

**STATE HUMAN RIGHTS COMMITTEE
MEETING MINUTES**

DMHMRSAS, Central Office
Jefferson Building
1220 Bank Street
Commissioner's Board Room
Richmond, Virginia
Friday, December 5, 2003

ADMINISTRATIVE MEETING

8:00 a.m.

COMMITTEE MEMBERS PRESENT

Joyce Bozeman, Ph.D., Chair
Dr. R. Michael Marsh, Vice-Chair
Delores Archer, MSW
Jim Briggs
Dr. Angela Brosnan
Brenda Jenkins, J.D.
Bobby Tuck
Davey Zellmer

STAFF PRESENT

Margaret S. Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Mary Towle, Regional Human Rights Advocate, Region II
Reginald T. Daye, Regional Human Rights Advocate, Region V
Jennifer Bailey, CORE Human Rights Advocate, Region IV & V

OTHERS PRESENT

Julie Stanley, Assistant Commissioner, Administrative and Regulatory Compliance
Colleen Miller, Director, VOPA

Joyce Bozeman, Ph.D., Chair, opened the morning session of the December 5, 2003 SHRC meeting.

State Human Rights Director

Margaret W. Walsh, State Human Rights Director, asked for feedback on the

proposed 2004 SHRC meeting schedule.

Ms. Walsh reported on the implementation of the SHRC and OHR responses to the LHRC Study Group report. The committee discussed the report, and Ms. Walsh stated that she would provide an update during each meeting.

Ms. Walsh reviewed the Complaint Process Revision for the Virginia Center for Behavioral Rehabilitation (VCBR). Official policy for handling complaints will be presented during a future meeting.

Update on VOPA Organizational Changes

Margaret Walsh introduced Colleen Miller, Director of the Virginia Office for Protection and Advocacy (VOPA) and thanked her for attending the SHRC meeting. Ms. Walsh commented that there was an invaluable interchange of information between DMHMRSAS Advocates and staff of VOPA during the December 3, 2003, quarterly advocates meeting in Staunton. Ms. Miller provided an update on recent organizational changes in VOPA.

REGULAR MEETING

9:15 a.m.

COMMITTEE MEMBERS PRESENT:

Joyce Bozeman, Ph.D., Chair
Dr. R. Michael Marsh, Vice-Chair
Delores Archer, MSW
Jim Briggs
Dr. Angela Brosnan
Brenda Jenkins, J.D.
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 Towle, 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
Jennifer Bailey, CORE Human Rights Advocate, Region IV & V

OTHERS PRESENT

Julie Stanley, Assistant Commissioner, Administrative and Regulatory Compliance,
DMHMRSAS
Colleen Miller, Director, Virginia Office for Protection and Advocacy (VOPA)
R.M., Complainant
D.M., Complainant
Cindy Kemp, Acting Executive Director, Arlington Community Services Board
Odile Saddi, Aging and Disability Division Chief, Arlington CSB
James Fagan, County Attorney, Arlington
Kim Lindblad, Director of Quality Assurance and Staff Development, Specialized
Youth Services
Bruce Evans, Chief Clinical Operations Officer, Specialized Youth Services
Elaine Wickliffe, Case Manager, Prince William County CSB
Jacqueline Turner, Chief Case Manager, Prince William County CSB
Alan El Tagi, Behavioral Specialist, Prince William County CSB
Sue Gross, Behavior Specialist, Prince William County CSB
Deanna Waugh, Program Coordinator, Volunteers of America
Paula Welsh, Program Director, Volunteers of America
Donna McLeod, Nurse Manager, Virginia Beach Psychiatric Center
L.H., Complainant
Debbie Lockart, Rappahannock Area CSB
Jim Gillespie, Director of MH Services, Rappahannock Area CSB

CALL TO ORDER:

The December 5, 2003 meeting of the State Human Rights Committee was called to order by Vice Chair R. Michael Marsh. Dr. Marsh lead the members in introducing themselves. Advocates and staff of the Office of Human Rights introduced themselves.

MINUTES:

The minutes of the October 24, 2003 State Human Rights Committee meeting were unanimously approved as submitted.

APPEAL:

Arlington CSB: R.M.

This matter came before the State Human Rights Committee on appeal of a decision of the Arlington Community Services Board (ACSB) Local Human Rights Committee (LHRC). Mary Towle, Regional Human Rights Advocate, brought the appeal forward on behalf of R.M. R.M. presented the case on behalf of himself and his daughter, with the assistance of Ms. Towle. Arlington Community Services Board was represented by Cindy Kemp, Acting Executive Director, Odile Saddi,

Aging and Disability Division Chief, and James Fagan, County Attorney. SHRC members present were Dr. Joyce Bozeman, Dr. Michael Marsh, James Briggs, Davey Zellmer, Dr. Angela Brosnan, Barbara Jenkins, J.D., Bobby Tuck, and Delores Archer, MSW. At R.M.'s request the hearing was held in open session.

R. M. disagrees with the ACSB LHRC 's finding that there was no violation of dignity, as specified in 12 VAC 35-115-50, (A) and (B)(5), Dignity, of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. He maintains that Woodmont consumers and their families' right to exercise legal rights and to be provided general information about the program services and policies were violated because the Woodmont staff failed to include the families or consumers in the decision to close Woodmont prior to such a decision being made.

R. M. disagrees with the ACSB LHRC's finding that there was no violation of the right to participation in decision making, as specified in 12 VAC 35-115-70, (A)(1), (2) and (3) Participation in Decision Making of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. He maintains that Woodmont consumers and their families' right to participate in decision making was violated because the Woodmont staff failed to include the families or consumers in the decision to close Woodmont prior to such a decision being made.

A motion was made and passed by a vote of 7:1 to uphold the LHRC's finding of no violation of 12 VAC 35-115-50 (A) and (B)(5) of the ACSB.

A motion was made and passed by a vote of 7:1, to uphold the LHRC's finding of no violation of 12 VAC 35-115-70 (A)(1), (2) and (3).

While the SHRC could not find clear and convincing evidence of rights violations in this case, families of consumers receiving services at Woodmont clearly feel they were left out of the early portion of the decision making process. This appearance of lack of involvement has caused the families significant concern about the future well being of their loved ones. The Arlington Community Services Board should make every effort to ensure that consumers and family members are clearly part of any future planning efforts that may impact the delivery of services.

The SHRC commends the Arlington Community Services Board LHRC for its efforts regarding this case and accepts and supports each of the LHRC recommendations as listed in the LHRC decision.

BYLAWS:

Poplar Springs Hospital

Jennifer Bailey, Human Rights Advocate Sr., Region IV and V, presented the bylaws for the Poplar Springs Hospital LHRC (PSH LHRC) for approval by the committee. Ms. Bailey indicated that these bylaws are modeled after the Harrisonburg-Rockingham LHRC Bylaws, which were approved during the July 18, 2003 meeting of the SHRC meeting.

The SHRC unanimously approved the Poplar Springs Hospital Local Human Right Committee Bylaws as submitted.

VARIANCES:

Model Accounting Variance - District 19 CSB and Heritage House:

The SHRC reviewed requests for the above listed organizations to use the Model Accounting Variance to sections 12 VAC 35-115-80 B(6) and C(3) of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services From Providers of Mental Health, Mental Retardation and Substance Abuse Services*.

A motion was made and unanimously passed to approve, for one year, the Model Accounting Variance to 12 VAC 35-115-80 B(6) and C(3) for use by District 19 CSB and Heritage House.

Specialized Youth Services of VA, Inc.

Jennifer Bailey introduced Ms. Kim Lindblad, Director of Quality Assurance and Staff Development and Mr. Bruce Evans, Chief Clinical Operations Officer, of Specialized Youth Services. Ms. Lindblad provided a brief overview of the services offered by Specialized Youth Services and the population of children for whom the variance and policy would affect.

Ms. Bailey indicated that Specialized Youth Services is requesting a variance to Section 12 VAC 35-115-110, (B13), 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*.

Ms. Bailey 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 vote of 7:1 to approve, for a one-year period, the Specialized Youth Services variance request and Structured Living Policy.

RESTRICTIVE BEHAVIOR PLAN:

Prince William County (SVP):

Mary Towle, Regional Human Rights Advocate, Region II, introduced Elaine Wickliffe, Case Manager, Jacqueline Turner, Chief Case Manager, Alan El Tagi, Behavioral Specialist, and Sue Gross, Behavior Specialist, of Prince William County CSB; and Deanna Waugh, Program Coordinator, and Paula Welsh, Program Director, of the Volunteers of America. Ms. Towle stated that this is the first community plan of this type in Virginia.

The motion was made and passed to go into Executive Session pursuant to Virginia Code, 2.2-3711 (15), for the purpose of discussing a restrictive treatment plan for D.H. This review necessarily involved discussion and consideration of mental and medical records excluded and information excluded from the Freedom of Information Act. Members present were Joyce Bozeman, Ph.D., Chair, Dr. R. Michael Marsh, Vice-Chair, Delores Archer, MSW, Jim Briggs, Dr. Angela Brosnan, Brenda Jenkins, J.D., Bobby Tuck, and Davey Zellmer. Dr. Bozeman determined that staff of the Office of Human Rights should hear the case for training purposes.

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 approve the treatment plan for D.H. as presented. The SHRC will write a letter of thanks and acknowledgment to the program, and a letter to the LHRC addressing their concerns. The SHRC further determines that the LHRC is to review this plan every quarter.

Ms. Walsh suggested that she expose appropriate department staff to the issues pertinent to the overall services delivery system.

The motion was made and unanimously passed that the OHR Director will present pertinent issues of this plan to appropriate

department staff.

VARIANCE:

Virginia Beach Psychiatric Center:

Reginald T. Daye, Regional Advocate, Region V, introduced Ms. Donna McLeod, Nurse Manager, of the Virginia Beach Psychiatric Center. Ms. McLeod provided a brief overview of the services offered by the Virginia Beach Psychiatric Center and the population of adults and adolescents impacted by the proposed variance and policy.

Mr. Daye indicated that the Virginia Beach Psychiatric Center was requesting a variance to Section 12 VAC 35-115-110, (B13), 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 and Substance Abuse Services*. Mr. Daye further 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.

A motion was made and passed by a 7:1 vote to approve, for a one-year period, the Virginia Beach Psychiatric Center variance request and structured living policy as submitted.

BYLAWS:

Loudoun County:

MS. Mary Towle, Regional Advocate for Region II, presented the bylaws for the Loudoun County LHRC for approval.

The motion was made and unanimously passed to approve the bylaws for Loudoun LHRC. The committee recommends that to keep in the spirit of the regulations, the Loudoun LHRC consider providers for affiliation outside the boundaries of Loudoun County.

Dr. Joyce Bozeman announced the retirement of Mary Towle and on behalf of the committee thanked her for her hard work. Ms. Towle responded that she has enjoyed the challenges and satisfaction of working in the human rights system.

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

Hampton-Newport News CSB

Appoint:

Nathaniel L. Parker
Sheryl-Lynn Moore

Western State Hospital

Appoint:

Stephen Ryan

Presbyterian Homes and Family Services

Appoint:

Jennifer Taylor
Gregory Greene

Prince William County

Reappoint:

Kris Julien

Alexandria CSB

Appoint:

Mary Lociscero

Northwestern CSB

Appoint:

Linda P. Taylor

A motion was made and passed with 1 abstention to make the following appointment:

Poplar Springs Hospital

Appoint:

Betty L. Velez

APPEALS:

Rappahannock Area CSB : L.H.

Chuck Collins, Regional Human Rights Advocate, Region I, introduced L.H., Complainant, Debbie Lockart, Rappahannock Area CSB, and Jim Gillespie, Director of MH Services, Rappahannock Area CSB. SHRC members introduced themselves. At the clients request the hearing was held in executive session, as permitted by Virginia Code § 2.2-3711 (A)(15).

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. Members present were Joyce Bozeman, Ph.D., Chair, Dr. R. Michael Marsh, Vice-Chair, Delores Archer, MSW, Jim Briggs, Dr. Angela Brosnan, Brenda Jenkins, J.D., Bobby Tuck, and Davey Zellmer. Dr. Bozeman determined that staff of the Office of Human Rights should hear the case for training purposes.

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 of 7:1 that, the SHRC upholds the finding of the RACSB Local Human Rights Committee of no violation of 12 VAC 35-115-60 (A) Services. The SHRC finds that the evidence does not support the allegation that Ms. Westenberger failed to perform her duties in accordance with sound therapeutic practice.

The motion was made and passed by a vote of 7:1 that the SHRC upholds the finding of the RACSB Local Human Rights Committee finding of no violation of 12 VAC 35-115-70 (A), Participation in Decision Making. The SHRC finds that Ms. Westenberger did not impede L.H.'s access to the MAP program.

The motion was made and passed by a vote of 7:1 that the SHRC upholds the finding of the RACSB Local Human Rights Committee of no violation of 12 VAC 35-115-60 (B) Services. The SHRC finds that L.H. was not treated unfairly by RACSB with respect to Section 8 vouchers.

The SHRC commends the Rappahannock Area LHRC for its efforts regarding this case and accepts and supports each of the LHRC recommendations as listed in

the LHRC decision. The SHRC adds the following additional recommendation:

L.H. and RACSB should provide quarterly updates to the Rappanhannock Area LHRC regarding the status of the implementation of the four recommendations found in the November 7, 2003 opinion of the RALHRC. Particular attention should be paid to the quality of the relationship between L.H. and her case manager. These quarterly updates should be provided until such time as the RACSB LHRC is satisfied with the implementation of all 4 recommendations.

Western State Hospital : R.P.

This case was postponed due to weather and poor driving conditions.

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

Respectfully submitted,

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