

**State Human Rights Committee  
Meeting Minutes**

Rappahannock Area CSB  
600 Jackson Street  
Room 201/202  
Fredericksburg, Virginia, 22401  
Friday, July 11

**ADMINISTRATIVE MEETING**  
**8:30 a.m.**

**COMMITTEE MEMBERS PRESENT**

Kirby Wright, Chair  
Christina Delzingaro, Vice-Chair  
Delores Archer  
Angela Brosnan  
Carolyn M. DeVilbiss  
Randy Johnsey  
Joseph Lynch  
Donald Lyons  
Jannie Robinson

**HUMAN RIGHTS STAFF PRESENT**

Margaret Walsh, State Human Rights Director  
Kli Kinzie, Executive Secretary  
Deb Lochart, Regional Human Rights Advocate, Region II  
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV  
Reginald T. Daye, Regional Human Rights Advocate, Region V  
Sherry C. Miles, Regional Human Rights Advocate, Region VI  
Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center  
Mark Seymour, Child and Adolescent Advocate, Regions I & II  
Timothy Simmons, Human Rights Advocate, Northern Va Mental Health Institute  
Mary Towle, Human Rights Advocate, Northern Virginia Training Center

**OTHER STAFF PRESENT**

Jack Barber, Director, Western State Hospital

Gail Burford, Western State Hospital Director's Liaison to WSH LHRC  
Cathy Hill, DMHMRSAS, Office of Inspector General  
Ishneila Moore, Office of Attorney General, Representing Western State Hospital  
Allyson Tysinger, Senior Assistant Attorney General

### **OTHERS PRESENT**

Terri Bishop, Northern Virginia Mental Health Consumers Association  
Brenda Coleman, Disability Rights Advocate, Virginia Office for Protection & Advocacy  
Erin Crowgey, Legal Intern, Legal Aid Justice Center  
Zachary S. DeVore, Staff Attorney, Virginia Office for Protection and Advocacy  
Diane Engster, JD, President, Northern Virginia Mental Health Consumers Association  
Josephene Johnsey, Interested Person  
Bill McKelway, Richmond Times Dispatch  
Ramesh Menon, Legal Intern, Legal Aid Justice Center  
Matthew O. Nwokeleh, Lead Facilitator, On Our Own Fairfax County  
Michael Pendrak, Northern Va Mental Health Consumers Association  
Sarah Poire, Administrative Assistant, Regional Recovery Workgroup  
Dena Potter, The Associated Press  
J. Thomas Soxman, Financial Advisor to Board of Directors, On Our Own Fairfax  
County  
Abigail Turner, Legal Aid Justice Center, Representing CC  
Nathan J.D. Veldhuis, Tremblay & Smith, LLD, Representing CC  
Tim Vinson, On Our Own Fairfax County  
Thelma Wright, Interested Person  
L. William Yolton, Co-Chair, Coalition for Virginians with Mental Disabilities

Mr. Kirby Wright, Chair, opened the administrative session of the State Human Rights Committee meeting.

Mr. Wright reported that the record of the WSH LHRC hearing proceedings was incomplete. The SHRC will proceed with review of the record provided and review the missing record at a later date. Notice of the date and location for the review will be announced.

Chairman Wright stated that the SHRC hearing will be limited to review of the record. No new information will be considered for the appeal.

### **SHRC Goals Review**

The SHRC accepted the SHRC Goals spreadsheet without additional discussion.

### **SHRC Sub-Committees**

The sub-committees had no business to report.

### **Other Items**

The SHRC reviewed a letter from Southside Virginia Training Center LHRC regarding Department Instruction 201.

Margaret Walsh, Human Rights Director, stated that the agenda includes two(2) variances for review: 1) An annual variance report ,and 2) a patient specific variance request. The SHRC may go into closed session to discuss the patient specific variance request. Ms. Walsh briefly summarized the process for review of variances.

#### 2007 Annual Regional Human Rights Staff Activities and Statistical Report

Deb Lochart, Regional Human Rights Advocate, Region II, presented an overview of staff activities in 2007 for the northern Virginia region. The SHRC also received a copy of the region's comprehensive written annual report.

Deb Lochart introduced Mary Towle, Human Rights Advocate for Northern Virginia Training Center. Ms. Lochart and Ms. Towle provided information on the facilities and programs covered in the region.

Sherry Miles, Regional Human Rights Advocate, Region VI, presented an overview of staff activities in 2007 for the south-central region. The SHRC also received a copy of the region's comprehensive written annual report.

Ms. Miles provided a map of the six (6) human rights regions and spoke briefly about the facilities and programs covered in her region. She reported that the Piedmont Geriatric Hospital Local Human Rights Committee continues to consider accepting human rights committee responsibility for Virginia Center for Behavioral Rehabilitation.

Chairman Wright thanked Ms. Lochart and Ms. Miles for their excellent reports.

#### Guidance Request Follow-Up

James O. Bowser, Jr., Regional Human Rights Advocate for Region IV, reported that upon receipt of the SHRC's response in support of Henrico LHRC's request for information, Henrico Area MH and MH Services provided the information to the LHRC. The LHRC will consider reinstatement of affiliation with the program during the next scheduled LHRC meeting.

#### Virginia Center for Behavioral Rehabilitation

The Committee received Level 3 Responses for the files. Margaret Walsh described budgetary issues regarding the Pay-Tel telephone system used at the facility. Christina Delzingaro expressed her hopes that Sherry Miles and Walter Small, Human Rights Advocates, will encourage the Local Human Rights Committee to contact the SHRC whenever they need support, especially SHRC member Joe Lynch, who has expertise in the treatment of the population at VCBR.

Chairman Wright called for a break at 9:45 a.m.

**REGULAR MEETING**

**10:10 a.m.**

**COMMITTEE MEMBERS PRESENT**

Kirby Wright, Chair  
Christina Delzingaro, Vice-Chair  
Delores Archer  
Angela Brosnan  
Carolyn M. DeVilbiss  
Randy Johnsey  
Joseph Lynch  
Donald Lyons  
Jannie Robinson

**HUMAN RIGHTS STAFF PRESENT**

Margaret Walsh, State Human Rights Director  
Kli Kinzie, Executive Secretary  
Charles T. Collins, Regional Human Rights Advocate, Region I  
Deb Lochart, Regional Human Rights Advocate, Region II  
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV  
Reginald T. Daye, Regional Human Rights Advocate, Region V  
Sherry C. Miles, Regional Human Rights Advocate, Region VI  
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Cathy Hill, DMHMRSAS, Office of Inspector General  
Ishneila Moore, Office of Attorney General, Representing Western State Hospital  
Allyson Tysinger, Senior Assistant Attorney General

**OTHERS PRESENT**

Terri Bishop, Northern Virginia Mental Health Consumers Association  
Brenda Coleman, Disability Rights Advocate, Virginia Office for Protection & Advocacy  
Erin Crowgey, Legal Intern, Legal Aid Justice Center  
Zachary S. DeVore, Staff Attorney, Virginia Office for Protection and Advocacy  
Diane Engster, JD, President, Northern Virginia Mental Health Consumers Association  
Kurt Hruneni, Court Reporter, Cavalier Reporting  
Josephene Johnsey, Interested Person  
Delores Jones, Interested Person  
Bill McKelway, Richmond Times Dispatch  
Ramesh Menon, Legal Intern, Legal Aid Justice Center  
Matthew O. Nwokeleh, Lead Facilitator, On Our Own Fairfax County

Michael Pendrak, Northern Va Mental Health Consumers Association  
Sarah Poire, Administrative Assistant, Regional Recovery Workgroup  
Dena Potter, The Associated Press  
J. Thomas Soxman, Financial Advisor to Board of Directors, On Our Own Fairfax  
County  
Abigail Turner, Legal Aid Justice Center, Representing CC  
Nathan J.D. Veldhuis, Tremblay & Smith, LLD, Representing CC  
Tim Vinson, On Our Own Fairfax County  
Thelma Wright, Interested Person  
L. William Yolton, Co-Chair, Coalition for Virginians with Mental Disabilities

### **Welcome / Call to Order**

The July 11, 2008 meeting of the State Human Rights Committee was called to order by Mr. Kirby Wright, Chairperson. Mr. Wright asked committee members and human rights staff to introduce themselves for those present.

### **Minutes**

**Upon a motion by Joseph Lynch and seconded by Angela Brosnan the minutes of the May 30, 2008 State Human Rights Committee meeting were unanimously accepted as submitted.**

### **Variance**

#### **Barry Robinson Center Annual Report**

Reginald T. Daye, Regional Human Rights Advocate, Region V, presented the annual report from the Barry Robinson Center (BRC), for the use of a variance to 12 VAC 35-115-110, Use of Seclusion, Restraint and Time Out, of 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*. The variance allows the BRC to use its Structured Living Policy (SLP). Mr. Daye stated that the program is reporting its use of the SLP as required under the stipulations outlined by the State Human Rights Committee approved variance. Mr. Daye also indicated that there have been no reported violations of the use of the SLP during the past twelve months.

Delores Archer commented that the data provided looks good.

### **LHRC Membership**

**A motion was made and passed to go into closed session pursuant to Virginia Code §2.2-3711 (1) for the purpose of considering appointments to and removals from Local Human Rights Committees.**

Upon reconvening in open session, the State Human Rights Committee certified that to the best of each 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 SHRC accepted the resignation of Latonia Edmonds from Chesapeake LHRC and the resignations of Benjamin Plummer and Peggie Roland from Southwestern Virginia Mental Health Institute LHRC.

**The motion was made and unanimously passed to appoint the following applicants to the specified local human rights committees.**

Region I

Western State Hospital

Appoint: Ms. Donna Gum

Fredericksburg Area LHRC

Appoint: Ms. Nancy Sorrentino

Region II

Loudoun LHRC

Reappoint: Ms. Linda Boykin, Mr. Chuck Person, Ms. Nicole Francis,  
Mr. Albert Ware

Prince William LHRC

Appoint: Ms. Pamela Horak

Northern Virginia Training Center

Appoint: Mr. Gerald M. Vaiden

Region III

Blue Ridge Regional HRC

Reappoint: Ms. Rebecca S. Baker, Ms. Geraldine B. Cleary

Catawba LHRC

Reappoint: Ms. G. Rena Ferguson

Mount Rogers LHRC

Appoint: Ms. Rives B. Deaton

Southwest Regional HRC

Reappoint: Mr. Charles F. Stapleton, Jr.

Southwestern Virginia Mental Health Institute LHRC

Appoint: Ms. Willie McFarlane, Ms. Elouise Vaught

Region IV

Richmond Unified LHRC

Reappoint: Ms. Londella Hamilton, Ms. Patrice Banks-Lewis, Ms. Paula Futrell  
Ms. Toinette Worden

New Creation LHRC

Reappoint: Mr. Carl Wells

Chesterfield LHRC

Reappoint: Dr. Analie Rademaker

Metro Richmond LHRC

Reappoint: Ms. Mackay Boyer, Ms. Shontary Harris

Tuckahoe LHRC

Appoint: Ms. Kia Symonds, Mr. John T. Redd

Chester Regional LHRC

Appoint: Ms. Letta Porter Jones

Petersburg Regional LHRC

Appoint: Mr. Michael Nichols, Mr. Steven R. Watkins, Sr.

Reappoint: Ms. Isabel Vartanian

Henrico LHRC

Appoint: Mr. Aljanon C. Wills

Central State Hospital LHRC

Reappoint: Ms. Linda Masri, Ms. Violet Hite

Southside Virginia Training Center and Hiram Davis Medical Center

Appoint: Mr. Lewis Newbill

Reappoint: Mr. Edmund Martin

#### Region V

Eastern State Hospital LHRC

Appoint: Ms. Joyce L. Smith

Hampton Roads Regional LHRC

Appoint: Ms. Doris Peterkin

Southeast Alliance LHRC

Appoint: Ms. Linda L. Lane

Hampton Regional LHRC

Appoint: Ms. Evelyn D. Gay

Southside Regional LHRC

Appoint: Ms. Tracy Ferguson

#### Region VI

Southern Virginia Mental Health Institute

Reappoint: Mr. Gregory T. Casker

Piedmont Geriatric Hospital

Appoint: Mr. James Dyson

Reappoint: Ms. Estell Patterson

Kirby Wright introduced Mr. Ronald W. Branscome, Executive Director of Rappahannock Area Community Services Board. Mr. Branscome welcomed the committee to the city of Fredericksburg and spoke briefly about the CSB and about a new state of the art mental health stabilization facility that will be built nearby.

Nathan Veldhuis, Tremblay & Smith, LLD, Attorney for CC, objected to the variance being reviewed in closed session. Mr. Veldhuis requested that representatives for the family of CC be allowed to attend the Variance review for CC. The SHRC opined (citing 12 VAC 35-115-220), that only the Director, in this case the Director of Western State Hospital, is party to the Variance.

#### **10:30 a.m. Public Comment**

At 10:30 a.m. Kirby Wright announced the public comment period and invited individuals to come forward to address the committee.

The committee was asked about the nature of the business that took place during closed session. Chairman Wright replied that the SHRC discussed personnel issues regarding appointments to and removals from Local Human Rights Committees. Christina Delzingaro re-stated the language of reconvening in open session for the benefit of all present. Each member of the State Human Rights Committee certified that to the best of their 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.

Diane Engster, JD, President, Northern Virginia Mental Health Consumers Association, emphasized the SHRC's responsibility to protect the consumer, not the system or the hospital.

Nathan Veldhuis asked if there be opportunity to speak or comment later regarding the variance.

Consumers and others present spoke about their experiences with the system. One suggested that more training is needed for staff who deal with CC. Techniques for dealing with challenging consumers should be taught to all mental health professionals.

L. William Yolton, Co-Chair, Coalition for Virginians with Mental Disabilities, spoke of his involvement with a regional support program that offers annual sessions on how to deal with seclusion and restraint, and how to deal with violent individuals.

Nathan Veldhuis asked what authority the committee relies on to determine who the parties to the variance are. Margaret Walsh replied that the committee follows the human rights regulations [*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*], § 220. Ms. Walsh further stated that closed session is used to protect the consumer's confidentiality.

The public comment period ended at 10:45.

Zachary S. DeVore, Staff Attorney, Virginia Office for Protection and Advocacy, said the request for CC's Variance is already open because it was reviewed by the LHRC during an open LHRC hearing. Mr. DeVore's objection to a closed Variance review is noted for the record.

## **Variance**

### **Western State Hospital**

Kirby Wright announced the consideration of a request for a Variance to 12 VAC 35-115-110, use of Seclusion, Restraint and Time Out, of *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 for CC, a patient of Western State Hospital.*

**Upon a motion made by Joseph Lynch and seconded by Delores Archer the State Human Rights Committee convened in Closed Session pursuant to Virginia Code, 2.2-3711(15), for the purpose of discussion or consideration of medical and mental records excluded from the Virginia Freedom of Information Act.**

SHRC members Kirby Wright, Chair, Christina Delzingaro, Vice-Chair, Delores Archer, Angela Brosnan, Carolyn M. DeVilbiss, Randy Johnsey, Joseph Lynch, Donald Lyons and Jannie Robinson were present . The SHRC was accompanied by Allison Tysinger, Senior Assistant Attorney General and DMHMRSAS Special Counsel, Margaret Walsh, Human Rights Director, and Kli Kinzie, Human Rights Secretary. Charles T. Collins, Regional Human Rights Advocate, Region I, was present to provide technical assistance. Nathan J.D. Veldhuis, Tremblay & Smith, LLD, and Abigail Turner, Legal Aid Justice Center, were present to represent the family of CC. Also present were Legal Interns Ramesh Menon and Erin Crowgey, from the Legal Aid Justice Center. Jack Barber, WSH Director, Gail Burford, WSH Director's Liaison to the WSH LHRC, and Ishmeila Moore, Office of Attorney General, were present on behalf of Western State Hospital.

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 the Closed Session.

The record notes that Cathy Hill, Inspector General's office, DMHMRSAS, made a statement on behalf of the Inspector General in closed session.

Kirby Wright asked all present for further comments related to the Variance. Bill McKelway, Richmond Times Dispatch, voiced a general objection to the closed nature of the variance review.

**Upon a motion by Joseph Lynch and seconded by Randy Johnsey the SHRC's decision on the variance for CC will be held until after the appeal is heard.**

### **Appeal 1:10 p.m.**

#### **Western State Hospital CC v Jack Barber**

Kirby Wright announced the review of a case which comes before the State Human Rights Committee on appeal of a decision of the Western State Hospital Local Human Rights Committee.

Nathan Veldhuis, on behalf of Clara Ramos, sister of CC, moved to strike the WSH Director's notice of appeal pursuant to 12 VAC 35-115-210 for an alleged failure by the WSH Director to obtain written permission from the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services to note the appeal. After finding that written permission from the Commissioner was obtained, the SHRC denied the motion to strike.

Nathan Veldhuis, on behalf of Clara Ramos, sister of CC, raised a general objection to the Director's Action Plan for non compliance with 12 VAC 35-115-180 (G), five day time frame for response because it was received a day late. Gail Burford, Western State Hospital Director's Liaison to WSH LHRC, responded that the Director's office did send e-mail notification of the action plan on time but that two of the e-mail addresses were incorrect. As soon as the office received correct e-mail addresses, the action plan was re-sent. The SHRC overruled the objection.

Nathan Veldhuis, on behalf of Clara Ramos, sister of CC, raised an objection to the Director's Appeal for non compliance with of 12 VAC 35-115-210(C), which provides: "C. Step 2: If the director is appealing, the individual may file a written statement with the SHRC within five working days after receiving a copy of the appeal. If the individual is appealing, the director shall file a written statement with the SHRC within five working days after receiving a copy of the appeal." Mr. Veldhuis contends that WSH did not file a written statement as required and as such should forfeit its appeal and the appeal of Clara Ramos on behalf of CC should be granted in full. The SHRC delayed ruling on this objection until August 1, 2008.

Nathan J.D. Veldhuis, Tremblay & Smith, LLD, presented his case on behalf of CC. Jack Barber, Western State Hospital Director, responded to Mr. Veldhuis' comments. The SHRC asked questions of both parties.

Jack Barber presented his case regarding the care and treatment of CC. Nathan Veldhuis responded to Dr. Barber's comments. The SHRC asked questions of both parties.

**Upon a motion by Randy Johnsey and seconded by Carolyn DeVilbiss and Angela Brosnan the SHRC will deliberate the appeal after the missing section of the record of the LHRC proceedings is reviewed.**

Kirby Wright announced that in order to make a fair and just decision the SHRC will postpone deliberation of the Appeal until after the committee has had the opportunity to review the entire record of the LHRC proceedings.

**Upon a motion by Delores Archer and seconded by Joseph Lynch the SHRC will convene in Charlottesville on August 1 at 10:00 a.m. to continue it's review of the Western State Hospital Appeal.**

**Upon a motion by Delores Archer and seconded by Joseph Lynch the Variance decision is delayed until August 1.**

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

Time and location for the August meeting will be posted on the web.

Respectfully submitted,

A handwritten signature in black ink that reads "Kirby Wright". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Kirby Wright, Chair