

Human Writes

State Human Rights Committee Newsletter

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Welcome

Welcome to the summer 2008 edition of Human Writes, a quarterly newsletter from the State Human Rights Committee (SHRC). The purpose of this newsletter is to share ideas, problems, solutions and other items of mutual interest among the Local Human Rights Committees and the SHRC. Please submit you thoughts and ideas to:

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Variances to:

Rules and Regulations to Assure the Rights Of Individuals Receiving Services from Providers Licensed, Funded or Operated by DMHMRSAS

Occasionally programs will ask for a variance to the regulations. Part VI, 12VAC35-115-220 **Variances**, details the specific requirements for a variance to the regulations as introduced below.

A. Variances to these regulations shall be requested and approved only when the provider has tried to implement the relevant requirement without a variance and can provide objective, documented information that continued operation without a variance is not feasible or will prevent the delivery of effective and appropriate services and supports to individuals.

The regulations further outline the process of requesting a variance. The SHRC is very cautious about allowing variances so as to protect the Human Rights of clients. A recent request to the SHRC for a variance asked for permission to use video camera monitoring in a seclusion room of a psychiatric hospital instead of face to face monitoring. The SHRC rejected the request for the variance due the regulation 12VAC35-115-110 **Use of Seclusion, restraint, and time out C. 17** "Providers shall monitor the use of restraint for behavioral purposes or seclusion through continuous *face to face* observation, rather than by an electronic surveillance device." The SHRC felt the face to face observation as specified in the regulations was an appropriate protection of the human right of dignity and a variance was not indicated. Programs should consider a request for a variance only under unusual circumstances.

VCBR Update: Completes Move

The SHRC held its May 30, 2008 meeting at the Virginia Center for Behavioral Rehabilitation (VCBR) and toured the facility. VCBR is a unique facility within the mental health system. One first notices the set of 15 foot fences with barbed wire at the top surrounding the facility. VCBR houses Virginia's Sexually Violent Predators who have been committed to residential care. VCBR has to meet its unique security requirements and is also a residential facility as well. This brand new facility opened in March 2008 and can eventually house up to 400 residents. At present there are fewer than 100 residents. The facility is bright and new and has a gymnasium that the residents greatly appreciate. The resident's rooms are in sections of 40 rooms that surround a common area. VCBR has many classrooms, treatment rooms and has space set aside for a work program in the future. The combination of a residential facility and a secure facility seems to have been accomplished. As with any new facility there were a few bugs to be worked out and they seem to have been solved.

VCBR is a secured residential treatment facility dedicated to the treatment of civilly committed sexually violent predators. The program is currently located in Nottoway County. The 28 acre site is located adjacent to Piedmont Geriatric Hospital between U.S. 360 and U.S. 460. VCBR is committed to changing the Commonwealth and the lives of our residents through a comprehensive psycho-social treatment program that lowers the re-offense risk of our population to the lowest level possible; providing an invaluable service to the community.

VCBR's Vision

The VCBR is a model behavioral treatment center and a proven innovative leader in the profession. The Commonwealth is a safer place to live and work because the Center maintains suitable custody and exemplary rehabilitation of residents.

The employees are the cornerstone of the Center. We share a common purpose and a commitment to the highest professional standards and excellence in public service. The Center, through its unwavering commitment to its employees, is a gratifying place to work and grow professionally.

VCBR's Goals

- Maintain custody of and provide treatment for residents during their commitment at the Center.
- Ensure a safe and healthy environment for staff and residents alike. Develop and implement effective programs and services that provide residents the opportunity for positive change Provide effective leadership so that the Center can optimize its resources to achieve all mandates, initiatives, and services.

VCBR's Values

We believe we can best fulfill our vision and accomplish our mission by demonstrating and living the following values:

- Performing work that is purposeful and fulfilling;
- Exemplifying professional, ethical, and high moral standards of conduct;
- Demonstrating a commitment to the Center's mission; and
- Being team players and supporting one another.

LHRC Honoree

The LHRC Honoree this newsletter is Dr. William (Bill) FitzPatrick of the New River Valley LHRC. Bill is an Associate Professor of Philosophy at Virginia Tech in Blacksburg, Virginia.

Bill first came to Virginia with his wife and son in 1999 to join the faculty at Virginia Tech. Prior to that, Bill had been living in New Haven, Connecticut, teaching philosophy at Yale University. Two things that especially attracted Bill and his family to Blacksburg as they started their family were the excellent public school system and the strong sense of community, which has become all the more evident since the tragedy of April 16, 2007. When Bill first heard about the New River Valley LHRC from a colleague at Virginia Tech, he jumped at the chance to become involved with this important community service. Bill joined the LHRC in the fall of 2003 and became chair of the committee in 2004.

Part of Bill's interest in the work of the LHRC comes from his professional interest in human rights and dignity. The focus of his work is ethics—from the philosophical foundations of rights and duties to applications of philosophical principles to issues such as human subjects testing or embryonic stem cell research. This past May, Bill presented a paper at a conference at Washington University in St. Louis on Kant's conception of human dignity and its practical implications. Although the issues discussed were often abstract, they form the philosophical background for many of our concerns in LHRC's.

The other source of Bill's interest in the LHRC is more personal. Bill's older brother, Mike, is autistic, and Bill grew up keenly aware of the issues Mike confronted. Being much younger, Bill missed Mike's first thirteen years, when doctors presumed to tell Bill's parents that Mike would never be able to live outside of an institution, and that they had caused the problems—in one case, telling Bill's mother that it must have been her “frigidity”, in another case telling her the opposite, that she must have been “smothering”. In fact, through Bill's parents' devotion and hard work, Mike developed into an extremely capable adult, who has held the same job for the last thirty years. This was a powerful testament to the power of the right kind of care and support to change people's lives for the better.

Shortly before Bill came to Virginia, Mike also experienced first-hand the opposite: the power of ignorance—especially in the hands of people entrusted with authority—to wreak havoc on those least able to defend themselves. Early in 1999, Mike was arrested and charged with

bank robbery, after police browbeat a false confession out of him in the middle of the night and a bank teller mistakenly picked him out of a lineup after having just been shown his picture. The whole episode, which involved his being put briefly in jail (until their parents came up with \$50,000 bail), wound up being featured on the national news program "20/20". The punch line: The charges against Mike were dropped only after the real bank robber, who had since been caught for serial bank robbery in the area, confessed and then contacted the media after being told by officials that they weren't going to charge him with the robbery in question because they "had someone else". It was an eye-opening experience in many ways, not least of which because it highlighted the importance of education for law enforcement personnel concerning persons with mental disabilities.

For all these reasons, Bill has been very interested in contributing to the work of the LHRC in protecting human rights. Bill notes that one persistent challenge for the New River Valley LHRC has been adequate representation on the committee by consumers, which is important to ensure an adequate range of viewpoints.

On the whole, Bill has been extraordinarily impressed by the quality of the care he has seen represented by providers. The thoughtfulness and detail of the treatment plans, for example, shows the extent to which these extremely hard working people have gone to get to know the people they serve, so as to minimize restrictions and maximize their ability to participate freely in as much of life as possible. Bill also has been extremely impressed by the passion and integrity of the NRV LHRC Regional Advocate, Nan Neese, who describes herself as "one of the longest surviving Human Rights Advocates". Bill notes that Nan is the kind of person anyone needing an advocate would definitely want on their side! If Bill had to pick one word to describe the feeling he typically comes away with after an LHRC meeting, it would be: 'inspired'.

Hail and Farwell-SHRC

On June 30th, we said goodbye to Carmen Thompson and Davey Zellmer who have completed six years each serving on the SHRC. Davey was editor of Human Writes from its beginning and is now turning the reins over to Joe Lynch. She says the time is right for new blood and thinks Joe will improve the newsletter and bring a male point of view to it. Carmen Thompson, from 'beautiful Smith Mountain Lake', has served on a number of sub-committees and has never held back her opinions on the way she thinks the committee should take action. We are told she has already signed on to serve on another LHRC. As of July 1st, the Committee welcomes new members Randy Johnsey, consumer member from Area 3 and Carolyn DeVilbiss, a health care provider and professional from Area 1. Randy has been the Chairman of an LHRC for some time and is said to be an outstanding leader of that group. Carolyn has worked in the field of aftercare services at the Mt. Vernon Center for Community Mental Health and has helped form quality community services since the beginning of de-institutionalization

Adrien Monti is the new advocate at Catawba Hospital and Roanoke Valley. Randy Urgo, long time advocate at WSH and area transferred to Central Virginia Training Center. Jerry Thomas will begin as the new advocate at WSH and area on July 10, 2008. Anne Stiles long time advocate at Piedmont Geriatric Hospital (PGH) and Virginia Center for Behavioral Rehabilitation (VCBR) retired. Walter "Buddy" Small will begin as the advocate at PGH/VCBR on June 25th. Stanley Cousins advocate at Southern Virginia Mental Health Institute resigned.

MEET THE ADVOCATE

Each issue of Human Writes will feature one of the Advocates. This issue introduces Stewart Prost, senior advocate in Region V.

Stewart Prost, a determined young man, was born in Minneapolis, Minnesota, with a medical condition which left him legally blind for life. When he was in the third grade, intelligence and other testing determined that he was capable of achieving a college level education. From that moment on, his parents' expectations were that he would complete college and support himself in an average job in an average business. Stewart grew up with that expectation as a given

He graduated from the University of Minnesota with a Bachelor's Degree in Social Work. While he had role models in college, he never had formal training in a facility for the blind. He began his social work career in nursing homes and as an ombudsman in a program in Minneapolis.

He moved to Virginia to be married. He is an active member in the National Federation of the Blind. His career encountered a "bump in the road" when, while working for another state agency, the Virginia Beach office of that agency where he worked was closed. He was offered a position in Richmond, which was over 100 miles away from his home. It was not possible to work in that location because of his disability. The agency was not willing to accept telecommuting as a reasonable accommodation. The dispute was resolved through EEOC intervention and arbitration. During this same period, his present job became available.

His advocacy responsibilities primarily center around Southeastern Virginia Training Center, but also include community programs, as well. Being a small campus, he can walk to most of the places where he is needed. He also covers the Southside Regional LHRC, the Universal Family LHRC, the Mid-city LHRC, and the Norfolk Regional LHRC. When he can't walk, he uses cabs, buses, or sometimes carpools.

His approach to problem solving issues or complaints sounds similar to the way he has dealt with his own. He considers any intervention from the standpoint of "what do you want and how can we get it". He assists the client in defining goals, identifying options, and seeking resolution at the lowest level of intervention. He thinks of his relationship with a client as a human one in that he believes everyone has the right to be heard and treated fairly. He doesn't try to be perfect but to be creative and be a team player.

Introducing CHRIS

Who is CHRIS? The Computerized Human Rights Information System (CHRIS) web based reporting system will be tested this summer with some providers slated to begin reporting in the fall. Full implementation of the new web based reporting system is scheduled for January 2009. Providers will use this system to make required reports of human rights complaints, allegations of abuse and neglect and uses of seclusion and restraint.

Annual Report

Message from the SHRC Chair and the Director of Human Rights

This annual report presents the activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in 2007 in accordance with our duties and responsibilities under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services*. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens who serve as volunteers to assure these rights. The Annual Report will be available in mid August at <http://www.dmhmsas.virginia.gov/OHR-default.htm>