

STATE HUMAN
RIGHTS COMMITTEE

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COMMONWEALTH of VIRGINIA

DEPARTMENT OF

MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

Margaret S. Walsh
State Human Rights Director

Kli Kinzie
Executive Secretary

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DRAFT

**STATE HUMAN RIGHTS COMMITTEE
MEETING MINUTES**

University Hospital at UVa

Charlottesville, Virginia

Friday, September 12, 2003

ADMINISTRATIVE MEETING

8:00 a.m.

COMMITTEE MEMBERS PRESENT

Joyce Bozeman, Chair

Michael Marsh, Vice-Chair

Angela Brosnan

Barbara Jenkins

Carmen Thompson

Bobby Tuck

Davey Zellmer

STAFF PRESENT

Margaret S. Walsh, State Human Rights Director

Kli Kinzie, Executive Secretary

Chuck 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

Sherry C. Miles, Regional Human Rights Advocate, Region VI

Jennifer Bailey, CORE Human Rights Advocate, Region IV & V

Michael Curseen, Patient Advocate, Central State Hospital

Virginia Goodell, Patient Advocate, Eastern State Hospital, CORE Alternate

Ann Petrie, Facility Human Rights Advocate, Northern Va Mental Health Institute

Randy Urgo, Facility Human Rights Advocate, Western State Hospital

OTHERS PRESENT

Karen Walters, Assistant Attorney General

Priscilla J. Shuler, Director/Administrator, Psychiatry Services, University of Virginia
Health System

Margie Tuck, Member, Henrico County LHRC

Jim Martinez, Director, Mental Health Services, DMHMRSAS

Russell Payne, Community Support Specialist, Mental Health/Community Support

ISSUES:

LHRC Study Group:

The SHRC reviewed the Office of Human Rights' commendations in response to the report of the LHRC Study Group. The committee will send a letter to the Study Group outlining its response to the Study Group's recommendations. (Letter attached).

Discharges from State Facilities

Jim Martinez, Director, Mental Health Services, Russell Payne, Community Support Specialist, Mental Health/Community Support Services, and Cynthia Smith, Office of Mental Retardation Services, DMHMRSAS, came before the SHRC to provide information regarding the process and protocol for discharge from state facilities and programs. The Department and Community Services Boards (CSBs) have made significant progress to ensure the timely discharge of all individuals from state operated facilities.

REGULAR MEETING
10:15 a.m.

COMMITTEE MEMBERS PRESENT:

Joyce Bozeman, Chair
Michael Marsh, Vice-Chair
Angela Brosnan
Barbara Jenkins
Carmen Thompson
Bobby Tuck
Davey Zellmer

STAFF PRESENT:

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Chuck 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
Sherry C. Miles, Regional Human Rights Advocate, Region VI
Jennifer Bailey, CORE Human Rights Advocate, Region IV & V
Michael Curseen, Patient Advocate, Central State Hospital
Virginia Goodell, Patient Advocate, Eastern State Hospital (Back-up Core)
Ann Petrie, Facility Human Rights Advocate, Northern Va Mental Health Institute
Randy Urgo, Facility Human Rights Advocate, WSH

OTHERS PRESENT:

Priscilla J. Shuler, Director/Administrator, Psychiatry Services, University of Virginia

Health System

Janice Brock, Administrative Office Manager, Psychiatry Services and Accreditation, University of Virginia Health System
Pam Cipriano, Chief Clinical Officer, University of Virginia Health System
Jim Peterson, Executive Director, Region Ten CSB
Linda Wells, Consumer Advocate, Region Ten CSB
Margie Tuck, Member, Henrico County LHRC
Becky China, Executive Director, Jackson Feild Homes
Debbie Meahle, Director of Clinical Services, Jackson-Feild Homes
Jim Martinez, Director, Mental Health Services, DMHMRSAS
Russell Payne, Community Support Specialist, Mental Health/Community Support Services, DMHMRSAS
Cynthia Smith, Office of Mental Retardation Services, DMHMRSAS
Lynn Flemming, Council to UVa
Dan Herr, J.D., Forensics, Central State Hospital
Kate McBride, Director of Utilization Management, Poplar Springs Hospital
Christine Hall, Director of Acute Services, Poplar Springs Hospital
Shannon Clepper, Director of Performance Improvement, Poplar Springs Hospital
R.D., Complainant
Lynn DeLacy, Facility Director, Northern Va Mental Health Institute
Amanda Goza, Ph.D., Director of Psychology, Northern Va Mental Health Institute

CALL TO ORDER:

The September 12, 2003 meeting of the State Human Rights Committee was called to order by Chair Joyce Bozeman. Dr. Bozeman lead the members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves to those present.

Chuck Collins, Regional Human Rights Advocate, Region I, recognized Lynn Flemming, Council to UVa. Mr. Collins introduced Jim Peterson, Executive Director, Region Ten CSB, and Rita Wells, member of the Region Ten CSB LHRC. Mr. Collins then introduced Priscilla Shuler, Director/Administrator, Psychiatry Services, University of Virginia Health System, who welcomed the SHRC to UVa hospital. Ms. Shuler talked about the history of the formation of the UVa LHRC and stated that it was a pleasure to participate in the human rights process. Ms. Shuler introduced Pam Cipriano, Chief Clinical Officer, University of Virginia Health System. Ms. Cipriano welcomed the committee and spoke briefly about her involvement in starting the human rights program for UVa. She thanked Mr. Collins and the SHRC for their work and dedication to that effort and thanked Region Ten CSB for their work in providing services to consumers in the area.

MINUTES:

The minutes of the July 18, 2003 State Human Rights Committee meeting were unanimously approved as submitted.

REVIEW:

LHRC Study Group:

The motion was made and unanimously passed to accept the recommendations from the Office of Human Rights with an amendment to paragraph two regarding incentives to volunteers.

In response to a recommendation of the LHRC Study Group, the human rights office is asked to pursue the possibility of hosting an annual recognition luncheon for LHRC members. The SHRC will send a letter to the LHRC Study Group detailing recommendations for action in response to the Final Report of the LHRC Study Group (attached). The human rights office is to implement the actions outlined in the SHRC's response to the Final Report. Margaret Walsh will report on the progress of implementation during the December 5 meeting in Richmond.

Discharges from State Facilities

A motion was unanimously passed that the SHRC Chair will send a thank you letter to Commissioner Reinhard for sending staff to report on the discharge process. The letter will request that the Department forward an update of the D/C Rate by Barrier to Discharge Type report for review at each SHRC meeting. The SHRC will also request an update on the efforts of the Department and CSBs toward the treatment of individuals with dual diagnosis. (SHRC letter attached)

SHRC Membership:

The SHRC accepted the resignation of Susan Payne for the file.

The SHRC reviewed an application for membership from Delores Archer.

A motion unanimously passed to recommend that the State MHMRSAS Board appoint Delores Archer to the SHRC.

A motion unanimously passed to send a letter to the Commissioner indicating the SHRC's support of the re-hiring of an Inspector General.

BYLAWS:

University of Virginia Psychiatry Services

Mr. Charles T. Collins, Regional Advocate for Region I, presented the bylaws for the University of Virginia Psychiatry Services LHRC (UVA LHRC) for approval by the committee. Mr. Collins indicated that these bylaws are modeled after the Harrisonburg-Rockingham LHRC Bylaws, which had been approved as submitted during the July 18 meeting of the SHRC. He also noted that the bylaws call for the LHRC to meet every other month for a total of six meetings per year. Finally, the bylaws specify the relationship between the program and the local committee and the responsibilities of the program to the local committee.

The SHRC unanimously approved the UVA LHRC Bylaws as submitted.

Arlington Community Services:

The Arlington Community Services LHRC Bylaws were tabled until the next meeting.

NOVA LHRC:

Mary Towle presented a request from NOVA LHRC to change its name to NVAH LHRC.

A motion was unanimously passed to approve the request from NOVA LHRC to change its name to NVAH LHRC.

VARIANCES:

Model Accounting Variance - Western State Hospital, Eastern State Hospital, Hiram W. Davis Medical Center, Central Virginia Training Center, Piedmont Geriatric Hospital, Poplar Springs Hospital, and Central State Hospital:

The SHRC reviewed requests for the above listed facilities to use the Model Accounting Variance to 12 VAC 35-115-80 B(6) and C(3).

A motion was made and passed by a vote of 6 to 1 to approve the Model Accounting Variance to 12 VAC 35-115-80 B(6) and C(3) for use by Western State Hospital, Eastern State Hospital, Hiram W. Davis Medical Center, Central Virginia Training Center, Piedmont Geriatric Hospital, Poplar Springs Hospital, and Central State Hospital.

Central State Hospital

Michael Curseen, Patient Advocate, Central State Hospital (CSH), introduced Daniel Herr, J.D., Central State Hospital, to the committee. Mr. Herr stated that the requested variance continuances were originally approved by the CSH LHRC on May 2, 2002 and the SHRC approved them on May 31, 2002. Mr. Herr described the forensic program at CSH and reviewed the following variances.

Variance 1) 12 VAC 35-115-20 A, Dignity, and 12 VAC 35-115-50 C(3)(a), Privacy. This is a hospital-wide variance, including the civilly committed patients, which concerns patient searches and contraband.

A motion was unanimously passed to grant the CSH request for variance to 12 VAC 35-115-20 A, Dignity, and 12 VAC 35-115-50 C(3)(a), Privacy.

Variance 2) 12 VAC 35-115-50 C(7) and 12 VAC 35-115-50 E(3), Mail. This variance concerns receiving and opening, but not reading, mail.

A motion was unanimously passed to approve the CSH request for variance to 12 VAC 35-115-50 C(7) and 12 VAC 35-115-50 E(3).

Variance 3) 12 VAC 35-115-100 A(1)(c), Handling of Money.

A motion was unanimously passed to approve the CSH's request for variance to 12 VAC 35-115-100 A(1)(c).

Variance 4) 12 VAC 35-115-20 A and 50 C(3)(a), Standard administrative pat-downs.

A motion was unanimously passed to approve the CSH's request for variance to 12 VAC 35-115-20 A and 50 C(3)(a).

Jackson Feild Homes:

Jennifer Bailey, CORE Program Advocate, Region IV and V, introduced Ms. Becky China, Executive Director and Ms. Debbie Meahle, Director of Clinical Services at Jackson-Feild Homes. Ms. Meahle provided a brief overview of the services offered by Jackson-Feild Homes and the population of children for whom the variance and policy would affect.

Ms. Bailey indicated that Jackson-Feild Homes is requesting a variance to Section 12 VAC 35-115-110, B(13), Use of Seclusion, Restraint, Time Out, of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation or Substance Abuse Services* (Human Rights Regulations). Ms. Bailey further indicated that approval of the variance would allow the program to implement its structured living policy, which exceeds the regulatory requirement of 30 minutes per episode for the use of time out.

A motion was made and passed by a 6 to 1 vote to approve for a one-year period the Jackson-Feild Homes variance request and Structured Living Policy, subject to the following modification:

The Structured Living Policy Number 3 should be modified to include a designated staff person, who will be assigned to remain with the resident at all times during the structured living episode.

Poplar Springs Hospital:

Jennifer Bailey, CORE Program Advocate, Region IV and V, introduced Ms. Kate McBride, Director of Utilization Management, Ms. Christine Hall, Director of Acute Services, and Ms. Shannon Clepper, Director of Performance Improvement, of Poplar Springs Hospital. Ms. McBride provided a brief overview of the services offered by Poplar Springs Hospital and the population of children for whom the variance and policy would affect.

Ms. Bailey indicated that Poplar Springs Hospital is requesting a variance to Section 12 VAC 35-115-110, B(13), Use of Seclusion, Restraint, Time Out, of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation or Substance Abuse Services* (Human Rights Regulations). Ms. Bailey further

indicated that approval of the variance would allow the program to implement its structured living policy, which exceeds the regulatory requirement of 30 minutes per episode for the use of time out.

A motion was unanimously passed to approve for a one-year period the Poplar Springs variance request and Structured Living Policy, subject to the following modifications:

The Structured Living Policy Number 2 should be modified to include the language that, "Activities will be provided on the unit for safety reasons."

The TREATMENT REFOCUS FLOW SHEET should be modified to include the designated staff member who will be assigned to remain with the resident at all times during the structured living episode.

LHRC MEMBERSHIP:

The State Human Rights Committee unanimously voted to go into closed session pursuant to Virginia Code § 2.2-3711 for the purpose 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 unanimously voted to remove Mr. G. T. as a member of the Newport News Regional Local Human Rights Committee due to his lack of attendance at regularly scheduled meetings.

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

Health Planning Region V

Appoint:

D'Linda P. Wilson

Universal Family

Appoint:

Shelton Stevens

Holiday House of Portsmouth

Appoint:

Jeffrey G. Kail

Patricia E. Blair

Middle Peninsula Northern Neck

Appoint:

Laurie B. Keith

Poplar Springs Hospital

Appoint:

DeAnn S. Binger

The Pines Residential Treatment Center

Appoint:

Patricia A. Sullivan

Southwestern Va Training Center

Appoint:

Nancy Dixon Hickam

Southside CSB

Appoint:

Teresa Smith

Linda Parham

Chesterfield

Appoint:

Trish Angle

Reappoint:

Carolyn White Hodgins

Joseph Christian

Hiram W. Davis Medical Center

Appoint:

John T. Thios

Rappahannock-Rapidan CSB

Appoint:

Sheryl Clarke

Northwestern CSB

Appoint:

Allen White

Greta Doering

Western State Hospital

Appoint:

Sherry Bunyard

Reappoint:

Merle Painley

APPEAL:

R.D./Northern Va Mental Health Institute:

Dr. Joyce Bozeman, Chair, opened the appeal by leading the SHRC members in introducing themselves. R.D. presented his case on his own behalf, with the assistance of Ann Petrie, Human Rights Advocate. Northern Virginia Mental Health Institute (NVMHI) was represented by Lynn DeLacy, Facility Director, and Amanda Goza, Ph.D., Director of Psychology. At R.D.'s request the hearing was held in open session.

Dr. Bozeman stated that the matter before the committee is the findings of facts by the NVMHI LHRC following the May 23, 2003 LHRC hearing. Also before the SHRC, Mr. Denk, complainant, objects to the action plan submitted by the facility director following the LHRC hearing.

Mr. Dank made his opening statements. Lynn DeLacy summarized the position of the facility. After discussion and questions from the SHRC, Dr. Bozeman called for closing remarks.

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.D. 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.

By a vote of 4 to 3, the SHRC finds a violation of 12 VAC 35-115-50(D)(1), Dignity.

By a vote of 5 to 2, the SHRC finds that the Director's Action Plan as submitted adequately addresses the alleged violation, but recommends the following amendments:

- 1. The Director shall provide R.D. with a copy of the State of Virginia Standards of Conduct.**
- 2. The Director shall provide more information about how she will address the supervision of new clinicians pursuant to LHRC recommendation #5.**
- 3. The Director will ensure that all NVMHI staff participates in cultural sensitivity training.**

By a unanimous vote the SHRC makes no determination on the falsification of records. Records falsification was not stated as an alleged violation for the initial hearing.

SHRC Recommendations:

The SHRC commends the NVTC/NVMHI LHRC for its efforts regarding this case and accepts and supports each of the LHRC recommendations as listed in the LHRC decision. The Committee also supports the director's action plan, but recommends the additional provisions specified above. Letters of apology are to be sent.

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

Respectfully submitted,

Joyce Bozeman, Chair

State Human Rights Committee