

Comments on SB 10-114
by
CCB Partners.

The bill contains what appears to be a targeted assault on CCBs. Section 5 of the bill, added on Senate Second Reading, adds a significant financial and workload burden -- and treats CCBs as though they are governmental agencies. With no justification, the bill singles out one class of nonprofit organizations in the State.

The new language requires the CCBs to "make available for inspection to the public...any contract or public records relating...to the services and supports provided by the board." The open ended nature of this language could lead to a substantial workload increase for each CCB.

The fact is that CCBs are the most transparent of nonprofit organizations in Colorado. Consider:

1. Provider contracts are already public record;
2. CCBs are included in the State's Online Transparency Project;
3. CCB fiscal audits are posted on the Division for Developmental Disability website;
4. Early Intervention Services Monitoring Reports and CCB Plans of Correction are posted on the DDD website;
5. CCB's hold at least one Family Forum per year;
6. CCBs have Family Support Councils to ensure open dialogue with families and to address the service needs that are unique to local areas;
7. CCBs have Human Rights Committees comprised of volunteers that ensure that client rights are protected;
8. CCBs are governed by nonpaid Boards of Directors comprised of Colorado citizens;
9. CCBs provide all governing documents on request; and
10. CCB Annual Reports are available to anyone on request.

The bill ignores the salient differences between government agency responsibilities and those separate responsibilities that Congress gave to nonprofit organizations as tax exempt entities. SB 114 intends to treat nonprofit CCBs as though they were government agencies. If enacted, there will be a significant financial and work load burden added to the administration of each CCB with no qualitative difference in the transparency of CCB business activities. In these days of budget cuts, CCBs cannot afford to take on costly and unnecessary administrative activities.

The Community Centered Board system is already regulated in numerous ways to insure transparency and accountability under existing law. Key aspects include:

1. The Executive Director of the Department of Human Services is given broad rulemaking powers, C.R.S. § 27-10.5-103, and the rules that have been promulgated pursuant to that statutory authority (2 CCR 503-1; § 16.100 *et seq.* ("DD Rules")) cover an entire spectrum of transparency and accountability requirements including, but not limited to:

- “(a) Standards for services and supports, including preparation of individualized plans;
- “(b) The designation of community centered boards and the organization of those entities, including standards of organization, staff qualifications, and other factors necessary to ensure program integrity;

- “(c) Purchase of services and supports and financial administration;
- “(d) Procedures for resolving disputes over eligibility determination, admission to programs, and functions of the referral and placement committees;
- “(e) Systems of quality assurance and data collection; [and]
- “(g) The rights of a person receiving services; “. . .” C.R.S. § 27-10.5-10(2).

2. In the 2008 legislative session, the General Assembly enacted House Bill 08-1220, which, *inter alia*, added a new (a.5) to C.R.S. § 27-10.5-104, requiring that the Department of Human Services “shall only purchase services and supports directly from those community centered boards or service agencies that meet established standards.”

3. Community Centered Boards are required to be certified as such on an annual basis by the Department of Human Services. The designation process covers a myriad of issues including quality of services and supports. C.R.S. § 27-10.5-105(1). The designation can be revoked between annual determinations if the Community Centered Board fails to meet its statutory and regulatory responsibilities. C.R.S. § 27-10.5-105.5.

4. The boards of directors for the Community Centered Boards must represent a broad representative group including family members of persons receiving services as well as persons receiving services. Meetings are open to the public. C.R.S. § 27-10.5-105(2).

5. The Community Centered Boards are audited every year, *see* C.R.S. § 27-10.5-104.5(3), and the audit results for all of the Community Centered Boards are posted on the Department of Human Services’ web page.

6. Virtually all services are purchased using standardized rates, and billings are highly regulated by the Department of Health Care Policy and Financing.

7. Persons who are receiving services, their parents and legal guardians have extensive due process rights. DD Rule 16.300 *et seq.* Any significant change involving a person’s services is subject to due process. *See* DD Rule 16.322. There is, moreover, a “grievance/complaint process” established by rule to deal with disputes that are less serious and on a more informal basis. DD Rule 16.326.

8. Community Centered Boards, because they are private nonprofit corporations recognized under IRC § 501(c)(3), are required to disclose their annual reports filed with the Internal Revenue Service.

9. Annual contracts with the Department of Human Services give the Department extensive rights to audit the records of Community Centered Boards. The contracts themselves are subject to a CORA request served on the Department of Human Services.

In sum, there are numerous existing laws and regulations insuring that Colorado’s Community Centered Boards act with transparency and accountability.

Please remove the additional requirements on CCBs contained in Section 5 of SB 10-114.