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MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

January 9, 2008

Accepted January 23, 2008

CALL TO ORDER

The Chair, Senator Mitchell, called the Government Oversight Committee to order at 10:10 a.m. in the Burton Cross Building.

ROLL CALL

Senators:

Sen. Mitchell, Sen. Raye, and Sen. Dow
Joining the meeting in progress: Sen. Courtney
Absent: Sen. Bartlett and Sen. Perry

Representatives:

Rep. Pendelton, Rep. Boland, Rep. McLeod, and Rep. Vaughan
Joining the meeting in progress: Rep. Canavan and Rep. Lansley

Legislative Officers and Staff:

Beth Ashcroft, Director of OPEGA
Wendy Cherubini, Analyst, OPEGA
Mary Gingrow-Shaw, Principal Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

Executive Branch Officers
and Staff:

Laura Fortman, Commissioner, Department of Labor
Jane Gilbert, Deputy Commissioner, Department of Labor
Jill Duson, Director, Bureau of Rehabilitation Services
Penny Plourde, Director, Division of Vocational Rehabilitation
Dennis Corliss, Director, Security and Employment Service Center
Karen Fraser, Manager, Systems Improvement and Quality Assurance
Anke Siem, Rehabilitation Service Manager, Security and Employment
Service Center
Vanessa Santarelli, Assistant to Commissioner, Department of Labor
Arthur Jacobson, Rehabilitation Service Manager, Bureau of Rehabilitation
Services
Kim Smith, Deputy Director, Security and Employment Service Center
Ruth Quirion, Director of Financial Reporting and Internal Audit, Office of
State Controller

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

Members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

Chair Mitchell asked if there was objection to taking an item out of order. Hearing none, the Committee moved to **Committee Vote on OPEGA Final Report.**

COMMITTEE VOTE ON OPEGA FINAL REPORT

Director Ashcroft said the Report was presented at the December 6, 2007 GOC meeting and scheduled for public comment, committee work session and vote at today's meeting. The Committee can vote to endorse, endorse in part or not endorse the report. The endorsement is the Committee's statement on how it views the quality and relevance of OPEGA's work and results.

- **Bureau of Rehabilitation Services: Procurements for Consumers**

- **Public Comment Period**

Chair Mitchell asked if there were public comments on the above Report to be heard at this meeting.

Attending and presenting public comment on the Report were:

- ♦ Laura A. Fortman, Commissioner, Department of Labor
- ♦ Steve Beam, Program Director, Client Assistance Program (CAP)
- ♦ Kevin Baack, member of the State Rehabilitation Council
- ♦ Kenneth Capron, Executive Director, Watchdog Maine

Copies of the testimony given at the meeting are attached to this Meeting Summary.

Attending and presenting public comment but did not provide a copy of testimony:

- ♦ Drew Bolduc, Vice-Chair of the State Rehabilitation Council and provider of services to BRS in his work at the Maine Vocational Associates. Mr. Bolduc's testimony included the following:
 - the inconsistencies in the policies and the way business is done within each BR office; and
 - the inconsistencies from counselor to counselor in the same office on procedures followed on cases.

Director Ashcroft said she had received a telephone call from Mr. Steve Bezanson, a former Vocational Rehabilitation client and referred the Committee members to the summary she prepared regarding that conversation. A copy is attached to this Meeting Summary.

Discussion ensued around questions from the Committee in the following areas:

- whether systems uncovered by OPEGA will be helpful to the Department as it moves forward;
- staffing problems and what is causing high turnover;
- the procedure and responsibilities of BRS in regard to purchasing low cost vehicles for clients;

- inconsistencies in hours approved for clients to work with providers from office to office or counselor to counselor;
- percent of State and federal funding and whether federal funds are at risk; and
- client Social Security numbers on vouchers having the possibility of contributing to identity theft.

The Government Oversight Committee thanked everyone who spoke and/or provided information regarding the Bureau of Rehabilitation Services Report.

Chair Mitchell moved to close the public comment period noting that the OPEGA report is complete, that the Department has committed to completing action items by certain dates, and OPEGA will be following up on those action items. Chair Mitchell also observed that the consistent theme of the testimony related to the inconsistencies in services to clients.

- Committee Work Session

Chair Mitchell asked for comments from the Committee and reviewed the Committee's options in regard to its action on the Report.

Rep. Lansley asked for clarification on the federal funding, and whether the Department was going to be audited by the Federal Government. Director Ashcroft said the Program is funded by approximately 21% State and the remainder federal. Because it is a major federal program, the State Audit Department does review it under the single audit, which includes some aspects of program compliance from a financial accounting point of view. As discussed in the Report, there were multiple years where there had been findings around this program from the State Auditor, but she did not recall whether there were any questioned costs associated with those findings. Questioned costs would be an indication of federal dollars that might be at risk. Commissioner Fortman stated that there has been no questioned costs related to the State Auditor's findings. She also said the federal government does audit the program, and the Department is due for a federal audit this Spring as part of the normal auditing process. At this point, there are no issues that the Department is aware of, that put its federal funding in any jeopardy.

The Chair moved to the Committee vote on the Bureau of Rehabilitation Services Report.

- Committee Vote

Motion: That the Government Oversight Committee endorse OPEGA's final Report on Bureau of Rehabilitation Services: Procurements for Consumers. (Motion by Rep. Pendleton, second by Rep. Lansley, PASSED, vote unanimous, 12-0).

Committee members discussed and agreed that the programmatic questions and issues raised at this meeting should be further discussed with the Bureau at the next GOC meeting.

SUMMARY OF DECEMBER 6, 2007 MEETING

Motion: That the Meeting Summary of December 6, 2007 be accepted as written. (Motion by Rep. Lansley, second by Sen. Dow, PASSED by unanimous vote, 10-0).

REPORT FROM OPEGA DIRECTOR

Status of Audits in Progress

Due to Committee members' schedules, Director Ashcroft did not present the status of audits in progress.

NEW BUSINESS

None.

UNFINISHED BUSINESS

None.

SCHEDULE NEXT COMMITTEE MEETING

The next Government Oversight Committee was not scheduled.

ADJOURNMENT

The Government Oversight Committee meeting adjourned at 11:21 a.m. (Motion by Rep. McLeod, unanimous).

**Testimony of
Laura A. Fortman Commissioner
Maine Department of Labor**

**On The OPEGA Audit of the Bureau of Rehabilitation Services Procurement Functions Before
the Government Oversight Committee**

January 9, 2008

Good afternoon, Senator Mitchell, Representative Canavan and distinguished members of the Government Oversight Committee. My name is Laura Fortman and I serve as Commissioner of the Maine Department of Labor. Thank you for the opportunity to provide testimony on the Office of Program Evaluation and Government Accountability's audit of the Bureau of Rehabilitation Services' procurement functions for goods and services to consumers.

The Bureau's mission is to serve Maine individuals with disabilities by supporting their transition into successful employment. We have placed a high priority on reducing the waiting list for services and implementing changes in our financial management infrastructure to maintain a balanced budget and ensure our federal maintenance of effort obligations.

The Maine Department of Labor viewed the OPEGA evaluation of BRS procurement transactions as an opportunity to continue initiatives around transparent financial management, focus and improve our operations, effectively use available resources, streamline procedures, emphasize results and improve customer satisfaction.

OPEGA identified nine audit findings, which we have accepted, and have offered management actions to address the program deficiencies highlighted. OPEGA concludes in its report that: "the significant management actions that the MDOL, BRS has committed to take to address our findings... if fully implemented will strike an appropriate balance in adequately controlling risk without hindering operations."

nine audit findings by December, 2008. The Bureau is already engaged in the implementation of its management actions:

... the Bureau has worked in collaboration with the service center to developed and complete a test run of a newly designed internal management audit of program procurements. This work is on track to be completed and ready for implementation by the end of January '08;

... the Bureau is reviewing other transactions flagged by the OPEGA data mining review and assessing the risks and systems management patterns raised therein. The work of analyzing these transactions and developing protocol for making procedural changes to prevent reoccurrence is on track to be completed by the end of February '08.

While the Department's past attempts to institute proper fiscal controls made progress in bringing the Bureau into solid financial footing and reducing the waiting list from a high of 12 months in 2005 to 5.5 months as of November 2007; we agree with the OPEGA staff that enhanced policies, procedures, and controls are needed to ensure accountability and stewardship of state and federal funding.

The OPEGA review focused on transactions conducted over State Fiscal Years '04, '05, and '06. During this period over 30,000 people were served and in excess of 180,000 transactions were completed on behalf of clients. Of the 180,000 transactions in the Vocational Rehabilitation Program, OPEGA flagged 2,181 for further review. They then selected 68 cases for detailed review, as these were flagged as having multiple "high risk" indicators. OPEGA notes that numerous of the 68 cases in the sample did not represent fraud or misuse.

Following their review, OPEGA referred these cases to BRS for further examination. In its examination of the referred cases of suspected fraud, waste and abuse, BRS verified deficiencies in documentation and supervision that if handled differently might have resulted in higher or lower expenditure decisions.

In addition, BRS identified and has taken appropriate disciplinary action in cases involving three employees, one of which had been identified and referred to the Attorney General's Office by MDOL staff prior to the OPEGA audit.

The Maine Department of Labor is committed to addressing OPEGA's findings immediately and has established deadlines and processes to comply with the audit recommendations with respect to case management, fiscal management, and quality assurance.

The department explicitly acknowledges and affirms its commitment and responsibility to assure that every program dollar is managed as a public investment in enabling people with disabilities to become employed and self-sufficient. To this end, the management actions presented herein will be incorporated into systems intervention strategies to improve VR program services.

For your information, I have attached to this statement a copy of the matrix included with our agency response to the OPEGA review that details the timeline for implementation of each action.

We are confident that once implemented these management actions will result in a more transparent, accountable, and responsive system for Mainers with disabilities.

Thank you for the opportunity to offer testimony. I am happy to answer any questions.

Service Improvement/Management Action Timeline

Management Action		Completion Target
MA-F:	Implement Pre-Audit of Procurement Transactions	Jan. '08
MA-I:	Complete Review of Other Cases Identified by OPEGA	Feb. '08
MA-E:	Monitor ORSIS Data for Risk Indicators	March '08
	MA- C: Establish Controls in ORSIS	May '08
MA-A:	Implement Revised Procurement Process	July '08
MA-H:	Incorporate Compliance Into Staff Performance Review	July '08
MA-B:	Strengthened Written Policies and Procedures	Sept. '08
MA-G:	Conduct System wide Training	Dec. '08
MA-D:	Implement Redesigned Case Review System	Dec. '08

C.A.R.E.S., INC.
CLIENT ASSISTANCE PROGRAM

47 Water Street, Suite # 104, Hallowell, ME 04347
(207) 622-7055 TTY or Maine Relay • Toll Free 1-800-773-7055 TTY or Maine Relay Fax: (207) 621-1869 • Email: steve.beam@caresinc.org
Website: www.caresinc.org

TESTIMONY BEFORE GOVERNMENT OVERSIGHT

1/9/08

My name is Steve Beam. I am the Program Director for the Client Assistance Program. I am also the Chair of the State Rehabilitation Council (SRC), a Governor-appointed council charged with providing input to the Division of Vocational Rehabilitation (DVR). I have asked Kevin Baack, the previous past Chair, to speak for the Council a little later today.

The Client Assistance Program (CAP) is a federally funded advocacy program for people with disabilities who are receiving services from the Bureau of Rehabilitation Service (BRS). CAP is one of three programs that our agency, C.A.R.E.S, Inc., administers from our office in Hallowell. We have been administering the CAP in Maine since 1992. During that time we have represented hundreds of applicants and clients of both DVR and the Division for the Blind and Visually Impaired (DBVI). In addition to our client representation, we have served on numerous committees, such as the SRC, and have engaged in systemic advocacy regarding many topics on behalf of Maine's citizens with disabilities.

On 2 occasions, I was interviewed as part of OPEGA's program review of BRS. I must say I was impressed with Wendy Cherubini's grasp of the complex issues involved in this study. She had thorough knowledge of Federal Regulations and State Rules that govern the State Vocational Rehabilitation Program. She had a good working knowledge of how the VR program should function. Ms. Cherubini had even read the Annual CAP Reports that I had written for the previous 3 or 4

years. So I was not surprised at the thoroughness of the Report that was issued by OPEGA regarding BRS.

Nor was I surprised by many of the findings and conclusions contained in the OPEGA Report. For many years we have been making recommendations to DVR and DBVI in areas such of case supervision, consistency of services and the information management system known as ORSIS. We also took an unprecedented step in the Fall of 2005. I had reviewed a client case record that was so alarming that I wrote a memo to the Case Supervisor assigned to supervise the VR Counselor. In the memo, I cited the issues of concern - including improper case closure and citing non-existent Policy - and made a recommendation to review all of the client records in the counselor's caseload. I have no knowledge if this recommendation was ever followed. I suspect it was not because in 2006 the same counselor wrote an open letter to all of the clients in her caseload. The letter once again cited policy and procedure that was essentially made up and certainly not consistent with current State Rules. After receiving the letter, a client contacted CAP. When I brought this letter to the Regional Manager's attention, he quickly sent out a letter that rescinded the one that the counselor had sent. I share this story with you because it is my understanding that some of the cases involving possible fraud that were cited in the OPEGA Report are linked to this particular counselor.

I would like to commend BRS for the steps they have outlined to address the issues identified in the OPEGA Report. I would, however, like to offer the following observations and recommendations:

- As I alluded to previously, CAP has cited the lack of a proactive case review process as one of the agencies' most glaring deficiencies. Over the years, we have reviewed numerous case records where we were certain that case supervision had not occurred. For example, we've seen poor record keeping; Employment Plans that have lapsed; in some case, Plans had lapsed yet services were still being provided; personal value statements entered in the case notes; evidence of exceeding recommended speeding

limits but with no rationale provided; evidence of duplicating existing community services, etc. It's my understanding that the agency had begun to seriously look at revamping the case supervision process prior to OPEGA. The Agency's response in the OPEGA Report outlines the key role for casework supervisors in this process. My concern is whether this is a realistic expectation. DVR has experienced and continues to experience a very high turnover of counselor positions. When a counselor position is vacant, it is the supervisor who has to manage the 100+ client caseload. Sometimes, there are perhaps 2 vacancies at the same time. Then there is the supervisors' involvement in the lengthy hiring process. Then the supervisor needs to orient the new staff person. How does the supervisor have time to be doing proactive case supervision in a system that's set up like this? I don't have the answer but feel it's a riddle that BRS must answer for meaningful case supervision to occur.

- BRS staff have told me that ORSIS is an information management system that has never worked since its inception. BRS has sunk millions of dollars into something that does not meet the 2 agencies needs. Ultimately, I feel this project has taken money away from client services. I think there should be an investigation into this data management project by an outside entity. If the conclusion is that it's fatally flawed and it's time to scarp it and start over, then so be it. If that were ever to happen, I think the State should seriously consider having the private sector set up the information management system. I have a hard time believing that the ongoing ORSIS saga would be tolerated in the private sector.

- My concern in all of this is the pendulum could swing too far the other way. By that I mean that there will be so many controls put in place that the system will bog down and clients who need services in a timely manner will suffer. The Agency has made considerable progress in this area in recent years and I'd hate to see that progress erode. I have been assured by staff

that timeliness of services remains a high priority. I certainly hope so. My final comment is an obvious one but one I feel I need to make for the record. And that is before any changes to policy and procedure are made as a result of this review, adherence to the Federal Regulations must occur. One item that I saw in the Agency's response was to develop guidelines for dollar amounts for certain VR services. It's important to understand that Federal Law prohibits absolute dollar limits for VR services. The agency can develop a dollar range for a service category but these must be considered advisory in nature. The bottom line is the agency can't use a policy that establishes a dollar limit to deny a client an essential service.

This concludes my comments on the OPEGA Report regarding BRS. I'd be happy to answer any questions you may have.

COMMENTS TO THE GOVERNMENT OVERSIGHT COMMITTEE
FROM THE STATE REHABILITATION COUNCIL

Thank you for the opportunity to comment on the OPEGA final report concerning the Bureau of Rehabilitation Services. My name is Kevin Baack, and I am a member of the State Rehabilitation Council. For the previous two years I served as Chair of the Council. The Council has requested that I offer these remarks and suggestions in order to improve services to people with disabilities seeking employment, and to identify ways in which BRS dollars may be used to serve more people.

1-Reexamine the means test. Several years ago the SRC and the BRS collaborated to draft a means test which was designed to encourage Bureau clients to participate in the funding of their own services. We encourage the Bureau to take a fresh look at the viability of this proposal. Hopefully, if implemented, it will enable additional people to benefit from rehabilitative services, resulting in employment.

2-Policy and procedure development. Members of the SRC are appointed by the Governor, as required by the federal Rehabilitation Services Administration. Part of our role is to review and comment on policies and procedures promulgated by the BRS. The SRC offers to participate in the development of policies and procedures as they apply to the approval of client-related expenditures, not simply in their review. We note that this area was a highly significant concern to the Office of Program Evaluation and Government Accountability, and we offer our assistance in addressing it.

3-Consistent communication of policies. We have received anecdotal reports that BRS offices are inconsistently attempting to address several of the deficiencies identified in the OPEGA report, before the Central Office has had an opportunity to correct them. We believe that the BRS should move quickly to develop corrective actions, and they should be communicated and implemented consistently to all offices and personnel.

4-Transportation. We have been informed that the BRS expends approximately \$1 million each year, helping clients access transportation to and from work or training. We think it is time for the BRS to examine other ways to enable clients to access this service. For example, the DHHS supports low cost vehicle acquisition programs for ASPIRE recipients and others. These programs provide a degree of mobility to low income residents of our very rural State, so clients can get to work, to school, and do all the things for which a personal vehicle is needed. Best of all, the recipients are able to pay for their vehicle from their employment income. We strongly recommend that the BRS examine this approach to transportation for the people they serve.

5-ORSIS. The BRS acknowledged that ORSIS has had multiple problems since its inception more than 12 years ago. They are detailed in the OPEGA report. ORSIS has been extremely expensive as well. We recommend that an outside date be established

and if ORSIS cannot be made to do what it was designed to do by then, it be abandoned. It seems to make more sense to cut your losses and admit that the system is not functional rather than continue to sink scarce resources into a failed system.

6-Purchase of equipment for service recipients. It is a practice of the BRS to purchase tools and equipment for clients so they can obtain employment or start a small business. The BRS should track the ownership of this equipment for its useful life, and if the client ceases to use the equipment, the BRS should be able to reacquire the equipment or receive depreciated payment for it. This will either make the cash or the equipment available to someone else whose rehab plan calls for it.

7-Monitoring systems. We recommend that the BRS should review, no fewer than every six months, their progress on the Corrective Action Plan addressing the OPEGA findings, and report on their progress to the SRC, the Commissioner's Office in the Department of Labor, and the Government Oversight Committee, until the Committee is satisfied that all issues have been satisfactorily addressed.

Thank you for the opportunity to comment. We hope are remarks are helpful.

Kevin Baack
January 9, 2008

WATCHDOG MAINE

"Digging up Skeletons in the Boneyards of Government" Kenneth A.
Capron, Exec. Director

Bureau of Rehabilitation Services: Final Report - Procurements for Consumers
Prepared in anticipation for presentation at GOC public hearing January 9, 2008

OPEGA - MBRS finding - lack of controls and apparent fraud.

OPEGA - a brightly shining star on a dark and cloudy night. Well done to the entire crew!

Fraud - a fraud is a **deception made for personal gain**; loosely defined it includes potential and actual fraud; minor and major

Corruption is a general concept describing any organized, interdependent system in which **part of the system is either not performing duties it was originally intended to, or performing them in an improper way, to the detriment of the system's original purpose.**

BRS has both.

The Insider:

I had a truly unique position/opportunity in my relationship with BRS. I was both a client of BRS and a provider of services to BRS at the same time. As a client, I recognized difficulties in the procurement of consumer goods by clients. As one possible employment goal, I devised a method to "facilitate", or broker, that process with the objectives of 1) saving money for BRS 2) saving time for BRS staff and 3) facilitating the process for the client - at essentially no additional charge to BRS or the client.

BRS was however an unwilling client. I was told outright that they didn't care about saving, neither time nor money. The details would amaze you.

In 2003, with a counselor's assistance, I ran a trial of the facilitation process. I assisted 52 clients in the purchase of over \$52K of primarily computer technology goods, and saved a total 25% of that \$52K for the department while relieving counselors of the need to be IT experts, purchasing agents and tech support all in one.

Unfortunately, in the process of working with clients, I also had the privilege which no other client has ever had - that of seeing how other clients were treated. And by my nature, I questioned counselors' actions, and I informed clients of options of which they would not otherwise have been made aware. I reported non-compliance issues to supervisors/managers and administration - anyone who would listen. No one did. BRS did not like this insider "interference." I stopped getting business referrals from the Bureau. My case was closed as "**successful.**"

I should emphasize that there are MANY rehab clients who have great results from BRS. But the "culture" of the agency is such that others get treated very poorly. I've seen some (especially women) driven to tears. I have witnessed extreme disparity between the services provided to clients. But I made the mistake - of speaking out about wasted money and non-compliance with regulations governing the provisions of rehab services.

It just didn't pass the smell test, and having had experience in fraud audits and program compliance audits, red flags flew at full mast.

How did this situation at BRS come to be?

Although I could elaborate for days about events inside BRS, I only need to say enough to get the GOC to take an even deeper look into the program side of BRS and into DVBI expenditures - at risk are the Federal Funds which Maine receives to operate the programs. (State Plan). If the OPEGA report gives one an impression of poor financial oversight, you hain't seen nothing yet! The program non-compliance issues are tenfold worse.

Something happened in 1996 that seemed to trigger the inception of the current problems. For some unknown reason, the BRS was moved from the Department of Education, as it is in the Federal program, to the Department of Labor. Perhaps it seemed a better fit - at least to someone who doesn't understand the programs and its purposes. Since the special ed programs of the DoEd are actually quite similar to the Voc Rehab process for adults, the two programs should mimic each other. They do not.

BRS' problems are twofold - financial and programmatic:

- OPEGA addressed the financial accountability aspects of some parts of BRS. What they found was an astonishing array of poor controls and equally bad implementation of what controls did exist. p25 "The vulnerability presented by the ineffective separation of duties at BRS is exacerbated by a lack of policies and procedures (Finding 3), and is not compensated for by supervisory review of specific case expenditures (Finding 5). "
- The Government Oversight Committee needs to understand that the programmatic side of BRS functions equally as poorly. One would hope that a specialized agency such as BRS would serve its programmatic functions well even if it is not financially literate. That hope is false. What leader tolerates their own departmental directives being ignored (p26)? And why?

This program's success rate is far exceeded by its failure rate. \$20M a year resulting in only 2000 successful closures (by their definition) - that's \$10,000 per success. That is far below the results anticipated by the Federal Rehab Act.

In short, the people, the clients of BRS, have not had their "case" heard yet. Of the 52 clients I served directly, most that 75% had a negative experience in their interactions with the Bureau. Those experiences ranged from not getting basic services they needed to having their education terminated in the middle of a multi-year goal to termination as a client to being verbally abused and brought to tears.

Even after my trial program in 2003, I continued to receive calls and provide what assistance I could to several clients. These were people who were no longer getting needs met by BRS and/or were afraid to ask for needed services - sometimes things as simple as ink cartridges. As recently as December 2007, I have continued to get requests for help.

In Begging Mode, I would ask the GOC to invite a truly independent review of program compliance, equity of benefits and treatments of beneficiaries by any entity not standing to benefit from the favorable or unfavorable results of that study. I would professionally recommend full oversight of such an audit by OPEGA.

What factors allowed these problems to arise and flourish?

1. Corporate culture of fear and intimidation - some accidental, some intentional o Fear of reprisal:
 - Denial of services to clients who speak up/out
 - Denial of business referrals to providers/consultants who speak up/out or complain
 - Retaliation for disclosures of non-compliance issues/patterns
 - Wait lists/case loads reduced by eliminating **difficult or expensive clients** (an industry wide problem, easy clients afford instant gratification).
 - Case closure when "uncooperative" - (not part of Fed law because many mental/cognitive disabilities express themselves as being uncooperative)
 - Segregation of duties doesn't work if supervisors are willing to allow/participate in non-compliance
 - What is the "Green Plan"?
 - o Control of internal professional staff through fear and intimidation
 - o Control of outside providers through fear and intimidation
 - o Control of clients through fear and intimidation
 - o NONE of this culture could exist without acceptance or even encouragement from the top.
2. Lack of transparency:
 - o Confidential information(?) on documents - documents that would help identify fraud if they were made public
 - o Confidentiality used as an excuse rather than finding visibility
 - o Privacy concerns - segregability of confidential information - use of SS# as client number on every document makes everything confidential
 - o FOIA blocked - discretion in the hands of those who might cover up
 - could have detected purchasing trends, fraud, saved money, saved time
 - o Shredded files? Is there a list? A policy? So there is time for shredding but not for ICs?
3. Weak oversight/advocacy organizations:
 - o State Rehab Committees - General/Blind/Deaf
 - o CARES/CAP - Client Advocacy Program
 - . *"free support of an advocate"* - **CAP can choose not to service any client without justifying cause**
 - o DRC - Disability Rights Center - **can choose not to service any client without justifying cause**
 - o CRCC - National Accreditation/Certification Program has no teeth
 - o no State licensure nor monitoring nor accountability
4. Neglect by Administration
 - o Of financial and compliance issues for a decade perhaps
 - o Of reports by Federal, State and other auditors and individuals
 - o Berry, Dunn, McNeil audit
 - o Of educational standards
 - (Masters Degree in VR counseling or have a specific plan to attain their degrees while employed)
 - o Acceptance of poor performance - including the issues noted in the above reports; and
 - o Wait list - clients **lack self help organization** to help people while on wait list or afterwards
 - o Very low successful closure rate - how does this compare to other states???
 - o Quality of services provided:
 - ie: \$600 software provided with ZERO training on how to use it
 - o Of at least **one whistleblower**
 - o Failure to review case closures

Solutions:

- **Change in leadership.** There is no outward evidence that the culture of the department has changed. The culture of the department has actually been encouraged by the current director. **A change in attitude can ONLY come from the top.**
- **Strict enforcement of client advocacy.** My specific recommendation would be twofold:

- Replace existing advocacy functions with a separate Inspector General-like function to deal with client and employee concerns and complaints
- Transfer the Dept. of Labor **due process** processes to the Judicial Branch to restore/maximize their credibility and to minimize the ability of administrators to influence outcomes.
- Provide for a contact point for whistleblowers which is outside of and above the BRS and the DOL.
- **Visibility - transparency:**
 - All Audit Reports and Compliance Reports of All agencies should be posted electronically for All to see immediately upon receipt. Preferably, a period of public comment prior to completion and issuance of a final report would maximize visibility.
 - Remove all **personal identifying information** from R20's, purchase orders and payments thus enduring segregability and accessibility under Maine's FOAA.
 - Professional review by an independent entity (like an I.G.) of any **cases closed for reasons other than success or abandonment** by the client.
 - Rescind the wording of BRS rules that allows the "director" to exercise **discretion on defining "public records"** (the Federal FOIA does NOT tolerate discretionary application of FOIA laws). More specifically, discretion to authorize the conduct of research or investigations into trends, practices, purchasing patterns, fraud should be in the hands of someone who could not have a reason to cover-up illegal activities.
 - Provide listservs for notes resulting from meetings and discussions such as Rehab Councils, policy discussions, issuance of program changes or directives.
- **Programmatic improvements:**
 - o Revise the rehab policies, procedures, practices, etc to comply with the Rehab Act precisely (as agreed to in the State Plan).
 - Most severely disabled have priority per the Rehab Act. This should be enforced.
 - The Rehab Act centers on what is called "informed choice". Informed Choice as intended by the act refers to the giving to the client of the opportunity for self determination. It implicitly requires that the client act as the decision maker while the rehab provider acts as the enabler of the client in their effort to fulfill their objectives - an employment goal. Rehabs ONLY role is as an enabler.

As practiced by BRS, clients are denied informed choices in many ways. They are controlled and manipulated - not allowed the dignity of self-determination - not made aware of options. This needs to change immediately as it has been the subject of criticism for years by the Fed and various state organizations.

- The services I provided would have resolved a lot of the control issues and even today would result in **significant cost/time** benefits for BRS
- Incorporate **independently validated** compliance with all fiscal and program requirements into performance reviews for all staff TODAY
- o Independent oversight of both fiscal and programmatic aspects of BRS. In public accounting, there is a peer review function wherein one public accounting firm will review the work of another and issue an opinion on it's compliance with "Generally Accepted Auditing Practices". Perhaps something similar could be developed in the rehab industry.
- **Education and State Certification:**
 - Establish and enforce strict employment educational and professional certification guidelines
 - Provide for State licensing reviews of CRCC's just as with any professional who serves the public
- **Interconnectedness:** at the very core of the weaknesses within BRS, and within Maine, of rehab services is the existence of an intertwined network. Within that network, everybody is somehow connected to somebody else. Advocates are related to providers. Providers are reliant on referrals. Clients are reliant on providers or advocates. And counselors are dependent on administration. In each and every one of these relationships, or as a whole, there is the ability to influence the well being of another. That type of relationship is ripe for fraud and corruption. And fraud and corruption will continue as long as everybody is scratching someone else's back.

How does one at least hinder this potential? By taking the decision-making away from the people who would stand to benefit from fraud, collusion and deception. The concept of "informed choice noted previously was intended to be an integral part of the Rehab Act for this specific reason. BRS should stick to it's role as enabler rather than decision-maker and let the client choose - choose the employemnt goal, the ways to achieve that goal, the providers from whom to obtain services. BRS' role is to make sure the client knows about ALL the options put everything on the table - **inform the client completely**. Then let then client make an informed choice about THEIR future.

Do this, and BRS success rates will go up; client satisfaction will improve; and I guarantee costs per success will decline dramatically.

We need to remember what the **purposes of the rehab program are:**

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society [...]

(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

Sincerely,

Kenneth A. Capron
 WatchDog Maine
 1375 Forest Avenue D-11
 Portland, Maine 04103
 Phone: 207-797-7891
 Email: watchdog@maine.rr.com

1973 Rehabilitation Act as Amended - Preamble

Sec. 2. (a) Findings

Congress finds that-

- (1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;
- (2) individuals with disabilities constitute one of the most disadvantaged groups in society;
- (3) disability is a natural part of the human experience and in no way diminishes the right of individuals to-
 - (A) live independently;
 - (B) enjoy self-determination;
 - (C) make choices;
 - (D) contribute to society;
 - (E) pursue meaningful careers; and
 - (F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

(4) increased employment of individuals with disabilities can be achieved through implementation of statewide workforce investment systems under title I of the Workforce Investment Act of 1998 that provide meaningful and effective participation for individuals with disabilities in workforce investment activities and activities carried out under the vocational rehabilitation program established under title I, and through the provision of independent living services, support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to-

(A) make informed choices and decisions; and

(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

(b) Purpose

The purposes of this Act are-

(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through-

(A) statewide workforce investment systems implemented in accordance with title I of the Workforce Investment Act of 1998 that include, as integral components, comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

(B) independent living centers and services;

(C) research;

(D) training;

(E) demonstration projects; and

(F) the guarantee of equal opportunity; and

(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with significant disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

(c) Policy

It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of-

(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

(3) inclusion, integration, and full participation of the individuals;

(4) support for the involvement of an individual's representative if an individual with a disability requests,

desires, or needs such support; and

(5) support for individual and systemic advocacy and community involvement.

To the Government Oversight Committee:

Comments taken from Mr. Steve Bezanson, a former Vocational Rehabilitation client from the Augusta area, via phone by OPEGA Director Beth Ashcroft on January 8, 2008. Mr. Bezanson desired to attend the public comment period on the BRS report but was unable to do so due to his disability.

Overall, Mr. Bezanson was very disappointed with the services he received from Voc Rehab. It always seemed it was too little, too late. Sometimes he thought Sigfreid and Roy were running the agency because there were too many hoops to jump through.

When he first signed up with Voc Rehab, he had 30 years experience in radio and wanted to get back into radio, first part-time and eventually full-time. He did not need help finding a job but did need assistance in maintaining employment.

When his counselor asked him what he wanted to do, he said he would like to pick up a couple of shifts at WABK radio station. He says that her comment to him was "all my clients want to be in radio". He believed many of her clients had mental health disabilities and he figures she must have thought he did too.

Mr. Bezanson said he felt he was always battling uphill with Voc Rehab trying to prove to them that what he wanted to do was viable. He felt he kept getting pushed in directions he did not want to go. He didn't think anyone there had any experience in radio or any idea about how to go about getting a job in it.

Mr. Bezanson did say that he found counselor Gene Cloutier to be very helpful until he got sick. Mr. Bezanson said he would not give you a penny for the rest of them (counselors).