

**MULTNOMAH COUNTY BOARD OF COMMISSIONERS
PUBLIC TESTIMONY SIGN-UP**

**Please complete this form and return to the Board Clerk
This form is a public record**

MEETING DATE: 11/29/2012

SUBJECT: Introducing a nonprofit resource for alcohol and drug, duii
Diversion treatment and Domestic Violence Intervention for Perpetrators and Submitting an
Issue needing immediate action.

AGENDA NUMBER OR TOPIC: Public Comment:

_____ **FOR:** _____ **AGAINST:** _____ **THE ABOVE AGENDA ITEM**

NAME: Phil Broyles Executive Director of Teras Intervention and Counseling Inc.

ADDRESS: 3945 SE Hawthorne Blvd.

CITY/STATE/ZIP: Portland, OR. 97214

PHONE:503-719-5250 **DAYS:** 503-719-5250 **EVES:** 503-381-1853

EMAIL:info@terasinc.org **FAX:** 503-715-5672

1. Please complete this form along with your written testimony and return to the Board Clerk at the meeting, or submit by e-mail at: lynda.grow@multco.us
Attachment to Public Comments Agenda Item for Multnomah County Board Meeting
09/13/2012

I'm Phil Broyles the executive director and one of the founding members of a nonprofit called Teras Intervention and Counseling located at 3945 SE Hawthorne Blvd.
Statistics for some of the issues that Teras Intervention and Counseling provides services:
DUII's: According to the Multnomah Circuit Court Performance Analysts and Case Analysis Report there were 3,216 misdemeanor DUII arrests in 2011 and 34 Felony Arrests.
Drug Charges: There were 5,327 felony drug arrests and charges.
Domestic Violence Deaths: In 2010 there were at least 35 deaths related to domestic violence in Oregon and approximately 21,000 children witness domestic violence in their home each year in Multnomah County alone.

Since April of 2009 our mission has been to provide accessible, affordable, quality treatment services. In 2010 we received our first letter of approval from the state to provide Addiction treatment services and have provided DUII diversion services. Our program specializes in working with serious criminal offenders and domestic violence perpetrators as well as DUII diversion and addictions treatment.

Our smaller size groups, individualized treatment, community outreach and other innovative methods are unique to the treatment of addictions and domestic violence in the

Portland area. The established traditional programs tend to be far more generic in their approach to treatment and are not always appropriate for every person due to their larger groups, less individual attention, less flexible policies and higher prices.

Our business model, concerned primarily with successful outcomes for our clients naturally allows us to provide a service at a price that's affordable, pay our staff wages that are livable, and create more opportunities for free and low cost services to the community- all without costing the county or state one dime!

Unfortunately our capacity to reach more people has been severely curtailed by Multnomah County Circuit Court contracted DUII Alcohol and Drug Evaluation Services (ADES) owner Deborah Ruiz Nixon. DUII diversion clients provide one of the largest sources of cash flow to substance abuse counseling. Whoever controls this cash flow controls the ability for new innovative, grass roots organizations like Teras to establish a foothold in the community.

Around October 2011, Ms. Nixon made a decision to stop referring clients to Teras. Her reason wasn't clear until February 2, 2012, during a meeting with her and her staff when I was told by Ms. Ruiz Nixon;

“during difficult economic times we need to shore up the more established programs.”

Ms. Ruiz Nixon also told me that “we had enough addiction providers in Portland and there was no need for a new one.” On the contrary, treatment is not accessible and many are unable to afford the services we are willing to provide for one of the most reasonable prices in all of Portland.

Ms. Ruiz Nixon has chosen to circumvent the free enterprise system that would naturally decide the financial sustainability of our program. Preferential referring violates the rules established by the Addiction and Mental Health department of the Oregon Health Authority regulating ADES, is illegal and goes against every known ethical standard for referring clients in healthcare settings, and violates the rights of clients to choose a program close to their home and workplace and won't create even further financial hardship-especially now during our difficult economy.

The state of Oregon Addiction and Mental Health Services (AMH) DUII program coordinators, Jim Bradshaw and Chris Hamilton have passively condoned Ms. Nixon's practices in spite of being shown a significant amount of clear and undisputed evidence indicating an ongoing pattern of preferential referring. (see attachments) Mr. Bradshaw has even gone so far as to refuse a letter of approval for our new site on Hawthorne because of a technicality regarding the ADA which I know for a fact has not been applied to other programs throughout the state. In fact there is a clear exception to the rule for small businesses with limited resources.

Their unwillingness to apply the law to Ms. Nixon's obvious conflict of interest and their stonewalling our letter of approval has left us in the unfortunate position of having to seek legal counsel and to begin the process of litigation against her and others involved. (see attachment)

We cannot continue to operate under these extreme circumstances. I've already had to let one full time employee go, and another contractor and haven't had a real salaried position in almost a year. Without ethical and reliable referral sources we cannot continue to support the mission of Teras to provide affordable, accessible and quality treatment services to the people of Portland. Grass roots, innovative programs run by people who are passionate about their cause will be difficult to impossible to get a foothold and become established. Without your support as the gatekeepers of services in Portland, programs like ours are doomed to failure before they even get started. We ask you to act in your authority to intervene, speak out against the practice of preferential referring and demand the state of Oregon act in the best interest of the community.

Sincerely,
Phillip Broyles BS, CADCI
Executive Director
Teras Intervention and Counseling Inc.
3945 SE Hawthorne Blvd.
Portland, Oregon 97214
p:503-719-5250 f: 503-715-5672
m: 503-381-1853
www.terasinc.org
info@terasinc.org



Day Law Group, P.C.
ATTORNEYS AT LAW

August 31, 2012

Cease and Desist

Via facsimile 503-719-5742 and first class mail

ADES of Portland
Attention: Debra Ruiz-Nixon
506 SW 6th Avenue, Suite 611
Portland, OR 97204

RE: Cease and Desist Demand – Teras Intervention and Counseling Services, Inc.

Ms. Ruiz-Nixon:

Please be advised that my office represents Teras Intervention and Counseling Services, Inc. (herein "Teras"). Please direct all correspondences regarding this matter to me at the address below.

The purpose of this letter is to demand that ADES of Portland (herein "ADES") cease and desist its practice of discriminating against my client, and causing my client financial harm, by knowingly and intentionally referring clients to DUII providers in violation of the laws, administrative rules, and procedures prescribed by the Oregon Health Authority.

Specifically, OAR 415-054-0490, prohibits ADES from referring an individual to a program that may cause an actual or potential conflict of interest. OAR 415-054-0410 defines conflict of interest to include "making business decisions which create a pattern of biased or preferential treatment".

This clearly is what ADES has done in reference to my client. The number of referrals my client has received from ADES has dropped from an average of 15-20 referrals in a month in May, June, and July of 2011 to less than an average of three referrals a month since. In fact, in the month of August, my client received only one referral from ADES. In the meantime, many other

August 31, 2012

Letter to Debra Ruiz-Nixon

RE: Cease and Desist Demand – Teras Intervention and Counseling Services, Inc.

Page - 2

providers, such as Cascadia, continue to receive a constant number of referrals from ADES. There can be no question that the referrals by ADES, therefore, create a pattern of biased or preferential treatment, at least with the respect to Cascadia and to the detriment of Teras.

Further, OAR 415-054-0480 requires ADES to use documents and procedures designated by the Addictions and Mental Health Division of the Oregon Health Authority. The ADES manual provided by the Addictions and Mental Health Division clearly states, on page 95, that “as the ADES, you are responsible for informing the DUII offender all DUII treatment providers in the area.” We have information that supports the conclusion that ADES has not been informing clients of the existence of Teras.

While the number of DUII offenders has remained fairly constant, and some of the larger providers in the area continue to receive a regular number of referrals from ADES, the numbers don't lie: Teras has received fewer and fewer number of referrals from ADES beginning in approximately September of 2011. At the very least, there is a pattern of preferential treatment which constitutes a conflict of interest in violation of Oregon law.

The purpose of this letter is to demand that ADES of Portland immediately cease and desist its unlawful treatment of Teras and begin referring clients to Teras and accordance with the law.

If ADES insists on violating the law in this matter, my client will have no other choice but to pursue other actions which may include filing suit against ADES of Portland seeking injunctive relief and civil damages.

Please confirm in writing with my office that ADES of Portland will immediately cease and desist this unlawful activity.

Sincerely,



Ross Day
Attorney at Law
Day Law Group, P.C.

cc: client

To: Douglas Bray, Multnomah County Circuit Court Administrator
1021 SW Fourth Avenue, Portland, OR 97204-1123
Phone: 503.988.3957 Email: doug.bray@state.or.us

Chart and Text Explaining the Abrupt Downturn in Referrals from ADES and the negative effects on our agency and the community if it loses another resource for treatment.

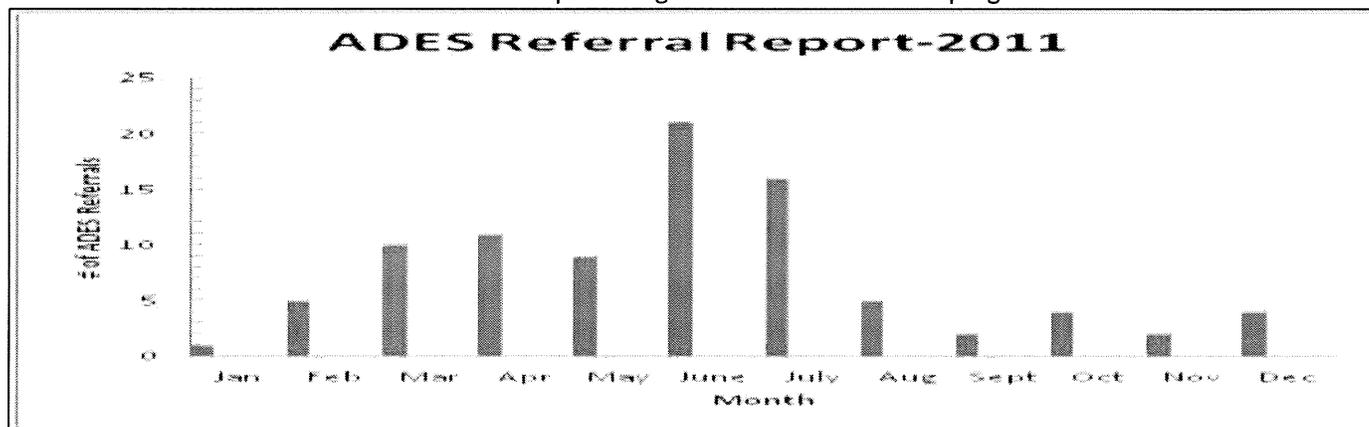
After receiving state approval to provide DUII and other drug and alcohol treatment our census starting in January 2011 rapidly grew to a sizeable amount due to the positive reports of clients going through our program and employee of ADES evaluator Misty Davin. Ms. Davin, who at the time of their evaluations had given them information about agencies in the geographic area of the client's residence as required in ORS 415-054-0490(2)(a), also gave positive reports about the program. Specifically clients reported she had given positive recommendations about our program in the following areas; accessibility, affordability, smaller groups, respectful and relational approach and the centralized location.

Our ADES referrals went from one referral in January of 2011 up to 21 referred during the month of June 2011; only to begin to decline to 16 in July, 5 in August, 2 in September, 4 in October, 2 in November and 4 in December.

This downturn in referrals started, according to Misty Davin, after Deborah Ruiz-Nixon, ADES owner and director commented on the large number of clients being referred to the Teras program. Then in October of 2011 this new "trend" was solidified when Deborah Ruiz-Nixon sided with one of our clients who apparently attempted to circumvent the abstinence requirements during their wedding and honeymoon in Hawaii. Almost all referrals ceased to exist and have been coming in at an anemic rate of one to three per month with some months no referrals at all.

At the same time, according to CPMS data provided by the AMH department, there were approximately 499 people living within three square miles of the Teras office who were admitted to treatment in 2011, of which Teras only received a pittance.

Chart of Referrals: This chart illustrates the abrupt ceasing of referrals to the Teras program



Alarmed by this supposed "trend" as Deborah Ruiz-Nixon referred it, Phil Broyles the Executive Director of Teras offered to meet with Ms. Ruiz Nixon and staff in February of 2012. Up to this date no rational explanation had been given by Ms. Ruiz Nixon other than the one she presented during the meeting. After receiving what seemed to be obviously flawed reasoning as examples of "why" the program ceased to provide referrals Phil Broyles, after not accepting her inconsistent reasons in the meeting-further questioned Ms. Ruiz Nixon for more rational explanations. **She eventually relented and stated that "we already have enough treatment programs in Portland", and "During the difficult financial times we need to shore up the already established programs" (paraphrased).**

Shocked by the blatant admission of illegal and unethical behavior by Ms. Ruiz Nixon, Phil Broyles turned to the support of the DUII coordinator for our division Mr. Jim Bradshaw and Christopher Hamilton who subsequently sided with Ms. Nixon's process of referring clients based on the financial health of the organizations instead of the health and welfare of the client being referred.

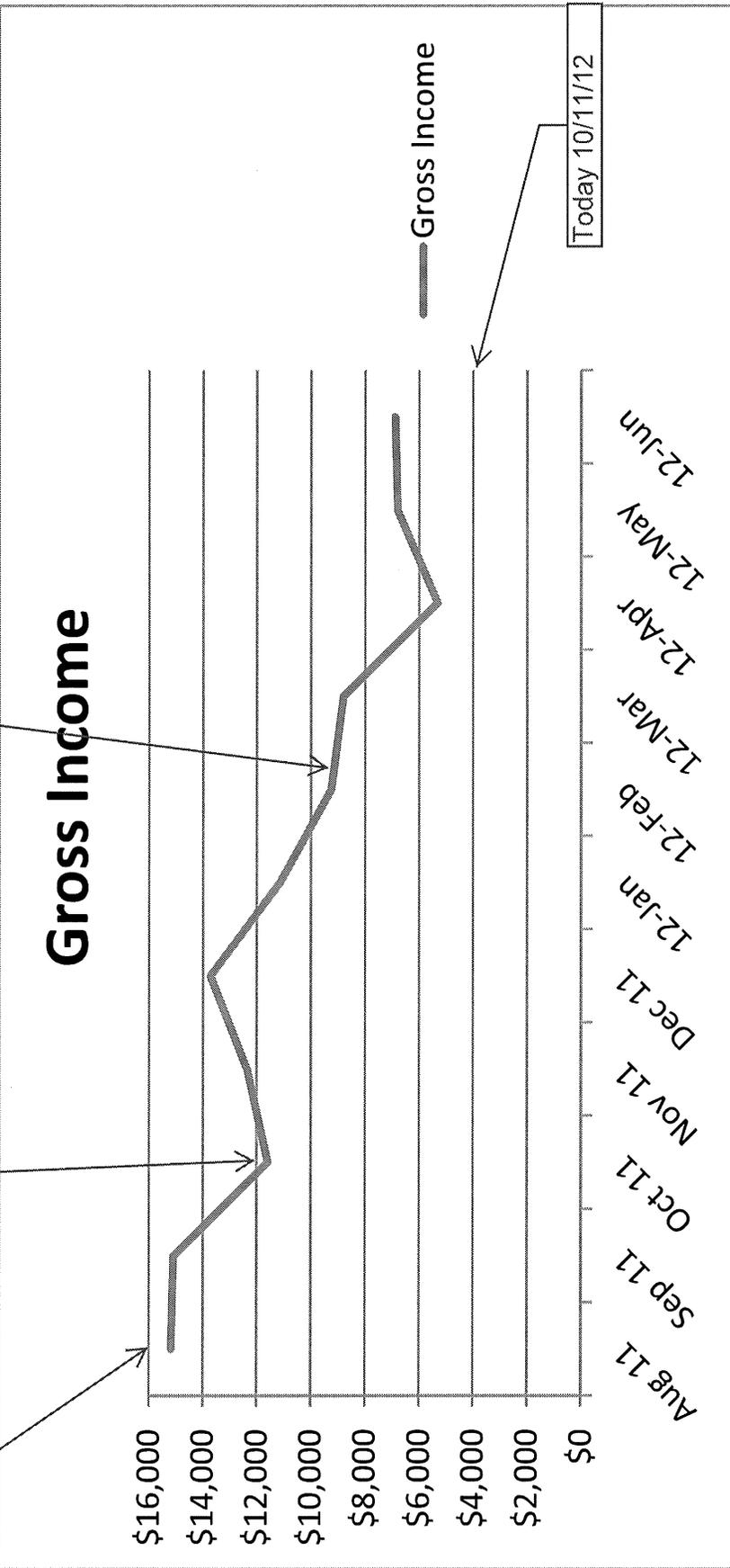
There is NOT enough treatment in Portland and there is no approved practice of preferential referring by the AMH regulations. In fact this is directly opposed to the Vision of AMH "to assist Oregonians to achieve optimum physical, mental and social well-being by providing access to health, mental health and addiction services and supports to meet the needs of adults and children to live, be educated, work and participate in their communities."

Along with the downturn of referrals came the downturn in finances. The following chart illustrates the correlation between the referrals stopping and the financial health of Teras.

Meeting Where Deborah Said "we need to shore up more established programs"

Sides with Client Against our Agency

Deborah Notices Amt. of Clients Being Referred to Teras



Gross Income

— Gross Income

Today 10/11/12

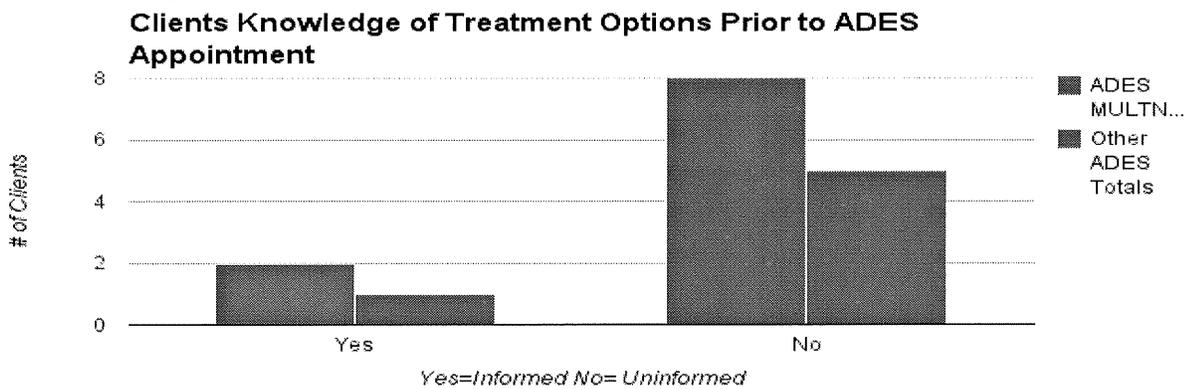
By allowing Ms. Ruiz-Nixon to monopolize the ADES process and thereby one of the main sources of available cash to grass roots treatment programs like Teras, the County is giving her the authority to determine who will provide services and who will not. Her opinion of Teras Intervention and Counseling or any other treatment agency in the Portland area has no bearing on the viability or availability of that program to the citizens of this County and surrounding areas. By cutting off our source of referrals she is directly responsible for the financial difficulty and we see this as a financial attack to render us unable to provide further services in order to benefit the "established programs".

She has no authority under the AMH guidelines and ORS to decide who and who isn't a viable option for treatment services in the greater Portland area and must cease to practice this unethical and illegal circumventing of the Free Enterprise System that has given businesses the incentive to provide innovative treatment options and other services.

The practice of preferential referrals is illegal, unethical and places this community in a direct risk for deaths by impaired driving and other criminal behaviors by reducing the amount of resources available to clients of the DUII programs and the general citizenry of Multnomah County.

In the spirit of cooperation we have included a potential solution that would not require legal action on our part. This solution would merely require the cooperation of Multnomah County Circuit Court Administrator Douglas Bray and of course the cooperation of ADES director Deborah Ruiz Nixon.

The following graph illustrates the results of a survey we conducted of our clients and their referral sources practices. One color represents the ADES in Multnomah County and the other represents Washington County and other counties within Oregon that have referred people to our program.



As one can clearly see the clients being referred to our program during this survey were not informed of other programs 8 out of 10 times they were referred to our program. As expected the ADES in other counties did not inform clients referred to our program of all other available options because of their special circumstances of requesting a specific type of treatment we offer that other programs don't.

The official position of Teras Intervention and Counseling is to only approve of the practice outlined by the AMH of giving clients information about ALL treatment programs available in their geographic and area and specific service provided that each individual needs - even if not doing so benefits Teras. The Teras mission to provide affordable, accessible and quality treatment services includes the possibility of sending potential clients to other programs that are more likely to result in better outcomes for the person being referred.

The equally biased practice of only giving people information about treatment programs that take insurance is also not an acceptable practice since it limits the client's choice to decide on where to go and does not provide the ethical practice of informed consent informing them of the potential for consequences in the form of potentially higher insurance premiums and greater potential for denials at a later date due to the stigma of having an alcohol and drug diagnosis. This practice also does not take into consideration that Teras and other programs provide a service equal in price to many of these individual's insurance co pays.

As trial court administrator and facilitator of the process of approving Ms. Ruiz-Nixon to be the sole provider of ADES for Multnomah County, Douglas Bray needs to address this critical situation immediately and take into full consideration the information presented in this report. An immediate solution would be to implement the dispensing of information at the courthouse so every person choosing to do diversion or mandated to treatment will have the opportunity to research their options and come prepared to truly collaborate in the referral process.

At the very least Douglas Bray needs to facilitate a meeting between the interested parties including Teras Executive Director Phil Broyles to dialogue about a solution to this dilemma immediately within two weeks of this letter.

A copy of this report will be given to all interested parties at the circuit court, AMH and OHA.

