

**STATE HUMAN RIGHTS COMMITTEE
MEETING MINUTES**

Prince William Hospital
8640 Sully Road (234 Business)
Manassas, Virginia
Friday, April 25, 2003

ADVOCATES' FORUM
8:00 a.m.

ADVOCATES PRESENT

Charles T. Collins, Regional Human Rights Advocate, Region I
Mary W. Towle, Regional Human Rights Advocate, Region II
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Ann Petrie, Facility Human Rights Advocate, Northern Va Mental Health Institute
Ophelia Okafor, Facility Human Rights Advocate, Northern Va Training Center
Randy Urgo, Facility Human Rights Advocate, Western State Hospital

COMMITTEE MEMBERS PRESENT

Peter McIntosh, Chair
Jim Briggs, Vice-Chair
Joyce Bozeman
Angela Brosnan
Carol Gittman
Michael Marsh
Carmen Thompson
Davey Zellmer

OTHER STAFF PRESENT

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary

Advocates Forum:

Peter McIntosh thanked Jim Bowser for his assistance in presenting the Annual Report to the State MHMRSAS Board on April 10, 2003. Peter reviewed the recommendations in the report made to the Board. Mr. Bowser briefed the committee on the issues raised during the State Board meeting.

Margaret Walsh stated that Charlotte McNulty will attend the June 6, 2003

SHRC meeting in Roanoke to present the report of the LHRC Study Group.

Ms. Walsh reported on Governor Warner's plan for a Sexually Violent Predator (SVP) Unit at Central State Hospital, which will be in operation by July, 2003. Additional controls for the safety of the public must be in place before the unit begins to operate. The Attorney General will challenge the suggestion that DMHMRSAS should license this unit. Jim Briggs expressed his opinion that the SVP Unit should be covered in human rights regulations. Jim Bowser stated that if SVPs are covered in the human rights regulations, advocate workloads will be significantly increased. The SHRC will write a letter to the Commissioner reinforcing a former request for additional staff positions.

Ms. Walsh reported that a sexual predator eloped from Central State Hospital (CSH) this month. David Lardy, human rights advocate at Southwestern Virginia Mental Health Institute, brought the client back to CSH. A temporary exemption to the human rights regulations was issued that halted day passes for forensic patients. This entire class of individuals was affected and restricted by the exemption. Commissioner Reinhard and Margaret Walsh have appealed to Governor Warner not to restrict whole classes. Restrictions should be issued on an individual basis, otherwise patients are penalized without being given due process. Peter McIntosh will write a letter to Dr. Reinhard for the record emphasizing that restrictions must be based on individual clinical risk assessment rather than on whole classes of people/consumers.

Mary Towle reported on activities in the Northern Virginia region. With the implementation of the new regulations in November of 2001, the office is receiving more complaints than in the past. Every program must now develop their own policies and procedures, rather than falling under the umbrella of their affiliate. Local Human Rights Committees in the Northern Virginia area now have much heavier workloads.

Margaret Walsh summarized HIPAA and PHI issues. An LHRC has been receiving incident reports that contain client specific information. Since the implementation of HIPAA, the LHRC is no longer able to get these reports. LHRC members do not believe they can effectively protect patients without this information and are threatening to leave the committee. Jim Briggs suggests asking that the LHRC conduct its own review of itself and explain to the SHRC how the practice of reviewing critical incident reports is in accordance with the human rights regulations and HIPAA.

Mary Towle reported on the formation of the new Psychiatric Hospitals LHRC in Northern Virginia.

Chuck Collins reported on the new UVA LHRC. UVA Psychiatric Services

affiliated with the Western State Hospital LHRC with the intention of forming its own committee. Today the SHRC will review two applicants for appointment to the new LHRC. Three more appointments will be reviewed in June. Mr. Collins anticipates he will have a fully formed and functioning committee by July 1, 2003.

Jim Bowser reported on Time Out Variances. One provider with residential services and adolescents has issues. They have been using Time Out as a punishment. Time Out must be voluntary, in an open area, with a 30 minute time limit. Margaret Walsh, Jim Bowser, Jennifer Bailey, and Marion Greenfield of the central office will attend the quarterly advocates meeting May to develop guidance to give providers to help standardize the use of Time Out.

Mary Towle reported that the NVTC LHRC did a wonderful job of providing services for the consumers of NVMHI at their last meeting.

Margaret Walsh stated that the office is still working to identify a consumer to serve on the SHRC.

Joyce Bozeman presented the SHRC Draft By-Laws. Suggestions were made for revision of the document. A final version will be re-submitted for review at the June meeting.

REGULAR MEETING
10:15 a.m.

COMMITTEE MEMBERS PRESENT:

Peter McIntosh, Chair
Jim Briggs, Vice-Chair
Joyce Bozeman
Angela Brosnan
Carol Gittman
Michael Marsh
Carmen Thompson
Davey Zellmer

STAFF PRESENT:

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Charles T. Collins, Regional Human Rights Advocate, Region I
Mary W. Towle, Regional Human Rights Advocate, Region II
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Ann Petrie, Facility Human Rights Advocate, NVMHI

Ophelia Okafor, Facility Human Rights Advocate, Northern Va Training Center
Randy Urgo, Facility Human Rights Advocate, WSH

OTHERS PRESENT:

Leslie Anderson, Director, Office of Licensing, DMHMRSAS
Loretta Redelman, Fairfax-Falls Church CSB LHRC
Dr. Anita Everett, Inspector General
David Carlini, Administrator, Center for Psychiatric and Addiction Treatment
John Woodridge, Chief Operating Officer, Prince William Hospital
Martha Lesavy, Patient Care Coordinator, Center for Psychiatric and Addiction Treatment
Jonathan Martinis, Managing Attorney, VOPA
Colleen Miller, Executive Director, VOPA

CALL TO ORDER:

The April 24, 2003 meeting of the State Human Rights Committee was called to order by Chairman Peter McIntosh. Mr. McIntosh lead the members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves,

Peter McIntosh introduced John Woodridge, Chief Operating Officer, Prince William Hospital. Mr. Woodridge described the services provided by the hospital. They are currently adding new units to the hospital complex and will house all services under one roof. The hospital plans to begin ECT services within the complex in the near future. Mr. Woodridge also stated that they are striving to work with community programs to provide more services to the community. Davey Zellmer commented that hospital staff have been very friendly and helpful.

MINUTES:

The minutes of the March 7, 2003 State Human Rights Committee meeting were accepted with one abstention.

OTHER:

Update from the Office of the Inspector General

Peter McIntosh introduced Dr. Anita Everett, Inspector General, and welcomed her to the meeting. Dr. Everett thanked the SHRC for inviting her to the meeting and provided the committee with an overview of the formation of the Office of the Inspector General. The office was created in a general sense to ensure individuals the right to active treatment in an adequate environment. The Code of Virginia defines three main functions of the Office of the Inspector General (IOG):

conducting unannounced inspections; monitoring critical Incidents, and; reviewing regulations as they are promulgated by the DMHMRSAS. The OIG tracks all findings until their resolution.

The OIG consists of a staff of three individuals. They are currently looking at the ability of the LHRC to function independently of the programs and facilities in the performance of their duties and responsibilities. The OIG will speak to the advocates to gain a sense of their confidence in being able to function independently in the performance of their duties.

Although the Inspector General does not have police power, she does report criminal activity to the police. The OIG also monitors trends, and challenges the system to perform on the level of national standards. Dr. Everett provides clinical expert witness services in protecting the rights of the individual. She stated that she is very concerned about the interpretation of the regulations regarding the use of seclusion and restraint and the use of Time Out. Peter noted that the appropriate/inappropriate use of Time Out should be addressed to the Office of the Inspector General.

VOPA: Overview of the Functions of the Virginia Office for Protection & Advocacy

Peter McIntosh introduced Jonathon Martins, Managing Attorney, and Colleen Miller, Executive Director, of the Virginia Office for Protection and Advocacy (VOPA). Mr. Martinis presented an overview of the functions of the Virginia Office for Protection and Advocacy. The VOPA is primarily federally funded and is traditionally formed after the law firm model. The main functions of the VOPA are to represent consumers in the way any lawyer would in regards to the requirements of the Americans with Disabilities Act and to represent consumers in cases against the government.

The investigatory function of the office comes from both federal and state law. VOPA reports on incidents after responding to individual requests for help and investigating newspaper reports. The VOPA ferrets out activities in wrong doing and works toward a goal of correction.

Virginia is proactive through the activities and authority of VOPA. It is possible that the same case would be handled by the SHRC and the VOPA at the same time. The SHRC is part of an internal system, VOPA is external. The VOPA has the right to sue state agencies.

Colleen Miller invited those present to visit the VOPA web site to learn more about the activities and authority of the office. She stated that within VOPA, PAIMI and DD parallel OHR and SHRC functions.

Jonathon Martinis stated that the majority of ADA work is done under the PAIR program. Colleen Miller reported that VOPA will have a Board of Directors as of June or July. They represent a number of different constituencies and are charged with the responsibility of starting an Ombudsman program but have not been given funds for it.

Margaret Walsh stated that Virginia is very fortunate to have three different avenues for protecting the rights of individuals. She emphasized that the SHRC is an internal system, the VOPA is external, and the OIG is a hybrid. It is a pleasure to have the State Human Rights Committee, the Inspector General, and staff of the Virginia Office for Protection and Advocacy together for this meeting.

Client Swaying:

Margaret Wash introduced Leslie Anderson, Director of Licensing for the DMHMRSAS. Ms. Anderson opened by stating that the Office of Licensing (OL) does license Department of Corrections mental health units. Although these units are not under the purview of the human rights regulations, the Department does have some oversight authority through the Office of Licensing.

Ms. Anderson provided a history of the licensing of facilities and in particular the licensing of MR Waiver group homes. She stated that in the past most of these group homes were not-for-profit organizations. Because Medicaid waiver dollars are dwindling, many new MR Waiver group homes have elected to be for-profit organizations.

The 2002 budget did not provide any new money for MR Waiver, but there were 100 new programs. This created a competition for consumers. Some of this competition is ethical, some is not. There is a strong need for ethical guidelines for the transferring of individuals from public to private programs (CSBs to Group Homes).

Ms. Anderson believes we should congratulate the private sector for opening this many new programs. The public sector would not have been able to do it.

She also stated that most incidents of abuse and neglect have occurred in group homes. Her office licenses 898 services and programs. Some of these programs were not conducting criminal background checks on new employees. Now that the Office of Licensing has new regulations, the primary changes taking place involve group homes.

BYLAWS:

Northern Virginia Training Center: Bylaws Modification

Mary W. Towle, Regional Human Rights Advocate, Region II, and Ophelia Okafor, Facility Human Rights Advocate, Northern Va Training Center, presented the proposed Bylaws modification for Northern Virginia Training Center.

The LHRC proposes to modify the Bylaws to include language regarding the Secretary's responsibilities in covering for the Chair and Vice-Chair during absences and vacancies of those positions. Discussion followed regarding the definition of "quorum".

The motion was made and unanimously passed to accept the NVTC Bylaws modification with the following additions:

Section 4.5 shall read, "No meeting can proceed without a quorum, which is half of the appointed members of the committee plus one."

Section 8.2 to "A quorum for meetings shall consist of half of the appointed members of the committee plus one."

Woodside Hospital LHRC: Name change to Newport News Regional LHRC

Mr. James Bowser, Jr., Regional Advocate, Region IV, presented on behalf of the Woodside Hospital Local Human Rights Committee, a request to change its name to the "Newport News Regional Local Human Rights Committee".

A motion was made and passed to approve the Woodside Hospital Local Human Rights Committee request to change its name to the Newport News Regional Local Human Rights Committee.

LHRC MEMBERSHIP:

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code §2.1-344 A (15) for the purpose of reviewing Local Human Rights Committee nominations.

Upon reconvening in open session, the Committee unanimously passed a motion to appoint the following applicants to their respective Local Human Rights Committees.

Fredericksburg Area

Appoint:

Heike Mothershed

Northwestern CSB

Appoint:

Lana Hurt

Rappahannock Area CSB

Appoint:

Michael Washington

Reappoint:

Richard Carbaugh

Rappahannock-Rapidan CSB

Reappoint:

Barbara Willard

Helen Williams

Valley CSB

Reappoint:

Michael Gieseke-Smith

Harrisonburg-Rockingham CSB

Reappoint:

Jeanne Tysinger

University of Virginia Psychiatric Services

Appoint:

Alison Hymes

Merle Painley

Western State Hospital

Reappoint:

Flora Haas

Health Planning Region V

Reappoint:

Janis M. Dauer

Genesis Treatment Agency

Reappoint:

Mary K. Hall

Daniel Jungkuntz

Hampton/Newport News CSB

Appoint:

Lynne M. Finding

Reappointment:

Gary Epps, Sr.

Southampton Memorial Hospital New Outlook Program

Reappoint:

Don Q. Vincent

T.W. Neumann & Associates

Reappoint:

Robert Musico

Christopher S. Young

Chesapeake Regional

Reappoint:

Elizabeth "Beth" Walker

Woodside Hospital

Appoint:

Lasalya Crawford

Karen Willis Fox

RC Right Group Home

Reappoint:

Carolyn Craig

Fred Evans

Janice Bailey

Central Virginia Community Services

Reappoint:

Sarah Coppola

Southside Virginia Community Services

Appoint:

Diane Snoddy

Southern Virginia Mental Health Institute

Reappoint:

Hazel Fontaine

Prince William County CSB

Appoint:

Charlotte Gracey

Fairfax-Falls Church CSB

Appoint:

Betty Gardner

Loudoun County CSB

Appoint:

Heidi Gardner

Alexandria CSB

Appoint:

Rebecca Ahern

NOVA

Appoint:

Ann Pascoe

Catawba Hospital

Appoint:

Glynda C. Heldreth

SWVMHI & Ridgeview Pavilion

Appoint:

Trudy Combs

Reappoint:

Bruce Carruth

Margaret "Lucy" Frye
Southside Virginia Training Center

Appoint:

Joyce Twitty
David T. Bullock
LeAnn S. Binger
Gloria Jean Cooper

Reappoint:

Betty L. Velez
Kevin D. Dixon

Western State Hospital

Resignation:

Anne Thuresson

Appeal

Western State Hospital: R.O.

This case came before the State Human Rights Committee on appeal of a decision of the Western State Hospital (WSH) Local Human Rights Committee (LHRC). Randy Urgo, Human Rights Advocate Senior, presented the case on behalf of R.O., complainant. WSH was not able to send a representative to the hearing, however, WSH was agreeable that the hearing progress as planned.

R.O. believes that the facility director's effort (action plan) does not adequately address the findings and recommendations set forth by the WSH LHRC in its decision of February 27, 2003. Members present were Peter McIntosh, Jim Briggs, Joyce Bozeman, Carol Gittman, Dr. Michael Marsh, Carmen Thompson, Davey Zellmer, and Dr. Angela Brosnan. Also present were Anne Petrie for training purposes, Randy Urgo, Chuck Collins, Margaret Walsh and Kli Kinzie.

The client requested a closed hearing.

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code § 2.1-344, for the purpose of discussing the appeal of R.O. This review necessarily involved discussion and consideration of records and information excluded from the Freedom of Information Act.

Upon reconvening in public session, the State Human Rights Committee unanimously certified that to the best of each State Human Rights Committee member's knowledge, only public business matters lawfully exempt from statutory open meeting requirements, and only public business matters identified in the motion to convene the closed session were discussed in closed session.

The motion was made and unanimously passed that SHRC finds a violation of R.O's rights in accordance with 12 VAC 35-115-60, A, B, 5, by Western State Hospital and Rockbridge Area Community Services Board.

SHRD Report

Margaret Walsh, State Human Rights Director, reported that the State MHMRSAS Board did not like the ECT video they viewed at the April 10 State Board meeting. They would like to come before the SHRC to discuss ETC. Dr. Evans will also be invited to attend.

HIPAA went into effect on April 14. The overlay of HIPAA and the Office Human Rights creates some heavy burdens on the OHR and programs. It is proposed that the office revise the regulations to be HIPAA compliant in order to simplify the process, or to develop language for a Variance to the regulations regarding accounting/information tracking.

Having no further business to discuss, the motion was made and passed to adjourn the meeting.

Respectfully submitted,

**Peter McIntosh, Chair
State Human Rights Committee**