

**STATE HUMAN RIGHTS COMMITTEE  
MEETING MINUTES**

Eastern State Hospital  
4601 Ironbound Road  
Building 35  
Williamsburg, Virginia, 23187  
Friday, October 22, 2004

**ADMINISTRATIVE MEETING**  
**8:00 a.m.**

**COMMITTEE MEMBERS PRESENT**

Joyce Bozeman, Chair  
Michael Marsh, Vice-Chair  
Delores Archer  
Angela Brosnan  
Barbara Jenkins  
Carmen Thompson  
Kirby Wright  
Davey Zellmer

**HUMAN RIGHTS STAFF PRESENT**

Margaret S. Walsh, State Human Rights Director  
Kli Kinzie, Executive Secretary  
James O. Bowser, Jr., Regional Human Rights Advocate, Region IV  
Reginald T. Daye, Regional Human Rights Advocate, Region V  
Michael Curseen, Patient Advocate, Central State Hospital  
Beverly W. Garnes, Patient Advocate, Southside Virginia Training Center  
Virginia Goodell, Patient Advocate, Eastern State Hospital, CORE Alternate  
Stewart Prost, Human Rights Advocate, Southeastern Virginia Training Center

**OTHERS PRESENT**

Karen Walters, DMHMRSAS Special Counsel  
Mary Clair O'Hara, Human Resource Consultant, Office of Health and Quality Care,  
DMHMRSAS  
Stacie Fisher, Utilization Review, Office of Facility Operations, DMHMRSAS

Joyce E. Bozeman, Ph.D., Chair, opened the administrative session of the October 22, 2004, State Human Rights Committee meeting. Dr. Bozeman lead SHRC members and staff of the human rights office in introducing themselves.

Margaret Walsh, State Human Rights Director, introduced Mary Clair O'Hara, Human Resource Consultant, Office of Health and Quality Care, and Stacie Fisher, Utilization Review, Office of Facility Operations, DMHMRSAS. Ms. O'Hara and Ms. Fisher will provide TOVA training to the committee (SHRC Goal 4).

### **SHRC Workplan**

Ms. Walsh lead the committee's review of workplan activities.

### **SHRC Goal : LHRC Application Guidance (Sub-Committee Michael Marsh, James Bowser and Reginald Daye)**

Michael Marsh reported on the activities of the LHRC sub-committee and submitted draft LHRC Application Questionnaire Forms for appointments and reappointments. The sub-committee summarized the proposed changes and suggested the full committee also review the accompanying explanation of the role of the LHRC. Initial revisions will be made to the draft forms before they are distributed to OHR staff for suggestions.

### **SHRC Goal 1: Periodic Review of Regulations : H3R Advisory Committee**

Margaret Walsh reported that the H3R Advisory Committee to revise the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services* (Regs) will hold its first meeting in November. Kirby Wright agreed to serve on the committee as a provider member, Stewart Prost will serve as an advocate member, and Joyce Bozeman will serve as an SHRC member. The goal for the first meeting will be to determine the guiding principles and vision of the Regs revision.

### **SHRC Goal 2: Promote Concept of Recovery**

Commissioner Reinhard was asked to speak to the SHRC during the December 3, 2004 meeting in Region IV.

### **SHRC Goal 3: Promote Provider Training**

The SHRC sent a letter to Commissioner Reinhard asking that the Department provide training to mental retardation group home providers. Margaret Walsh reported that the Commissioner will send a representative from his staff to speak to the committee during the December 3, 2004 SHRC meeting in Region IV.

### **SHRC Goal 4: TOVA Training**

To be provided during the regular session.

### **SHRC Goal 5: OHR Staff**

A letter was sent to the State Board asking for increased staffing for the office of human rights.

### **SHRC Goal 6: Monitor VCBR**

The SHRC will review policies for Virginia Center for Behavioral Rehabilitation during the

regular session.

SHRC Goal 7: LHRCs  
Attend LHRC Meetings

Ms. Walsh presented a draft form for SHRC members to use when attending LHRC meetings. This document will provide a standard format that covers a certain range of information and will be useful as an aid when reporting back to the SHRC on the activities of the various LHRCs.

Beverly Garnes reported that Bobby Tuck attended the last two meetings of the Southside Virginia Training Center LHRC. Margaret Walsh suggested SHRC members contact the advocates in their areas for LHRC meeting schedules.

Enhanced Communication Sub-Committee (Carmen Anne Thompson and Barbara Jenkins)

The intent of the SHRC newsletter is to provide a vehicle for communication between the SHRC, LHRCs and staff of the office of human rights. Carmen Anne Thompson presented a draft format for the newsletter.

The human rights office will work on naming the newsletter. The SHRC and human rights advocates should determine appropriate topics to cover, and consider how often the newsletter will be issued. The SHRC may ask the LHRCs to write about their accomplishments, goals and experiences. Facilities, CSBs and Programs may also be offered the opportunity to contribute to the newsletter on a rotating basis.

Ms. Walsh suggested the SHRC ask facility directors to submit updates on significant facility activities. Digital photographs could be submitted for inclusion and the newsletter could be distributed via the internet and posted on the Department's web page.

SHRC members will provide feedback to Joyce Bozeman by November 12, 2004, to pull together in time for the December 3, 2004, meeting.

SHRC Goal 8: Training

The sub-committee for review of seminar evaluations discussed responses to the last LHRC seminar and considered topics and structure for future seminars. Margaret Walsh suggested the SHRC and staff of the office of human rights consider whether the LHRC/SHRC seminar should have sessions for providers or if provider training should be a separate event.

**OTHER ISSUES:**

Variance Annual Review Process

Margaret Walsh presented her draft letter regarding the variance annual review process including a variance questionnaire/checklist. Barbara Jenkins suggested adding the definition or purpose of variances. Ms. Walsh will submit this item for the next agenda so the committee can pilot its use at the December meeting.

OAG Guidance on LHRC Membership

Karen Walters, DMHMRSAS Special Counsel, stated that it is the opinion of the Office of the Attorney General that no DMHMRSAS employees may serve on LHRCs. Ms. Walters

submitted the OAG statement, "Appointment of Departmental Employees to LHRCs" for the file and for distribution to OHR staff and LHRCs.

Margaret Walsh stated that the office must now identify all department employees currently serving on LHRCs and determine how to proceed with moving them out of LHRC membership. Ms. Walsh suggested allowing them to finish this year through June 30, 2005.

A letter should go out to all LHRCs informing of the OAG opinion. The OHR will send a letter to the identified members to notify them that they cannot serve beyond June 30, 2005. The letter will explain why they cannot serve on LHRCs and convey sincere thanks for their service. Local committees and human rights advocates are to recruit replacement members as quickly as possible.

The SHRC sub-committee for LHRC application guidance should consider adding the question, "Are you employed by the department, Yes or No?" to the appointment and reappointment questionnaires.

#### SHRC Bylaws

The SHRC will consider the election of a committee member to the Office of Secretary in accordance with §5.1 Officers, of the SHRC Bylaws, or remove/revise §5.1 of the Bylaws.

#### SVMHI Appeal

Kirby Wright, Barbara Jenkins and Mike Marsh offered to serve on a sub-committee to review the appeal of a decision of the Southern Virginia Mental Health Institute LHRC.

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

### **REGULAR MEETING**

**10:15 a.m.**

#### **COMMITTEE MEMBERS PRESENT**

Joyce Bozeman, Chair  
Michael Marsh, Vice-Chair  
Delores Archer  
Angela Brosnan  
Barbara Jenkins  
Carmen Anne Thompson  
Kirby Wright  
Davey Zellmer

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Mary Clair O'Hara, Human Resource Consultant, Office of Health and Quality Care,  
DMHMRSAS

Stacie Fisher, Utilization Review, Office of Facility Operations, DMHMRSAS

Daniel Herr, J. D., Special Assistant to the Hospital Director, Central State Hospital

John Favret, Facility Director, Eastern State Hospital

Ned Goodwin, Eastern State Hospital LHRC member

Dr. Deborah Mazarella, Director of Psychology, Eastern State Hospital

**CALL TO ORDER:**

The October 22, 2004, meeting of the State Human Rights Committee was called to order by Dr. Joyce E. Bozeman, Ph.D., Chair. Dr. Bozeman lead the members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves. Dr. Bozeman recognized John Favret, Facility Director, Eastern State Hospital. Mr. Favret welcomed the SHRC and human rights staff to the facility and thanked them for their work on behalf of consumers.

**MINUTES:**

The minutes of the September 10, 2004 State Human Rights Committee meeting were unanimously approved as submitted.

**TOVA Presentation (10:30 - 11:30 a.m.)**

Margaret Walsh introduced Mary Clair O'Hara, Human Resource Consultant, Office of Health and Quality Care, and Stacie Fisher, Utilization Review, Office of Facility Operations, DMHMRSAS.

Ms. O'Hara and Ms. Fisher were present at the meeting to provide a brief introduction to TOVA (Therapeutic Options of Virginia). Ms. O'Hara, who is the Department's project manager for TOVA, stated that TOVA focuses on enhancement and improvement to the system through the relations and interactions between department staff and consumers. This program is designed to be of benefit to the safety of consumers as well as staff. Ms. Fisher provided a PowerPoint presentation on the importance of relationships and, together with Ms. O'Hara, provided an abbreviated key-point overview of TOVA training.

Ms. Walsh stated that the TOVA program utilizes the principles and concepts in the human rights Regulations.

**APPEAL:**

The Eastern State Hospital appeal was postponed until the December meeting.

**VARIANCES:**

**Model Accounting Variance Renewals**

Dr. Joyce E. Bozeman, Chair, brought this item to the floor. Renewal of the model

accounting variance to 12 VAC 35-115-80 B6; C.3a and b, and C4 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services* is accepted to the record for Southside Virginia Training Center, Southwestern Virginia Training Center, and Southwestern Virginia Mental Health Institute.

The facilities shall continue to meet the annual review requirement by submitting the following information on the anniversary of their variance approvals:

1. Problems with the implementation of the variance;
2. Complaints about the variance from individuals, family members or staff; and
3. A statement or rationale for the continued need of the variance.

### **Model Accounting Variance**

#### **Chesterfield Community Services Board**

James O. Bowser Jr., Regional Advocate, introduced the Chesterfield Community Services request for the model accounting variance to 12 VAC 35-115-80 B6; C3a and b, and C4 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services* which would permit the Chesterfield Community Services Board to align the above referenced sections with the HIPAA accounting rule.

**A motion was made and unanimously passed to approve the model variance to 12 VAC 35-115-80 B6; C3a and b, and C4 for Chesterfield Community Services Board. On the anniversary of the variance approval the provider is to submit a written report for the SHRC's review.**

### **Other Variances**

#### **Eastern State Hospital**

Virginia Goodell, Patient Advocate, Eastern State Hospital (ESH) and CORE Alternate, recognized Mr. John Favret, Facility Director of Eastern State Hospital, and introduced Mr. Ned Goodwin, ESH LHRC member. Mr. Goodwin, introduced Dr. Deborah Mazzarella, Director of Psychology, Eastern State Hospital, who presented a variance renewal request to 12 VAC 35-110 B2 and B5c on behalf of the hospital and the treatment team. Dr. Mazzarella described the unit and manner in which the variance has been implemented since its approval in October of 2003. Renewal of this variance will allow the program to continue the use of an Individualized Residential Living Suite procedure for the use of a pod, which exceeds the time limit requirements for seclusion, restraint and timeout. Mr. Goodwin was present to advocate in favor of the variance.

**A motion was made and unanimously passed to approve, for a two-year period, the Eastern State Hospital variance request with the modification that the variance documentation specifies that this variance is for the use of the pod for this specific individual only. On the anniversary of the variance approval the provider is to submit a written report for the SHRC's review.**

#### **Central State Hospital:**

Michael Curseen, Patient Advocate, Central State Hospital, introduced Daniel Herr, J.D.,

Special Assistant to the Hospital Director of Central State Hospital, who presented the four following variance renewal requests:

- 1) 12 VAC 35-115-20, A; and -50, C3 (Dignity and Privacy). Contraband, examination and search of patients and property during visits and hospital checks. (Hospital-wide)
- 2) 12 VAC 35-115-50, C7; E3 (Communicate Privately by Mail/Telephone). Opening, but not reading of mail/packages in the presence of non-forensic patients in secure forensic programs.
- 3) 12 VAC 35-115-100, A1c (Freedom to Have and Spend Personal Money). Restriction of the retention of any form of money by patients within the secure perimeter of the forensic program; and
- 1) 12 VAC 35-115-20, A; and -50, C3a (Dignity and Privacy). Routine pat-downs of fully clothed non-forensic patients in secure programs.

**A motion was made and unanimously passed to approve the four variance renewal requests for a two year period. The facility is to provide a written update of the four variances to the SHRC on the anniversary of the variance approval. A formal request for re-approval of the four variances may be submitted to the SHRC in October 2006.**

## **POLICIES**

### Virginia Center for Behavioral Rehabilitation (VCBR)

The Committee reviewed VCBR policies for Segregation of Residents (VCBR Policy 203); Transportation of Residents (VCBR Policy 901); and Special Hospitalizations and Off-Campus Health Services (VCBR Policy 102).

For Policy 901, Transportation of Residents, the SHRC recommends removing “or” on page1, item c.

**A motion was made and unanimously passed to accept the VCBR policies Segregation of Residents (VCBR Policy 203), Transportation of Residents (VCBR Policy 901), Special Hospitalizations and Off-Campus Health Services (VCBR Policy 102) with the recommended change.**

## **BYLAWS:**

### Southeastern Virginia Training Center LHRC

Mr. Stewart Prost, Resident Advocate for Southeastern Virginia Training Center (SEVTC), presented on behalf of the SEVTC Local Human Rights Committee, a request to amend their bylaws in order to comply with the current Human Rights Regulations.

**A motion was made and unanimously passed to approve the Southeastern Virginia Training Center Bylaws amendment subject to the following modification to § 4.1, Special Purpose Subcommittee: omit the phrase, “determination of the appropriateness of the facility director as authorized representative for a resident.”**

### Central State Hospital LHRC

Michael C. Curseen, Human Rights Advocate, presented the revised bylaws of the Central State Hospital LHRC. Mr. Curseen explained that the bylaws have been revised to

comply with the Code of Virginia and the regulatory requirements of the current human rights regulations. The revised bylaws were reviewed by the Central State Hospital LHRC during the September 3, 2004, CSH LHRC meeting.

**A motion was made and unanimously passed to approve the revised bylaws of the Central State Hospital LHRC.**

Mount Rogers Community MH & MR LHRC

Reginald T. Daye, Regional Human Rights Advocate, Region V, presented the bylaws revision request on behalf of Nan Neese, Regional Human Rights Advocate for Region III. The bylaws have been modified to comply with the Code of Virginia and the regulatory requirements of the current human rights regulations.

**A motion was made and unanimously passed to approve the revised bylaws of the Mount Rogers Community MH & MR Board Local Human Rights Committee.**

Northwestern LHRC

Reginald T. Daye, Regional Human Rights Advocate, Region V, presented the bylaws revision request on behalf of Chuck Collins, Regional Human Rights Advocate for Region I.

The SHRC asked that the bylaws for Northwestern Community Services be resubmitted after recommended changes are made.

Fredericksburg Area LHRC

Reginald T. Daye, Regional Human Rights Advocate, Region V, presented the bylaws revision request for Fredericksburg Area LHRC on behalf of Chuck Collins, Regional Human Rights Advocate for Region I.

The SHRC asked that the revision be resubmitted at a time when Mr. Collins can be present to address concerns regarding the LHRC catchment area.

**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.

Genesis Local Human Rights Committee

Mr. Reginald T. Daye, Regional Advocate, Region V, presented a request on behalf of the Genesis Local Human Rights Committee to remove Mr. F.R. as a member of the committee due to his lack of attendance at the regularly scheduled meetings.

**A motion was made and unanimously passed to remove Mr. F.R. from the Genesis**



**Local Human Rights Committee.**

Southeast Alliance Local Human Rights Committee

Mr. Reginald T. Daye, Regional Advocate, Region V, presented a request on behalf of the Southeast Alliance Local Human Rights Committee to remove Ms. C. M. and Mr. G.H.E., Sr., as members of the committee due to their lack of attendance at the regularly scheduled meetings.

**A motion was made and unanimously passed to remove Ms. C.M. from the Southeast Alliance Local Human Rights Committee. The SHRC also unanimously voted to remove Mr. G.H.E., Sr., from the Southeast Alliance Local Human Rights Committee contingent upon the submission of a copy of the letter from the chair of the LHRC indicating endorsement of his removal**

It should be noted that on October 22, 2004, Mr. Daye submitted the requested correspondence from Dr. Martha Tennille, Chairperson of the Southeast Alliance Local Human Rights Committee, indicating its efforts to locate Mr. G.H.E., Sr., and their desire to have him replaced on the committee.

Southeast Alliance or Newport News Regional Local Human Rights Committee

**A motion was made and unanimously passed to appoint Elizabeth N. Tobey to the Southeast Alliance or Newport News Regional LHRC pending confirmation that the LHRC has the appropriate vacancy.**

It is noted for the record that the above condition was met.

**The motion was made and unanimously passed to appoint and reappoint the following applicants to the specified Local Human Rights Committees.**

Southeast Alliance

Appoint

Richard S. Flournoy

Universal Family

Appoint

Clorine Cousin

District 19

Appoint

Ralph Anderson

Richmond Tri-Cities

Reappoint

Christian Bennett

Central State Hospital

Appoint

Isabel Vartanian

Betty L. Velez

Commonwealth Center for Children and Adolescents

Appoint

Yvonne Stapp

Northern Virginia Training Center

Appoint

Andrea Ballesteros

A motion was made and unanimously passed to appoint a sub-committee of Kirby Wright, Michael Marsh, and Barbara Jenkins to review the appeal of a client of Southern Virginia Mental Health Institute prior to the December 3, 2004 meeting. The sub-committee will hear the appeal after receiving the appeal packet, and report to the full SHRC its decision in this matter during the December 3 meeting.

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

Respectfully submitted,

A handwritten signature in cursive script, reading "Joyce E. Bozeman".

Joyce E. Bozeman, Ph.D., Chair  
State Human Rights Committee