

**STATE HUMAN RIGHTS COMMITTEE
MEETING MINUTES**

Western State Hospital
1302 Richmond Road
Staunton, Virginia, 23803
Friday, September 10, 2004

ADMINISTRATIVE MEETING

8:00 a.m.

COMMITTEE MEMBERS PRESENT

Michael Marsh, Vice-Chair, and Acting Chair
Delores Archer
Barbara Jenkins
Carmen Thompson
Bobby Tuck
Kirby Wright
Davey Zellmer

HUMAN RIGHTS STAFF PRESENT

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Chuck Collins, Regional Human Rights Advocate, Region I
Musa Ansari, Regional Human Rights Advocate, Region II
Nancy C. Neese, Regional Human Rights Advocate, Region III
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Reginald T. Daye, Regional Human Rights Advocate, Region V
Jennifer Bailey, CORE Human Rights Advocate, Region IV & V
Michael Curseen, Patient Advocate, Central State Hospital
Beverly W. Garnes, Patient Advocate, Southside Virginia Training Center
Tonya Cunningham, Facility Human Rights Advocate, CSH Forensics

OTHER STAFF PRESENT

Karen Walters, DMHMRSAS Special Counsel
Victoria Huber Cochran, Member, State MHMRSAS Board
James Stewart, Inspector General

Vice-Chairman R. Michael Marsh opened the administrative session of the September 10, 2004 State Human Rights Committee meeting. Dr. Marsh lead the SHRC members and staff of the human rights office in introducing themselves.

2004 LHRC/SHRC Seminar Summary Evaluation

Margaret Walsh provided a summary of evaluations of the 2004 LHRC/

SHRC Seminar. Davey Zellmer, Carmen Thompson and Kirby Wright formed a sub-committee to review the evaluations and report on them during the October 22, 2004 meeting.

Inspector General

Michael Marsh introduced Mr. James Stewart, Inspector General. Members of the committee and staff of the office of human rights introduced themselves. Mr. Stewart summarized the initiatives of the Inspector General's office and outlined current activities and goals for the future. Activities include studies of the Department that focus on enhancing preventative care and improving quality of care. The Inspector General has been granted an additional position to help in achieving goals of the office.

Draft SHRC Recommendation to Increase Number of Staff Positions

The committee reviewed a draft letter referencing an OHR study that was conducted in relation to staffing in the office of human rights (OHR). Barbara Jenkins suggested the committee ask for a specific number of OHR positions. The letter will be finalized and sent to the State MHMRSAS Board pending final approval and signature by Dr. Joyce Bozeman, SHRC Chair.

Draft SHRC Workplan

Ms. Walsh asked for feedback from the committee regarding the form and content of the Draft SHRC Workplan. Feedback being positive, Ms. Walsh proceeded to review items listed in the workplan soliciting feedback from committee members regarding how they intend to achieve their goals.

The committee asked Ms. Walsh to develop a form for SHRC members to complete when attending LHRC meetings. This form is to be used as an aid in reporting back to the SHRC on the activities, etc., of the LHRCs.

The SHRC is interested in writing a letter to DMHMRSAS regarding training for MR (Mental Retardation) group home providers. Mr. Bobby Tuck asked that the letter emphasize the programs' responsibility to provide training to their own staff and to specify the role the programs will take in providing this training. Mr. Kirby Wright suggested the training should be mandatory. Ms. Walsh stated that the MR office may be assigned the responsibility of providing the training, and that the MR office and the SHRC could get together and consider how to proceed. The committee asked the OHR to draft the letter to the department for the Chair's signature. The committee would like a response on the Department's plan for training and a timeline for accomplishing the training, and asked that this feedback be provided by the December 3, 2004 SHRC meeting in Region IV.

A discussion followed regarding responsibilities of program staff. Mr. Chuck Collins, Regional Human Rights Advocate, Region I, suggested increasing the minimum

requirements for new programs seeking licensure. Reginald T. Daye, Regional Human Rights Advocate, Region V, stated that he asks program directors to name the individuals responsible for fulfilling specific duties mentioned in their own policies and procedures. This practice helps to insure that the program directors understand their policies and the responsibilities associated with the policies.

Margaret Walsh stated that the DMHMRSAS central office is developing training on conducting investigations.

SHRC Management of Variances

Ms. Walsh lead a discussion on how to streamline the review and management of variances during SHRC meetings, and suggested the implementation of a formalized annual review process. She suggested the committee develop a form or checklist for programs to use when requesting variance renewals. The committee asked Ms. Walsh to develop a draft document for review at the next meeting.

LHRC Recruitment and Application Process

Mr. Bobby Tuck is concerned about the LHRC application process, the appearance of applications received and consistency in the rating method used during LHRC interviews. The committee will come to the next meeting with ideas and examples for improvement of the LHRC recruitment and application process, and suggestions for revisions to the LHRC Application Questionnaire.

Letters and Correspondence

The committee reviewed letters and correspondence of the SHRC and the Office of Human Rights issued since the last meeting. A draft certificate of appreciation for Dana M. Johnson, J.D., was provided to the committee for approval.

Report of the State MHMRSAS Board Liaison (9:45)

Mike Marsh, Vice-Chair, introduced Victoria Huber Cochran, State MHMRSAS Board member. Ms. Cochran greeted the committee and thanked them for the opportunity to attend the SHRC meeting. Ms. Cochran stated that the Board is working to continue the improvement of services delivery in the Commonwealth and noted that the goals of the Board and of the SHRC are very similar. Ms. Cochran also said that the SHRC seems to carry the same expertise and enthusiasm as the Board.

Mike March reported that he attended the August 4 State Board meeting at Catawba Hospital, and spoke briefly about activities and topics discussed during the meeting.

The October 21 and 22 State Board meeting, scheduled for Fredericksburg, Virginia, has been postponed until further notice.

The State MHMRSAS Board has approved the Department's request for periodic review of the Human Rights Regulations. Ms. Walsh stated that input from SHRC is encouraged.

Carmen Ann Thompson and Barbara Jenkins formed a sub-committee to review youth in transition (Aging Out).

Break From 10:00 a.m. to 10:15 a.m.

REGULAR MEETING
10:15 a.m.

COMMITTEE MEMBERS PRESENT

Michael Marsh, Vice-Chair, and Acting Chair
Delores Archer
Barbara Jenkins
Carmen Thompson
Bobby Tuck
Kirby Wright
Davey Zellmer

HUMAN RIGHTS STAFF PRESENT

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Chuck Collins, Regional Human Rights Advocate, Region I
Musa Ansari, Regional Human Rights Advocate, Region II
Nancy C. Neese, Regional Human Rights Advocate, Region III
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV
Reginald T. Daye, Regional Human Rights Advocate, Region V
Jennifer Bailey, CORE Human Rights Advocate, Region IV & V
Anne Stiles, Facility Human Rights Advocate, Piedmont Geriatric Hospital and the
Virginia Center for Behavioral Rehabilitation
Michael Curseen, Patient Advocate, Central State Hospital
Beverly W. Garnes, Patient Advocate, Southside Virginia Training Center
Tonya Cunningham, Facility Human Rights Advocate, CSH Forensics

OTHERS PRESENT

Victoria Huber Cochran, Member, State MHMRSAS Board
James Stewart, Inspector General
Jack Barber, M.D., Facility Director, Western State Hospital
Stephanie Wade, DMHMRSAS Human Resource Consultant, Human Resources and
Data Management

Karen Walters, DMHMRSAS Special Counsel
Karen Cochran, Member, Western State Hospital Local Human Rights Committee
Flora Haas, Member, Western State Hospital Local Human Rights Committee
Lyn McDonald, Chairperson, Valley CSB Local Human Rights Committee
R.E., Complainant
A.B., Complainant
Ms. Kelly Walter, Risk Manager, Keystone Newport News Youth Center
Mr. Wesley Mason, Associate Administrator for Residential Services, Keystone Newport
News Youth Center
Dr. Peter Schofield, Western State Hospital staff
Steven Johnson, Western State Hospital staff
Susan Frushour, Western State Hospital liaison to the WSH LHRC

CALL TO ORDER:

The September 10, 2004, meeting of the State Human Rights Committee was called to order by Vice-Chair, Dr. R. Michael Marsh. Dr. Marsh lead committee members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves. Dr. Marsh then recognized Mr. Charles T. Collins, Regional Advocate, Region I, for the purpose of introducing his guests to the committee.

Mr. Collins introduced Ms. Karen Cochran and Ms. Flora Haas, members of Western State Hospital's Local Human Rights Committee, and Ms. Lyn McDonald, Chairperson of the Valley CSB's Local Human Rights Committee. Each local human rights committee member made brief comments of welcome to the committee and thanked Mr. Collins for his assistance with the human rights program. Ms. McDonald-Hall invited SHRC members to attend their LHRC meetings.

Chuck Collins introduced Jack Barber, M.D., Facility Director, Western State Hospital. Mr. Collins stated that under Dr. Barber's leadership, there has been a marked increase in the morale of the staff of WSH.

Dr. Barber greeted the SHRC and welcomed them to Western State Hospital. He then provided an update on the population and activities of the Hospital. Western State Hospital serves the entire northwest region of the commonwealth and provides almost 120 classes a day at the facility for consumers and the community. Dr. Barber offered the SHRC a tour of the treatment mall.

MINUTES:

The minutes of the July 16, 2004 State Human Rights Committee meeting were unanimously approved as corrected.

Management of Variances:

A motion made and unanimously passed to standardize the variance application

process to allow the approval of variances for more than one year subject to annual written review.

Election of SHRC Secretary

This item is to be considered at a later date.

Abuse Discipline/Grievances (10:30)

Margaret Walsh introduced Ms. Stephanie Wade, DMHMRSAS Human Resource Consultant, Human Resources Data Management (HRDM). Ms. Wade gave an overview of the kinds of cases her office has reviewed and provided an overview of the process for investigating grievances and taking staff disciplinary action in response to client abuse allegations. HRDM strives to maintain a balance between quality care for consumers and fairness to employees.

Dr. Marsh thanked Ms. Wade for her presentation.

APPEAL:

R.E., A.B., and Residents of Building 96 vs Central State Hospital

This case came before the Committee on appeal of a decision of the Central State Hospital LHRC. R.E and A.B., with the assistance of Tonya Cunningham, Human Rights Advocate, and Michael Curseen, Human Rights Advocate, presented the case on their own behalf. Central State Hospital, having sent no one to speak on the facility's behalf, waved the opportunity to participate. SHRC members present were R. Michael Marsh, M.S.W., M.P.A., Ph.D., Davey Zellmer, R.N., Kirby Wright, Barbara Jenkins, J.D., Delores Archer, M.S.W, Carmen Anne Thompson, and Bobby Tuck. At the request of R.E. and A.B. the hearing was held in closed session.

Dr. Marsh stated that the committee is bound by the LHRCs findings of fact and whether the facility director's action plan adequately addresses the findings and recommendations of the LHRC.

The motion was made and passed to go into Executive Session pursuant to Virginia Code, 2.2-3711 (15), for the purpose of discussion of 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 Executive Session were discussed in the Executive Session.

The motion was made and passed by a vote (5-2), that the SHRC overturns

the finding of the CSH LHRC of no violation of 12 VAC 35-115-100, Restrictions on freedoms of everyday life. The SHRC concludes that CSH is in violation of 12 VAC 35-115-100 because the hospital restricts individuals' freedom more than is needed to achieve a therapeutic benefit or maintain a safe and orderly environment.

SHRC Recommendations:

The SHRC commends the Central State Hospital LHRC for its efforts regarding this case and unanimously accepts and supports each of the LHRC recommendations as listed in the LHRC decision:

1. The LHRC recommends the hospital collaborate with residents to (re) design and implement regular community meetings and ward governance structures for purposes of meaningful information exchange and discussion between staff and residents regarding concerns about ward life, including the treatment mall, privileges, and structure of daily activities.
2. The LHRC recommends the hospital develop/revise and redistribute a document that clarifies and affirms patient rights and responsibilities, while also describing ward/group restrictions approved by the LHRC and their related rationale. This should specifically include the "how to's" of enacting the right to decline all aspects of treatment.

The SHRC adds the following recommendations:

1. The SHRC recommends that CSH revise the point system during the weekend so as not to penalize or reduce an individual's ability to accrue points and access the canteen.
2. The SHRC recommends that CSH permit individuals access to their rooms after active treatment has ended for the day (3:00 p.m.) with no negative consequences in terms of the point system, unless a decision is made on an individual basis to restrict room access for therapeutic or safety reasons.

Other - Letter from Pender & Coward:

The SHRC reviewed a letter received in response to the April 23, 2004, hearing of this case. The committee asked Ms. Walsh to draft a letter of response for the Chair's signature.

Dr. Marsh commended R.E. on doing an excellent job representing the patients of CSH and speaking on their behalf.

Virginia Center for Behavioral Rehabilitation (VCBR):
Monthly Facility Advocate Report, July 04

VCBR Facility Instructions

Anne Stiles, Facility Human Rights Advocate, Piedmont Geriatric Hospital and the Virginia Center for Behavioral Rehabilitation addressed the SHRC on the status of the development of policies and procedures for the Virginia Center for Behavioral Rehabilitation (VCBR). The Committee reviewed the facility advocate's reports for the months of July and August, and six (6) facility policies addressing admission, telephone use, visitation, mail, seclusion and restraint and segregation. Ms. Stiles reported that there is a marked improvement in the August monthly report over the July report.

The following recommendations were made:

1. Seclusion and Restraint Use, p. 9, Seclusions and Behavioral Restraints exceeding 72 hours. Amend the second bullet to read: 'Notify and provide the treatment team's assessment of the status of the situation and the proposed treatment plan, with a request for guidance, to the following...'
2. Segregation of Residents, p. 7, Use of Segregation Beyond 72 hours: amend to read: 'The use of segregation beyond the initial 72 hour period shall be based on a review of the behavior of the resident, the adequacy of the treatment plan, and criteria for release by the SRT and approved by the facility director, as described above.'
3. Segregation of Residents, p. 7, Use of Segregation Beyond Seven (7) Days: amend the third bullet to read "the adequacy of the treatment plan".

The motion was made and unanimously passed to approve the policies for VCBR subject to the recommended revisions. The Committee rejected the suggestion to waive review of revised and/or reformatted policies and requests that all revisions of rights-related policies be submitted for review. The committee also requested that the human rights advocate include information regarding any use of seclusion, restraint or segregation in her monthly report.

VARIANCES:

Keystone Newport News Youth Center

Jennifer Bailey, Human Rights Advocate, introduced Ms. Kelly Walter, Risk Manager, and Mr. Wesley Mason, Associate Administrator for Residential Services, of Keystone Newport News Youth Center. Ms. Walter and Mr. Mason provided a brief overview of the Keystone Newport News Youth Center and the population of children for whom the variance and policy would impact.

Ms. Bailey stated that the Keystone Newport News Youth Center is requesting a variance to section 12 VAC 35-115-110, Item B13, Use of Seclusion, Restraint and Time Out, of the *Rules and Regulations to Assure the Rights of Individuals Receiving*

Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services (Human Rights Regulations). Ms. Bailey indicated that approval of the variance will allow the program to implement its structured living policy, which exceeds the regulatory requirements of 30 minutes per episode for the use of time out.

Because of excellence in the program's use of the variance, a motion was made and unanimously passed to approve as submitted Keystone Newport News Youth Center's use of the stated variance and structured-living policy for a two-year period. The program is to submit an annual status report to the State Human Rights Committee.

Western State Hospital

Chuck Collins introduced Western State Hospital staff, Dr. Peter Schofield and Steven Johnson, and Ms. Susan Frushour, Western State Hospital liaison to the WSH LHRC. These individuals came before the SHRC to present the clinical justification for a variance request to 12 VAC 35-115-110 B.2, regarding the time frame for renewal of doctor's orders specific to patient C.C. Mr. Collins requested the SHRC go into executive session for the purpose of confidential discussion.

The motion was made and passed to go into Executive Session pursuant to Virginia Code, 2.2-3711 (15), for the purpose of discussion of 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 Executive Session were discussed in the Executive Session.

The motion was made and unanimously passed to grant the variance request as submitted by Western State Hospital. The time frame for seclusion requiring a doctor's written order is extended from "every four hours" to "every 24 hours" based upon the evidence submitted. This variance was approved for three years but must be reviewed on an annual basis by the State Human Rights Committee. This motion came recommended by Western State Hospital's Local Human Rights Committee, and also by Western State Hospital advocate, Randy Urgo.

BYLAWS:

Henrico Area Mental Health and Retardation Services Board LHRC

Michael C. Curseen, Human Rights Program Supervisor, presented the revised bylaws of the Henrico Local Human Rights Committee. Mr. Curseen explained that the proposed name change from Henrico Area Mental Health and Retardation Services

Board Local Human Rights Committee to Henrico Local Human Rights Committee (HLHRC) was determined by the LHRC to be more descriptive of that LHRC's current composition of affiliated providers. Mr. Curseen also explained that the bylaws had been revised to comply with the Virginia Code and the regulatory requirements of the current human rights regulations. These revised bylaws were approved by the Henrico LHRC during the Committee's April 13, 2004 meeting.

A motion was made and passed with one abstention to accept the name change of the Henrico Area Mental Health and Retardation Services Board Local Human Rights Committee to Henrico Local Human Rights Committee, and to approve the revised bylaws of the Henrico LHRC.

Chesterfield LHRC

James O. Bowser, Jr., Regional Advocate, presented the revised bylaws of the Chesterfield Local Human Rights Committee. Mr. Bowser explained that the bylaws had been revised to comply with the Virginia Code and the regulatory requirements of the current human rights regulations. These revised bylaws were approved by the Chesterfield LHRC during the Committee's July 26, 2004 meeting.

A motion was made and unanimously passed to approve the revised bylaws of the Chesterfield LHRC.

Southside Virginia Training Center LHRC

Beverly Garnes, Human Rights Advocate, presented the revised bylaws of the Southside Virginia Training Center LHRC. Ms. Garnes explained that the bylaws had been revised to comply with the Virginia Code, the regulatory requirements of the current human rights regulations. The revised bylaws were approved by the Southside Virginia Training Center Local Human Rights Committee at the August 11, 2004 meeting.

The motion was made and passed with one abstention to approve the bylaws revision for Southside Virginia Training Center with the modification of adding the word "restraint" under section 5.4.

Mid-City Local Human Rights Committee

Mr. Reginald T. Daye, Regional Advocate, Region V, presented on behalf of the Mid-City Local Human Rights Committee, a request to amend their bylaws in order to comply with the changes in the Human Rights Regulations.

A motion was made and unanimously passed to approve the Mid-City Local Human Rights Committee bylaws as submitted.

Blue Ridge Behavioral Healthcare Local Human Rights Committee

Ms. Nancy C. Neese, Regional Human Rights Advocate, Region III, submitted and presented revised Bylaws, including a name change, on behalf of the Blue Ridge Behavioral Health Care Local Human Rights Committee. Nan informed the State Committee by cover letter and presentation of the Bylaws that the LHRC had adopted the format and the content that the SHRC has approved previously. With approval of Bylaws the new name of the Committee will be the Blue Ridge Regional Human Rights Committee.

The motion was made and passed to approve the Blue Ridge Regional Human Rights Committee Bylaws as submitted.

Southwest Regional LHRC Bylaws Revision and Amendment

Ms. Nancy C. Neese, Regional Advocate, submitted and presented revised Bylaws for the Southwest Regional LHRC, with an amendment to reduce the total membership from nine to seven. Ms. Neese informed the State Committee by coverletter and presentation of the Bylaws that the LHRC had adopted the format and the content that the SHRC has approved previously. With approval of Bylaws the total membership of the Committee will be seven (7).

The motion was made and passed to approve the Southwest Regional Human Rights Committee Bylaws as submitted.

The State Human Rights Committee asked that the Office of Attorney General issue an AG Opinion regarding employees of DMHMRSAS, programs, and members of oversight bodies serving on LHRCs.

LHRC MEMBERSHIP:

The motion was made and passed that the State Human Rights Committee go into closed session pursuant to Virginia Code § 2.2-3711 for the purpose of considering appointments to, and removals from, Local Human Rights Committees.

Upon reconvening in open session, the State Human Rights Committee unanimously 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 Executive Session were discussed in the Executive Session.

The SHRC accepts for the files the following resignations: Sherry Bunyard resigns from the Western State Hospital LHRC, Jeanette Koury resigns from the Hiram W. Davis Medical Center LHRC, and Joyce Twitty resigns from the Southside Virginia Training Center LHRC.

A motion was made and unanimously passed to postpone consideration of the appointment of T. Jerry Womack III to the Piedmont Community Services LHRC.

A motion was made and unanimously passed to postpone the appointment of Naomi Pair to the Petersburg Regional LHRC.

A motion was made and passed with one abstention to make the following appointments.

Southside Virginia Training Center
Appoint
Margie Tuck
Hiram W. Davis Medical Center
Appoint
Holvar E. Olsen, Ph.D.

The motion was made and unanimously passed to appoint the following applicants to their respective Local Human Rights Committees.

Health Planning Region V
Appoint
Thynesis Ricks
Samuel Edward Yancy
Tidewater
Appoint
Christopher Boyd
Rappahannock-Rapidan CSB
Appoint
Mary Kaaren Jolly
Valley CSB
Appoint
Charles Welsh
Commonwealth Center for Children and Adolescents
Appoint
Brendan Patrick Fox
Wendy M. Young
Northern Virginia Training Center
Appoint
Jane Burns
Mount Rogers
Appoint
Cynthia Tabor
Southwest Regional
Reappoint
Phyllis "Jeanette" Sutherland

Blue Ridge Behavioral Healthcare
Appoint
Josephine Wessellhoft
Geraldine Cleary
Southwestern Virginia Mental Health Institute
Appoint
Deidra Mathena
Chesapeake Regional
Appoint
Rev. Thomas E. Becker
Southside Regional
Appoint
Barbara L. Parker
Heartland Regional
Reappoint
Annette "Sisty" Cersley
Southern Virginia Mental Health Institute
Appoint
Nannie Russell
Piedmont Geriatric Hospital
Appoint
Samuel Leonard Gilbert
Central Virginia Training Center
Appoint
Joan C. Milnor

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

Respectfully submitted,

Dr. R. Michael Marsh, Vice-Chair
State Human Rights Committee