



**Southwest
Developmental
Services, Inc.**

**“Helping Kansans with developmental disabilities
access quality community services”**

To: Senator Mary Pilcher-Cook, Chair
Members, Public Health and Welfare Committee

From: Mark G. Hinde, President/CEO

Date: March 12, 2013

Subject: Senate Bill No. 194

Madame Chair and members of the committee, thank you for this opportunity to appear before you today to provide testimony regarding Senate Bill No. 194. I am Mark Hinde, President and CEO of Southwest Developmental Services, Incorporated (SDSI), the Community Developmental Disability Organization (CDDO) for eighteen counties in Southwest and Central Kansas.

I am here today representing SDSI and the SDSI board of directors. My testimony today is in opposition of SB 194 as it has been introduced. While this appears to be an attempt to correct flaws in the system we believe it does not go far enough. We support significant changes which we believe will improve the I/DD system in the State of Kansas. Attached to this testimony is our position paper which outlines recommended changes in more detail.

Background Information

SDSI is a private not-for-profit 501 (c) (3) corporation originally formed in 1974. SDSI has operated as an independent CDDO for the past fourteen years and does not provide direct services to individuals. Currently we have offices in Garden City and Great Bend to service eighteen counties.

SDSI contracts with twenty-eight (28) different community service providers who provide an array of services to individuals in Central and Southwest Kansas. These community service providers include two large multi-state corporations, a local not-for-profit organization, many medium sized locally owned businesses and several individuals providing services to one or two individuals. SDSI currently has a total of one thousand ninety-four (1,094) eligible individuals in our service area.

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Eligibility Determination

SB 194, as written, appears to take the responsibility of Eligibility Determination away from the CDDO. This bill does **not** designate who would then make the eligibility determination. We do not support this change. We do support an independent CDDO being responsible for eligibility determination. An independent CDDO is one that does not provide direct services and has no ties to a community service provider.

An independent CDDO can review applications and determine eligibility. The CDDO informs eligible individuals of all service options and providers available in their area and makes no recommendation as to which community service provider an individual chooses.

Functional Assessments

The proposed language in SB 194 would require the functional assessment to be completed by an independent agency or by a CDDO that does not provide services for the person with a developmental disability. We do not believe the functional assessments should be contracted to independent agencies such as the MCOs who also have a financial interest in the outcome of the assessments. We agree the functional assessment should not be completed by a CDDO who provides services. SB 194 does not define independent agency nor does it clearly define the restrictions on CDDOs who provide services.

We do support an independent CDDO being responsible for completing annual functional assessments. An independent CDDO can complete all annual assessments in a consistent manner and question changes presented by all affiliates. The independent CDDO has no financial interest in the results of the assessments and acts as the local safeguard to insure annual assessments and the resulting tier levels are accurate.

Conclusion

The proposed changes in SB 194 would not be necessary with complete and true separation. We believe it is time for a complete and true separation of CDDO responsibilities from direct service provision and we believe this would be beneficial to the I/DD system in Kansas. It does not benefit the system to make minor changes such as proposed in SB 194 when the overall problem is the inherent conflict of interest allowed to exist under current statute. Again we have attached our position paper which outlines our recommended changes in more detail.

Thank you for your time and attention. I would be happy to answer any questions you may have.



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Background Information

SDSI is a private not-for-profit 501 (c) (3) corporation originally formed in 1974. SDSI has operated as an independent CDDO for the past fourteen years and does not provide direct services to individuals. Prior to July 1, 2004 SDSI was the CDDO for thirteen counties in Southwest Kansas. On July 1, 2004 SDSI realigned its CDDO area to include these five additional counties in Central Kansas: Barton, Pawnee, Rice, Rush and Stafford. Currently we have offices in Garden City and Great Bend to service these eighteen counties. SDSI has a total of ten staff including the President/CEO, a Chief Financial Officer, a Chief Programs Officer, two Quality Assurance Managers, two Admissions Managers, and three office support staff.

SDSI contracts with twenty-eight (28) different community service providers who provide an array of services to individuals in Central and Southwest Kansas. These services include day, residential, case management, and payroll billing. These community service providers include two large multi-state corporations, a local not-for-profit organization, many medium sized locally owned businesses and several individuals providing services to one or two individuals. SDSI currently has a total of one thousand ninety-four (1,094) eligible individuals in our service area.

Separation of CDDO from CSP

With the passage of the DD Reform Act in 1995 the I/DD system was opened wide to the concept of competition but with little regard as to how the system would develop. Little did anyone dream that we would go from 32 licensed providers then to 300 plus licensed providers today. We believe an adjustment or course correction is long overdue and changes need to be made to continually improve our system.

We support the changes necessary to level the playing field of competition and allow CDDOs to better serve each individual. If these changes are not made voluntarily then we will continue to support legislation that would require all CDDOs to operate very similar to how SDSI and five other CDDO areas operate today. Each CDDO would provide for a specified region, intake, referral and other administrative functions as required under the DD Reform Act, but would be prohibited from providing community services for persons with developmental disabilities.

In our experience we have found this separation of responsibilities to be very beneficial to the persons served as well as to the entire service delivery system.

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Control of State and Local Funds

SDSI, with input from its affiliates, develops local finance plans that distribute the vast majority of state aid and local county funds to community service providers in an equitable fashion. This plan is reviewed every six months by SDSI and its affiliates. Revisions have been implemented in the past for various local service needs and changes in available funds. Our plan subsidizes such services as transportation, and pays for some Medicaid ineligible case management. It also assists in funding capacity building programs of local service providers. We believe this approach benefits all persons receiving services regardless of who they receive services from.

Currently, there is no regulatory or legislative mandate for dual-role CDDOs, those which also provide community services, to share county mill or state aid with affiliated CSPs and there is no incentive for them to voluntarily do so. This enhanced revenue base enjoyed by the dual-role CDDO creates several competitive business advantages for such dual-role CDDOs. Quite simply, smart business leaders would not voluntarily give up something that places their business at a competitive advantage. These competitive business advantages may include the following:

1. The enhanced revenue base allows dual-role CDDOs to create salary and benefit enhancements that may not be affordable to affiliated CSPs;
2. The enhanced revenue base allows dual-role CDDOs to offer additional services or enhanced services that the affiliated CSPs cannot afford to offer;
3. The enhanced revenue base allows dual-role CDDOs to serve individuals unfunded in order to secure their business when funding becomes available.

This approach benefits only the persons receiving services from the dual-role CDDO but not all persons receiving services in the CDDO area.

Intake, Referral and Waiting List

The independent CDDO can review applications, determine eligibility and assist with referrals without any regard as to which service provider the individual may eventually choose. The CDDO informs eligible individuals of all service options and providers available in their area and makes no recommendation as to which community service provider an individual chooses. The CDDO also manages the waiting list in an equitable manner according to rules and regulations and local policy.

On the other hand, the dual-role CDDO has access to information on all new persons applying for services and all persons on the waiting list. Other service providers do not have this information. The dual-role CDDO is better able to market their services to these persons. They also can use the waiting list information to start advance preparation for service needs to attract individuals to their services as they receive new funding and come off the waiting list.

Quality Assurance

The independent CDDO is able to perform quality assurance on-site reviews of all affiliated service providers in an unbiased manner. The individual receiving services is the focus of the

quality assurance process regardless of who provides the services. For the independent CDDO the ultimate goal of this process is the improvement of services for the individual.

Unlike the independent CDDO, the dual-role CDDO is placed in the unjust position of doing quality assurance reviews on itself and its competitors. Regardless of the safeguards in place for the dual-role CDDO there will always be the potential for a conflict of interest.

Affiliates

The independent CDDO is able to deal with all current and prospective affiliates in a fair and consistent manner without regard to any financial impact on the CDDO. This creates more opportunities of choice for persons receiving services. Prospective new affiliates are not subjected to unreasonable requirements that would prevent their affiliation.

On the other hand, the dual-role CDDO is in a position to impede the affiliation process of a prospective new provider with unreasonable requirements. This decreases the risk of competition for the CDDO and eliminates choice for the consumer.

The independent CDDO is a neutral third-party in any potential dispute that does not directly involve the CDDO. This allows them to resolve many disputes at the local level. They are in a position to always advocate on behalf of the consumer. The CDDO will develop policies and procedures and is in a position to consistently apply these policies and procedures within their service area.

Tier Determination

Since July 1, 2006, SDSI has performed all annual assessments in our service area. SDSI, as an independent CDDO, has no financial interest in the results of the assessments and acts as the local safeguard to insure annual assessments and the resulting tier levels are accurate.

Governing Board

As an independent CDDO our governing board does not have a conflict of interest in the decision making process as it might have if SDSI was also a service provider. The SDSI Board of Directors is comprised of one representative from each of the counties in our service area. Their respective county commission is asked to recommend each of these representatives. The SDSI Board of Directors is totally independent and does not allow owners, board members, or employees of any service provider in the SDSI area to serve on its Board. This eliminates any conflict of interest between the CDDO and any of its affiliates. This allows the CDDO to operate for the equal benefit of all individuals served and all service providers in the CDDO area.

Relationship with KDADS

As an independent CDDO we do not have a conflict of interest when negotiating with KDADS on such things as the annual contract or policy development. We represent all stakeholders in our service area impartially on such matters. We also work with KDADS for consistent oversight of services within our service area.

Managed Care Organizations (MCOs)

The core CDDO functions such as Eligibility Determination, Annual Assessment, Quality Assurance and local Dispute Resolution should be managed by an independent CDDO. These functions should not be delegated to the MCOs who would also have a vested financial interest in the outcomes of these functions. Just as in the case of service providers, the MCOs have an inherent conflict of interest if allowed to manage these important segments of the system.

Conclusion

In conclusion we believe it is time for a course correction. It is time to level the playing field of competition for all community service providers.

- All community service providers should have equal access to state and local funds.
- Intake, referral, and waiting lists should be managed in a manner that benefits all persons regardless of provider.
- Quality assurance should be performed by an independent party with the goal of improving services for the individual.
- Current and prospective affiliates should be dealt with in a fair and consistent manner without regard to any financial impact on the CDDO.
- Annual assessments should be completed by the CDDO in a fair and consistent manner for all community service providers.
- The CDDO governing board should be free of any ties to service providers.
- CDDO relations with KDADS should impartially represent all stakeholders in their service area.
- Core system functions should be managed by the CDDO and not transferred to the MCOs.

We believe a complete and true separation of CDDO responsibilities from direct service provision would be beneficial to the I/DD system in Kansas. This separation is necessary to level the competitive playing field for all community service providers. These same changes will also benefit the more than eight thousand individuals receiving services.

We also believe these changes will result in a natural reduction in the number of CDDO areas. This consolidation can be accomplished voluntarily at the local level as we did in the Great Bend area or through legislative action. Either way, we believe now is the time.