Strategies For Navigating Systemic Uncertainty

How Oregon's 2002 Staley Settlement Created Opportunities for Consumers & Providers Alike

Presenter Background

- Oregon City High School
- University of Oregon, Bachelor of Arts

- Advocate/Home Life

  Corvallis, OR 1999-2001
- Involuntary Commitment Specialist/King County MH

  Seattle, WA 2001
- Personal Agent/Mentor Oregon

  Portland, OR 2004-05
- Chairman/Developmental Disability Advisory Committee
  Portland, OR 2006-10
- Assistant Director/Mentor Oregon

  Portland, OR 2005-13

Current Involvement

- ## Chair of Brokerage Advisory Board

  United Cerebral Palsy, Portland, OR

- ## Independent Contractor Specialist

  Future Forward Services, Portland, OR

- ## Coach/Partner

  Special Olympics, Multnomah County, OR

State System Before Staley #1

- Institutional Setting: Fairview
- Fairview institution was established in the state capital of Salem, Oregon in 1907.
- Provided cradle to grave "care" for children and adults with developmental disabilities.
- Fairview finally closed in 2000.
- Early enrollments in the current Brokerage system included numerous survivors of Fairview.
- As in most institutional settings nation wide, there was no personalized care, minimal life skill education, and high levels of abuse.

Fairview, OR

State System Before Staley #2

- Natural Supports: Not-In-Service Population
- In 2002 every one of Oregon's thirty-seven counties held a long "wait list" of people looking for support.
- Spots on the wait list were based on a customer's enrollment date of enrollment.
- Attrition was the only way to move up. When someone moved or passed away, a slot would open up.
- Consequently, customers died while waiting for services that were never provided.

State System Before Staley #3

- Community Based Support: Slot System
- A complex system, "slots" were blanket dollar amounts given by the State to service providers.
- Behavioral slots were given to customers with high behavior needs.
- Transportation slots were given to rural providers to get customers into town for medical or recreational appointments.
- Employment slots were given to a few customers who had jobs in sheltered work shops.
- Similarly, if a slot was vacated by a customer, then that slot would open for someone else.

State System Before Staley #4

- Access To Crisis/Comprehensive Support.
- Primary caregiver needed to die or experience severe physical or mental incapacitation before any group home would be identified.
- No planned move of customers from family homes into group homes.

State System Before Staley #5

- Snap Shot of Disability Services in 2000:
- Large populations statewide meeting disability criteria without access to any service.
- Case load sizes out of control. Case Managers were caught in the middle, responsible for hundreds of customers but not capturing all.
- The slot system provided services to customers but were expensive and relatively ineffective.
- The slot system were not based on customer centered choice or service.
- County based bureaucracies provided all state connected service and consequently became rigid.
- Anger, indifference and confusion.

Core Tenants of Staley Lawsuit

- Alleges that the state failed to provide services in the most integrated setting.

- Asserts that individuals with DD are <u>entitled</u> to Medicaid-funded services in a prompt and timely manner.

- Believes that the state of Oregon should allow customer access to comprehensive services outside of the crisis system.

The Staley Lawsuit #1

- What The Staley Settlement Gave **Customers**
- First: choice.
- Every aspect of the customer's Individual Service Plan (ISP) would now be created and designed by their choice.
- Customers were entitled to choose providers, agencies and what came to be known as personal agents.
- Second: autonomy.
- Customers could choose to include or exclude their family members, friends, spouse from their ISP.
- Third: individualized support.
- The most critical change. Every support provided was customer choice. Legally, supports were based on 1:1 time, needed to fit the definition of disability based, and required customer signature.

Staley Lawsuit #2

- What The Staley Settlement Gave The System.
- The fully implemented Staley Settlement ended all waitlist (for the time being) thus ending an ugly chapter in Oregon history.
- Gave the state extra funding the terms of a federal match to all dollars spent from the general fund. Money meant development of new support systems.
- A groundbreaking Brokerage system that served all customers who were not in enrolled county service.
- Allowed other entities such as VR, crisis and DRO to effectively specialize.
- The County bureaucracy remained but their caseloads decreased dramatically.

Staley Lawsuit #3

- What The Staley Settlement Created: Employment Opportunities.
- With thousands of new customers entering the system with money to spend on support, a new class of highly skilled Independent Contracts emerged. These community based providers were capable of providing the kind of responsive 1:1 supports that customers were entitled to.
- An opportunity for Personal Support Workers/Domestic Employees to receive payment for work in-home, which lessened the strain on lower income families deciding between work and providing care.
- A new case management styled system that could provide advancement and development for staff.

Brokerage 101

- The Personal Agent acts as the central provider of customer supports.
- The term Personal Agent was chosen instead of Case Manager because the old term had become synonymous with frustration and disillusionment.
- Each Personal Agent served a caseloads of up to 45 customers.
- Personal Agents broker supports, meaning they assist the customer in finding the right provider or setting to meet their needs.

Brokerage 101

- The Customer is the recipient. Again, this term was named specifically in the lawsuit
- What defined an eligible customer had to be defined by the state. An adult meeting the criteria of having a developmental disability whose needs could be met under a budget.
- That eligibility was determined by the County prior to enrollment in the Brokerage.
- Customers were given choice of Brokerages, Personal Agents, etc…

Brokerage 101

- The Brokerage
- Brokerages opened statewide on an RFP basis. Five opened their doors right away; currently there are eleven.
- There was consideration given to geography. Oregon is comprised of many smaller rural communities outside the highly populated Willamette valley.
- Brokerages are often run as programs under the oversight of established non-profits, by start-up non-profits, and some for-profit social service providers.
- Each brokerages operates autonomously. Each one responsible for their own fiscal reconciliation and passing of licensure.
- Brokerages began as (and still remain) a highly collaborative work space. Directors work hand in hand to implement complicated parts of the Staley Settlement.

Brokerage 101

- The Funding.
- Total Brokerage funding was based on a 95% state take-over model.
- In 2002, Customers were granted $12,666 per year to meet the needs identified in their ISP.
- Some higher needs customers received up to $19,999.
- (Note: these numbers changed on a bi-annual basis)
- Considering the costs associated with slot rates ($5,500-7,000 per month) and comprehensive ($65,000-75,000 annually) these annual rates were seen as a bargain.
- The rates for services paid to providers were set by the state of Oregon and were not subject to change on an individual basis.
- Hourly rates for IC's and Personal Support Workers, daily rates for agencies providing sheltered workshop support.
- Providers created invoices, received customer approval and submitted them to Personal Agents in order to be paid.
- Personal Agents serve as gatekeepers for customer funding.

Questions?

New Job Vs. Old Job

- Until the first round of Personal Agents walked in the door on Day #1, no one had ever done this job before; the county Case Manager Position, however reviled, was well defined and everyone knew the description.
- Personal Agent salary opened at $32-34,000 per year; County Case Managers made 140% of that to start, with far superior benefits.
- Most metro-area Case Managers were "mid-career" social workers who had been in the system for years.
- Brokerages worked with non-profit resources at their disposal; Counties had state and government backing.

Hiring/Training Strategies

- When the rules have not been written, training can be a significant challenge.
- A tendency toward confusion hiring can arise out of this kind of uncertainty.
- Hire with a growth mindset. This was very effective early on for our program.
- Orient hiring and training around results and core program values. Those won't change even if the function shifts and evolves.
- Use a peer training strategy which is more in the moment than your course book.

Strategies For Retention #1

- An open door goes a long way.
- A closed door conveys certainty and defers responsibility entirely to staff.
- Availability is the most critical trait in managing employees through uncertainty.
- Meet problems with flexibility. Remember you are learning as staff learns, so embrace that role as a leader.

Strategies For Retention #2

- Empower staff to master outcomes.
- If the outcome is to get the customer housing, or to keep them out of jail, allow staff to focus on those core service aspects.
- At all costs, work to preserve the staff/customer relationship.
- In critical situations our management policy was to encourage managers to figure out how the paperwork needs to get done.
- This leads to a feeling of support and respect even though there is significant uncertainty.

Strategies For Retention #3

- Personalize employee supervision.
- Program derived employee goals may not be applicable in a changing system.
- More frequent appraisal of performance; less formal appraisal.
- Ask, does this employee respond to ratings? Or do they respond to conversations?
- Walk the floor and allow those in-office teaching moments replace closed door, sit down meetings.

Strategies For Retention #4

- Use resources at your disposal to celebrate employee and program achievement.
- If you cannot offer more money to staff, offer greater opportunity to develop.
- Be bold in building bridges.
- Whenever possible, dissolve the above the line and below the line mentality.
- Being in the moment with supervisors during uncertain times builds a rapport.

Partnering Outside The Org Chart

- Bridge building is a form of transparency between different programs.
- Remove the mystery of how your team accomplishes it's goals.
- Introduce your staff to their future employers.
- Good social workers want to know how other things work. Create a liaison-styled system that encourages employee specialization.
- Empower employees to create their own solution through collaboration.

Living In A World of Possibility

- If a rule has not been written (or is still in draft and development) that means it is open to input. Use that uncertainty to empower your staff.
- Every conflict is an opportunity to build a bridge between providers and programs.
- Changing standards are an opportunity to make on-going training a part of work culture.
- As a manager, get involved and become a part of that solution as it develops. Staff respond positively to active management.

Staff Versus Culture

- Remember that you're not hiring someone for a lifetime contract. All of your staff are short term.
- Good social workers are problem solvers. Encourage your problem solving employees to develop their own work style.
- Good social workers are perceptive workers.
- Transparency is a form of honesty. Don't fake it.
- How a task was done before, or is being done by someone else, cannot be regarded as the only way to do it now.
- Use the soft work place benefits.
- Organization mantras are less effective than working with what really motivates someone. Bring Caring Closer.
- Be certain that you're always working toward larger, program goals toward outcomes.
- A strong culture does not operate out of fear. It thrives because it helps alleviate uncertainty.

Function Of A Brokerage Board

- According to terms written into the Staley Settlement, every Brokerage must have a Board of Directors; a majority of active members must be customers.

- The Board must meet quarterly, take minutes and report those during bi-annual Brokerage licensing.

- … the group must eat pizza.

Strategies For Board Engagement

- Remove the glass ceiling. We set board member term limits.
- Remove the echo chamber. We have focused outreach outside our current program.
- Make progressive drives for new membership an evergreen activity.
- Employ a policy of cross-involvement bringing members in contact with core program function.
- Make outreach a regular part of your board's regular activity.
- Most importantly, think big and bigger.

Post Settlement Changes

- When 2009 arrived and the terms of the Settlement had been satisfied, the state of Oregon's Bureau of Labor examined the role of customer as employer.
- Concurrently, the Bureau also challenged the notion that Independent Contractors legally fit that definition, threatening that position.
- With the Personal Agent position a decade old and well defined, the position is now expected to compete with Case Management yet the system continues to be funded at a 95% rate.
- A considerable brain drain has occurred.
- Budget constraints have threatened the forty-five person caseload mandate.

Systemic Threats

- Currently, there are threats to CMS funding from the current Republican Administration.
- Oregon has been deemed an "Employment First State" by the Federal Government which threatens individual customer choice.
- Contractor rates have stagnated.
- The Bureau of Labor has continued to press issues with the role of Customer as employer.
- Rural resources continue to be an issue.

Further Resources

- Oregon Support Services Association

http://oregonsupportservices.org/

- Roadmap To Support Services In Oregon

http://droregon.org

Thank You

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