
  - Fund/expand the DSS companion program
  - Create a continuum of crisis stabilization services
  - Strengthen Committee's and Director's roles
  - Formulate a systems complaint process
  - Appoint people with disabilities, family members, or surrogate decision makers to executive/legislative boards and commissions, at the state and local levels

# Committee's *First Annual Report*: October 19, 2004, cont'd

- Recommended Next Steps:
  - Include funding for recommendations in next budget
  - Introduce legislation to statutorily create the Team, a Commission similar to the Committee, and the Director
  - Reissue Executive Order 61
  - Collaborate with Implementation Team to develop a comprehensive action plan

# Highlights of Governor's Proposed *Olmstead* Budget Initiatives: 2005 Session

- **Housing supplements** for over 200 people with disabilities who want to and can live in more integrated community settings (for FY 2006, \$1.5 million GF)
- **Transition benefits** for people leaving institutions (for FY 2006, \$370,000 GF and \$370,000 NGF)
- **Long term rehabilitation case management** to prevent institutional placements/assist with discharges (for FY 2006, \$150,000 GF)
- Increased funding for **Centers for Independent Living** (for FY 2006, \$150,000)
- As a part of restructuring the mental health system, expansion of **crisis stabilization units** (for FY 2006, \$2.9 million GF)
- Expansion of **public guardianship program** (for FY 2006, \$150,000 GF)

# Additional Information

- Visit [www.olmsteadva.com](http://www.olmsteadva.com) for:
  - The *Olmstead* decision and background information
  - Copies of the Task Force, Implementation Team and Oversight Advisory Committee Reports
  - Notes and Minutes from Team and Committee meetings
  - Team and Committee meeting schedules
  - Links to helpful websites
  - “Latest News”