

**State Human Rights Committee
Meeting Minutes**
STATE HUMAN RIGHTS COMMITTEE
DMHMRSAS
Richmond Ambulance Authority
2400 Hermitage Road
Conference Room B
Richmond, VA 23220
December 5, 2008

ADMINISTRATIVE MEETING
8:30 a.m.

COMMITTEE MEMBERS PRESENT

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

NOT PRESENT

HUMAN RIGHTS STAFF PRESENT

Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Deb Lochart, Regional Human Rights Advocate
James O. Bowser, Jr., Regional Human Rights Advocate
Reginald T. Daye, Regional Human Rights Advocate
Michael Curseen, Human Rights Advocate, Central State Hospital
Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center
Carrie Flowers, Human Rights Advocate, CSH Forensics, and Hiram Davis Medical Center
Ansley Perkins, Human Rights Advocate, Central State Hospital

OTHER STAFF PRESENT

Karen Walters, DMHMRSAS Special Counsel
Jim Stewart, Inspector General
Cathy Hill, Office of the Inspector General

OTHERS PRESENT

Josephene Johnsey, Interested Party

Mr. Kirby Wright, Chair, opened the administrative session of the State Human Rights Committee meeting at 8:40 a.m.

2007 Annual Report for Region 4

Chairman Wright announced the presentation of the Region 4 annual report. James O. Bowser, Jr., Regional Human Rights Advocate, Michael Curseen, Human Rights Advocate, Central State Hospital, Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center, Carrie Flowers, Human Rights Advocate, CSH Forensics, and Hiram Davis Medical Center, and Ansley Perkins, Human Rights Advocate, Central State Hospital, discussed highlights of staff activities and systemic issues. The SHRC also received a copy of the region's comprehensive written annual report.

James Bowser said the provider system in region 4 has been growing so quickly that staff cannot develop LHRCs fast enough to stay ahead. There are several new programs waiting for affiliation with LHRCs so they can open for business.

Kirby Wright asked for the status of window installations in consumers' bedrooms at Youth Empowerment Services. Mr. Bowser will check on this and report back.

Mr. Wright thanked Mr. Bowser and his staff for the excellent report.

SHRC Meeting Schedule

The SHRC reviewed the meeting schedule for 2009.

SHRC Goals Review

Margaret Walsh said that with presentations scheduled for this day and the next few meetings the SHRC is up to date on goals. Karen Walters agreed to provide information on substitute decision making and the Freedom of Information Act during upcoming meetings.

Copies of Correspondence and Informational Items

Kirby Wright remarked on a letter from Joseph Lynch to the Piedmont LHRC regarding the LHRC's acceptance of providing LHRC services to Virginia Center for Behavioral Rehabilitation (VCBR). Mr. Lynch is an experienced clinician for sex offenders. In his letter Mr. Lynch made himself available to the LHRC for any support needed when acting as the human rights committee for sexual predators receiving services at VCBR.

Chairman Wright announced that the SHRC would proceed with the regular meeting at present and would take a break before the public comment period.

REGULAR MEETING

9:15 a.m.

COMMITTEE MEMBERS PRESENT

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

NOT PRESENT

HUMAN RIGHTS STAFF PRESENT

Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Charles T. Collins, Regional Human Rights Advocate
Deb Lochart, Regional Human Rights Advocate
James O. Bowser, Jr., Regional Human Rights Advocate
Reginald T. Daye, Regional Human Rights Advocate
Sherry C. Miles, Regional Human Rights Advocate
Michael Curseen, Human Rights Advocate, Central State Hospital
Roanna Deal, Human Rights Advocate, Southern Va Mental Health Institute
Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center
Carrie Flowers, Human Rights Advocate, CSH Forensics, and Hiram Davis Medical Center
Ansley Perkins, Human Rights Advocate, Central State Hospital

OTHER STAFF PRESENT

Karen Walters, DMHMRSAS Special Counsel
Allyson Tysinger, Senior Assistant Attorney General
Jim Stewart, Inspector General
Cathy Hill, Office of the Inspector General
David Lyon, Director, Southern Va Mental Health Institute
Jack Barber, Director, Western State Hospital
Gail Burford, WSH Director's Liaison to the WSH LHRC

OTHERS PRESENT

Julie Stanley, Director of Community Integration for People with Disabilities
Josephene Johnsey, Interested Party

Clarence Dilworth, Provider
Michael Gray, VOPA Staff Attorney
Nathan J.D. Veldhuis, Tremblay & Smith, LLD, Representing CC
Kurt Hruneni, Court Reporter, Cavalier Reporting

Welcome / Call to Order

The December 5, 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

The minutes of the October 24, 2008 State Human Rights Committee meeting were unanimously approved as corrected.

9:30 Update on activities of the Office of the Inspector General.

Jim Stewart, Inspector General, gave PowerPoint presentations titled "Crisis Intervention for Individuals Receiving Community Services" and "Review of CSB Child and Adolescent Services" which provided information on the activities and findings of the Office of Inspector General.

10:20 Chairman Wright announced a ten minute break.

10:30 Public Comment

Kirby Wright announced the public comment period and invited individuals to come forward to address the committee.

Clarence Dilworth, a private provider of three programs in Dinwiddie County talked about the reduction of medications that contribute to positive behavior. Mr. Dilworth said that although he and his staff are strongly supportive of the reduction of medications used for behavior management there is a need to insure that institutions and programs have the manpower and other means of providing quality care to consumers with challenging behaviors. Mr. Dilworth is concerned that the reduction in the use of medications may lead to an increase in mechanical restraints. Also, as more consumers leave institutions and move to community programs there may be more encounters with law enforcement and an increase in numbers of difficult consumers who wind up in jail because of inadequate supports for behavioral management. Law enforcement is not prepared to deal with these individuals and jails do not offer the needed supports.

In closing, Mr. Dilworth said he wants the system to be aware of these concerns so they can be addressed as the department proceeds on the road to a restraint free system and as our consumers move into the community.

Kirby Wright thanked Mr. Dilworth for coming forward with these important issues.

Beverly Garnes, Human Rights Advocate, reported that this issue came before the Crater LHRC. The LHRC recommended that Mr. Dilworth talk to the SHRC.

10:40 Update on System Transformation

Julie Stanley, Director of Community Integration for People with Disabilities, gave a PowerPoint presentation titled "Your life, Your Choice, Your Home" on enhancements to the consumer based system of care and the development of community services. Many services are accessible through the use of the Virginia Easy Access web site at www.easyaccess.virginia.gov, which facilitates customized searches through Virginia Navigator for supports throughout the community. This is a powerful database that enables individuals to see services in their own neighborhoods.

Appeals

11:35 Review of Action Plan in Response to SHRC Appeal Case 08-03: JW v SVMHI

The SHRC reviewed JW's response to the Director's action for SHRC case 08-03. David Lyon, Director of Southern Virginia Mental Health Institute, was present to answer questions from the committee. Michael Gray, VOPA Staff Attorney, was present to speak on behalf of JW. At the request of counsel for the consumer the review was held in closed session.

A Motion was made and passed to go into closed session pursuant to Virginia Code, 2.2-3711, for the purpose of discussing matters excluded from the Freedom of Information Act, namely to review the Director's action plan in response to the case of JW v. David Lyon.

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.

Christina Delzingaro suggested that Michael Gray and JW draft an action plan and present it to the facility for consideration.

Case 08-04: CS v CSH

The SHRC received a copy of the decision for case 08-04: CS v Central State Hospital.

Bylaws

Commonwealth LHRC

Michael Curseen, Human Rights Advocate, presented the bylaws of the newly formed Commonwealth LHRC.

Upon a motion by Randy Johnsey and seconded by Jannie Robinson the SHRC unanimously approved the bylaws of the Commonwealth LHRC.

ANUE LHRC

Beverly Garnes, Human Rights Advocate, presented the bylaws of the newly formed ANUE LHRC.

Upon a motion by Delores Archer and seconded by Carolyn DeVilbiss the SHRC unanimously approved the bylaws of the ANUE LHRC.

Chesapeake Regional Local Human Rights Committee Bylaws

Mr. Reginald T. Daye, Regional Advocate for Region 4, presented on behalf of the Chesapeake Regional Local Human Rights Committee, a request to modify their bylaws, which incorporates language from the human rights regulations.

Upon a motion by Christina Delzingaro and seconded by Delores Archer the SHRC unanimously approved the Chesapeake Regional Local Human Rights Committee Bylaws as follows:

Article VII – Quorum, add the following paragraph: “The local human rights committee may delegate summary decision making authority to a subcommittee when expedited decisions are required before the next scheduled LHRC meeting to avoid seriously compromising an individual’s quality of care, habilitation, or quality of life. The decision of the subcommittee shall be reviewed by the full LHRC at its next meeting.”

The LHRC should also note that this section shall not apply to fact-finding conferences.

Atlantic Regional Local Human Rights Committee Bylaws

Reginald T. Daye, Regional Advocate, Region V, presented on behalf of the Atlantic Regional Local Human Rights Committee, a request to approve its bylaws.

Ocean View Regional Local Human Rights Committee Bylaws

Reginald T. Daye, Regional Advocate, Region V, presented on behalf of the Ocean View Regional Local Human Rights Committee, a request to approve its bylaws.

Mr. Daye reported that both the Atlantic Regional LHRC and the Ocean View Regional LHRC have been trained. The LHRC reviewed the bylaws and voted to recommend approval by the SHRC. There are four programs waiting to affiliate with each LHRC.

Upon a motion by Angela Brosnan and seconded by Randy Johnsey the SHRC unanimously approved the Bylaws for Atlantic Regional LHRC and Ocean View Regional LHRC.

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 discussion and consideration of 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.

A motion was made and unanimously passed to remove Ms. Pamela Waitkus from Crater LHRC because of lack of attendance at regularly scheduled meetings.

A motion was made and unanimously passed to remove Mr. Raymond Peele from Portsmouth Regional LHRC because of lack of attendance at regularly scheduled meetings.

The SHRC acknowledged the resignation of Ms. Darlene Williams from Portsmouth Regional LHRC.

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

Region 1

Rappahannock Area CSB LHRC

Appoint: Ms. Keely Turner

Rappahannock-Rapidan CSB LHRC

Appoint: Ms. Paula Beneson, Ms. Kathleen Downey

Region 4

Southside Va Training Center LHRC

Appoint: Dr. Ramakrishnan S. Shenoy

Goochland/Powhatan LHRC

Appoint: Ms. Vernell Straughter, Ms. Mary F. Jackson

Region 5

Williamsburg Regional LHRC

Appoint: Rev. James Russell Henry

Portsmouth Regional LHRC

Appoint: Mr. Mark A. Scott, Ms. Marietta G. Cottingham

Mid-City LHRC

Appoint: Ms. Norma "Faye" Joseph

Region 6

Heartland Regional LHRC

Appoint: Ms. Linda A. Meadows

Central Virginia Training Center

Appoint: Mr. Charles Fallis, Ms. Jane Parker, Ms. Cassidy Taylor

Christina Delzingaro said she is deeply troubled by the reason given by the Central Virginia Training Center (CVTC) LHRC for not recommending the consumer who applied for membership on the LHRC.

Following much discussion, the SHRC decided to write a letter to the CVTC LHRC explaining that the SHRC did not find their explanation to be persuasive. The SHRC will invite the LHRC to the March 6, 2009 SHRC meeting to talk about this issue further.

Variances

Specialized Youth Services

Carrie Flowers, Human Rights Advocate, presented the annual report from Specialized Youth Services on the use of their variance to 12 VAC 35-115-110 B13, 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*.

Kirby Wright commented that the program submitted an excellent report.

Western State Hospital

Kirby Wright announced the review of Western State Hospital's Variance reporting for CC. Jack Barber, Director of Western State Hospital said that for the purpose of protecting consumer confidentiality he would prefer the variance report be reviewed in closed session. Nathan J.D. Veldhuis, Tremblay & Smith, LLD, representing CC, reported that CC and family request the review be held in open session. Allyson Tysinger said that it is at the discretion of the SHRC whether to hold the review in open or closed session. Ms. Tysinger recommended Nathan Veldhuis be allowed to stay as representative of the consumer and family.

Kirby Wright announced that review of the variance report and review of the variance request for CC would be held in closed session.

Upon a motion made by Christina Delzingaro and seconded by Randy Johnsey 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. .

Present for review of the variance report and variance request were SHRC members Kirby Wright, Christina Delzingaro, Angela Brosnan, Delores Archer, Carolyn DeVilbiss, Randy Johnsey, Joseph Lynch, Donald Lyons and Jannie Robinson. Also present were Allyson Tysinger, Senior Assistant Attorney General, Margaret Walsh, Director of Human Rights, and Kli Kinzie, Secretary. Nathan J.D. Veldhuis, Tremblay & Smith, LLD, was present to represent CC and family. Accompanying Nathan Veldhuis was Kurt Hruneni, Court Reporter, Cavalier Reporting. Chuck Collins, Regional Human Rights Advocate, was present to provide technical support and to speak on behalf of the WSH LHRC. Jack Barber, Director, Western State Hospital, Gail Burford, WSH Director's Liaison to the WSH LHRC, and Karen Walters, DMHMRSAS Special Counsel, were present to represent the facility.

Allison Tysinger reported that it is at the SHRC's discretion whether to allow the court reporter to stay for the variance report and the variance review. Following discussion on the matter the committee decided to allow the court reporter to stay.

The SHRC reviewed the report for the variance for CC, which expires on this day.

The SHRC considered Western State Hospital's request for variance to 12 VAC 35-115-110 C3, Seclusion in an Emergency (Children), 12 VAC 35-115-110 C13, Seclusion or Mechanical Restraint, 12 VAC 35-115-110 C17, Monitoring, 12 VAC 35-115-110 C15, Standing Orders.

Nathan Veldhuis voiced his objections to the variance.

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.

Upon a motion by Christina Delzingaro and seconded by Randy Johnsey Western State Hospital's request for variance to 12 VAC 35-115-110 C3, Seclusion in an Emergency (Children), 12 VAC 35-115-110 C13, Seclusion or Mechanical Restraint, 12 VAC 35-115-110 C17, Monitoring, 12 VAC 35-115-110 C15, Standing Orders, for CC was granted until June 5, 2009. Western State Hospital is to provide variance reports for SHRC meetings on January 23, 2009, March 6, 2009,

April 17, 2009 and June 5, 2009. The variance reports are to include summaries of interactions of CC with staff and other residents; the number of times, reasons for and length of time the door to CC's suite is locked; the number, dates, time and description of acts of aggression; the number, dates, time and description of acts of assaults; the number, dates and length of time CC is in seclusion; and the amount of time CC spends outside the suite and in the day room per day.

Angela Brosnan asked for documentation on use of the intercom.

Nathan Veldhuis reported on an article that appeared in the Richmond Times Dispatch (RTD) and on the subsequent apology he received from the RTD regarding the inaccuracy of the article.

Christina Delzingaro asked for the status on CC's family's request to move him to Northern Virginia. Jack Barber reported that DMHMRSAS is taking the lead on that issue and is looking into options for placement in the community.

SHRD

Margaret Walsh provided an update on personnel changes in the Office of Human Rights, and on the 2010 budget plan which expected to be announced on December 17, 2008.

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

Respectfully submitted,

Kirby Wright, Chair