

**State Human Rights Committee  
Meeting Minutes**

Youth Empowerment Services, Inc, Crisis Intervention Center  
7307 Hull Street Road  
Richmond, VA 23235  
January 23, 2009

**ADMINISTRATIVE MEETING**  
**8:30 a.m.**

**COMMITTEE MEMBERS PRESENT**

Kirby Wright, Chair  
Angela Brosnan  
Delores Archer  
Carolyn M. DeVilbiss  
Joseph Lynch  
Donald Lyons

**NOT PRESENT**

Christina Delzingaro, Vice-Chair  
Randy Johnsey  
Jannie Robinson

**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  
Buddy Small, Human Rights Advocate, Piedmont Geriatric Hospital and Virginia Center  
for Behavioral Rehabilitation  
M. Ansley Perkins, Human Rights Advocate, Central State Hospital

**OTHER STAFF PRESENT**

Karen Walters, DMHMRSAS Special Counsel

## **OTHERS PRESENT**

Steven Parsons, Youth Empowerment Services

Rob Johnson, Director of Residential Services, Youth Empowerment Services

Charles Middleton, Vice-President, Youth Empowerment Services

Mr. Kirby Wright, Chair, opened the administrative session of the State Human Rights Committee meeting. Following introductions the SHRC reviewed the SHRC Goals spreadsheet. Chairman Wright reported that with today's presentations, the SHRC is up to date with goals.

Copies of Correspondence and Informational Items were provided to members in the agenda packet. A letter to the Central Virginia Training Center (CVTC) LHRC was included with the correspondence. Mr. Wright reported that he met with the CVTC LHRC in Danville and that the meeting went well.

Chairman Wright appointed Delores Archer, Donald Lyons and Angela Brosnan to the Officer Nominating Committee. The Officer Nominating committee will make recommendations for officers for the upcoming term of July 1, 2009 to June 30, 2010.

Chairman Wright appointed Joseph Lynch as chair of the Membership Committee. Other members on the committee are Christina Delzingaro, Randy Johnsey, Jannie Robinson and Carolyn DeVilbiss. The membership will seek to recruit a Psychiatrist to replace Angela Brosnan when she leaves the SHRC following the June 2009 meeting.

Margaret Walsh provided an update on the activities of the General Assembly, including the possible closing of DMHMRSAS facilities Southeastern Virginia Training Center and Commonwealth Center for Children and Adolescents, as well as possibly closing the adolescent center of Southwest Virginia Mental Health Institute. All three of the above facilities run at below capacity. As the Department deals with the loss of child and adolescent beds, it is hoped that money will go to enhance local capacity to serve children and adolescents in the community. Local officials have met with Department heads regarding plans to reallocate funds appropriately. The Department also hopes to establish acute care beds in addition to the existing residential beds.

Ms. Walsh asked the committee to please consider sending a letter to Local Human Rights Committees and facilities to make sure LHRCs are immediately available to provide services for the consumers who are moving out of the closing state facilities.

At 8:45 a.m. Steven Parsons welcomed the SHRC to Youth Empowerment Services and lead a tour of the program. The SHRC noted that windows have been installed in clients' bedrooms.

## **9:00 a.m. Break**

## **REGULAR MEETING**

**9:15 a.m.**

### **COMMITTEE MEMBERS PRESENT**

Kirby Wright, Chair  
Angela Brosnan  
Delores Archer  
Carolyn M. DeVilbiss  
Joseph Lynch  
Donald Lyons

### **NOT PRESENT**

Christina Delzingaro, Vice-Chair  
Randy Johnsey  
Jannie Robinson

### **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  
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Michael Curseen, Human Rights Advocate, Central State Hospital  
Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center  
Buddy Small, Human Rights Advocate, Piedmont Geriatric Hospital and Virginia Center  
for Behavioral Rehabilitation  
M. Ansley Perkins, Human Rights Advocate, Central State Hospital

### **OTHER STAFF PRESENT**

Karen Walters, DMHMRSAS Special Counsel  
Russell Payne, Community Support Specialist, Office of Mental Health - Community  
Support Services  
Douglas Newsome, Regional Manager, Office of Licensing

### **OTHERS PRESENT**

Steven Parsons, Youth Empowerment Services  
Rob Johnson, Director of Residential Services, Youth Empowerment Services  
Charles Middleton, Vice-President, Youth Empowerment Services  
Ruth Mawyer, Director of Nursing, Virginia Beach Psychiatric Center  
Fran Neaves, Risk Manager, Virginia Beach Psychiatric Center

### **PRESENT VIA TELECOM**

Michael Gray, VOPA Attorney  
Nathan J.D. Veldhuis, Tremblay & Smith, LLD, Representing CC and family  
Jack Barber, Director, Western State Hospital  
Gail Burford, WSH Director's Liaison to the WSH LHRC

## **Welcome / Call to Order**

The January 23, 2009 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 December 5, 2008 State Human Rights Committee meeting were unanimously approved as written.

Ms. Walsh formally asked the committee to send a letter encouraging Local Human Rights Committees to take on added responsibility for the consumers who are moving out of closing state facilities as a result of General Assembly action. Ms. Walsh also recommended that the letter be copied in the next issue of the *Human Writes* newsletter.

**Delores Archer moved that the SHRC send a letter to Local Human Rights Committees to support consumers moving out of closing facilities.**

## **Appeals**

### **VB and PB v Hope House Foundation - Request for Extension of Time Frame**

Mr. Reginald T. Daye, Regional Advocate for Region 5, presented on behalf of the authorized representatives (JB and AB) of clients VB and PB a request to extend the regulatory time frames for filing an appeal petition before the State Human Rights Committee. The reason for the extension was due to the recent resignation of the advocate representing the clients during the appeal process. The extension would allow the new representative time to gather all documentation and to meet with the clients' authorized representatives in an effort to adequately prepare for the appeal hearing. It should also be noted that Hope House Foundation Executive Director, Ms. Lynne Seagle, submitted an objection to the appeal petition to the State Human Rights Committee. Mr. Daye respectfully asked that the timeframe be extended to January 30, 2009.

**Upon a motion by Delores Archer and seconded by Carolyn DeVilbiss the SHRC unanimously voted to extend the regulatory timeframe for submitting the appeal petition to the State Human Rights Committee for the case of VB and PB v Hope House until January 30, 2009.**

### **SHRC Case 08-03: JW v David Lyon**

The SHRC reviewed the revised Action Plan for JW. Michael Gray, VOPA Staff Attorney, was present via telecom to represent JW. David Lyon, Executive Director,

Southern Virginia Mental Health Institute, and Karen Walters, Assistant Attorney General, were present to represent the facility.

Michael Gray reported that he spoke with Karen Walters via phone on January 22, 2009 and agreed to continue with negotiations until an agreement is met. Karen Walters reported that she received Mr. Gray's proposed action plan on January 6, 2009 but that the activities of the General Assembly have prevented her from focusing on the action plan. Ms. Walters asked the SHRC to accept her request for an extension until the agenda deadline of February 17 for the March 6 SHRC meeting.

Michael Gray stated that he and JW have worked on a proposed action plan at the SHRC's request. Nonetheless he wants to be clear that it is his understanding that the burden of responsibility for developing an action plan rests with the facility. He and JW will continue to work on the action plan but he wants to be clear that he and the consumer do not accept the responsibility as theirs.

### **Training**

Karen Walters, DMHMRSAS Special Counsel, provided annual training on the Freedom of Information Act. Ms. Walters distributed copies of the current statute from Virginia Code 2.2-3700. Additional information is available at <http://dls.state.va.us/foiacouncil.htm>.

### **Public Comment Period 10:30 TO 10:45**

The record notes that there were no individuals who wished to make public comments.

### **Status of Consumer Discharge Plans**

Russell Payne, Community Support Specialist, Office of Mental Health - Community Support Services, provided the SHRC with an annual report on the status of consumer discharge plans. Michael Gray, VOPA Staff Attorney, listened in via telecom. Mr. Payne reported that discharge assessments are based on clinical readiness for discharge. The office of Community Support tracks extraordinary barriers to discharge and reports annually to the SHRC.

Regional Advocates Chuck Collins and Reginald Daye briefly discussed cases of two individuals who have extraordinary barriers to discharge.

Chairman Wright thanked Russell Payne for coming to the meeting to discuss this very important issue with the committee.

### **Variances**

#### **Virginia Beach Psychiatric Center**

Mr. Reginald T. Daye, Regional Advocate for Region 5, introduced Ms. Ruth Mawyer, Director of Nursing, and Ms. Fran Neaves, Risk Manager, of the Virginia Beach Psychiatric Center. Ms. Mawyer provided a brief overview of the Virginia Beach Psychiatric Center and the population of children and adults for whom the variance and structured living policy would impact.

Mr. Daye indicated that the Virginia Beach Psychiatric Center is requesting a variance to Section 12 VAC 35-115-110, Item C16, Use of Time Out of the *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* (Human Rights Regulations).

**A motion was made and unanimously passed to approve for a two-year period the Virginia Beach Psychiatric Center variance request and structured living policy as submitted. The program is to submit an annual written status report on the use of the variance to the State Human Rights Committee.**

#### Poplar Springs Hospital

James O. Bowser, Jr., Regional Advocate for Region 4, presented a letter from Poplar Springs Hospital which asks for an extension on variance reporting until the March 6, 2009 meeting. Poplar Springs Hospital has a variance to 12 VAC 35-115-110, B16, Use of Time Out, of the *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*.

**Upon a motion by Delores Archer and seconded by Carolyn DeVilbiss the SHRC unanimously did not approve Poplar Springs Hospital's request for an extension. The SHRC will send a letter to the program notifying them that they are out of compliance with reporting requirements. The Variance is hereby revoked.**

#### Western State Hospital - Variance Reporting for CC

Kirby Wright announced that the review of Western State Hospital's Variance reporting for CC would be held in closed session.

**Upon a motion made by Carolyn DeVilbiss 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 were SHRC members Kirby Wright, Angela Brosnan, Delores Archer, Carolyn DeVilbiss, Joseph Lynch and Donald Lyons. Also present were Margaret Walsh, Director of Human Rights, and Kli Kinzie, Secretary. Nathan J.D. Veldhuis, Tremblay & Smith, LLD, was present via telecom to represent CC and family. Jack Barber, Director, Western State Hospital, and Gail Burford, WSH

Director's Liaison to the WSH LHRC, were present via telecom to represent the facility. Karen Walters, DMHMRSAS Special Council, was present to represent the facility. Chuck Collins, Regional Human Rights Advocate, was present to provide technical support and to speak on behalf of the WSH LHRC.

Nathan Veldhuis voiced his objection to the closed session.

The SHRC reviewed the report for the following variances for CC:  
12 VAC 35-110, C 19, Seclusion  
12 VAC 35--110, C 3, Seclusion in non-emergent circumstances  
12 VAC 35-110, C 13, Seclusion or mechanical restraint for behavioral purposes  
12 VAC 35-110, C 15, Standing orders  
12 VAC 35-115-110, C 17, Restraint for behavioral 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.

Chairman Wright thanked Dr. Barber for the effort the facility is making on behalf of CC. Angela Brosnan commented that staff of Western State Hospital have been very accepting of CC. Chairman Wright thanked all parties for their efforts of CC and family.

### **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.

The SHRC acknowledged the resignation of Ms. Andrea Ballesteros from the Northern Virginia Training Center LHRC.

**Upon a motion by Delores Archer and seconded by Carolyn DeVilbiss the SHRC unanimously appointed the following applicants to the specified local human rights committees.**

### **Region 2**

Northern Virginia LHRC

Reappoint: Mr. Bruce Jennings

Northern Virginia Training Center  
Appoint: Mr. Joseph Caturano

Region 3  
Catawba LHRC  
Appoint: Ms. Jo Ann Patterson, Ms. Letitia Malone

Region 4  
Henrico LHRC  
Appoint: Ms. Laura Smith-Buracker

Region 5  
Suffolk Regional LHRC  
Appoint: Sharon Butcher

Region 6  
Piedmont Geriatric Hospital  
Appoint: Ms. Joanna Garofalo

### **Break for Lunch**

The SHRC recognized James Bowser for his years of service on behalf of consumers of the commonwealth. Mr. Bowser is retiring from state service effective February 24, 2009

Advocates present provided updates on the forming of new LHRCs in their regions and the number of new providers coming into the system.

### **Youth in Transition**

Douglas Newsome, Region Manager, Office of Licensing, talked with the committee about practices for transitioning children and adolescents who are aging out of the system. The Department is making on-going efforts to provide supports in the community.

Chairman Wright thanked Mr. Newsome for coming to talk with the SHRC.

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

Respectfully submitted,

Kirby Wright, Chair