

**State Human Rights Committee  
Meeting Minutes  
DMHMRSAS  
Western State Hospital  
Classroom  
1301 Richmond Road  
Staunton, VA 24402-2500  
Staunton, Virginia  
April 17, 2009**

**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  
Charles T. Collins, Regional Human Rights Advocate  
Reginald T. Daye, Regional Human Rights Advocate  
Mark Seymour, Child and Adolescent Advocate  
W. Jerry Thomas, Human Rights Advocate, Western State Hospital  
Michael Curseen, Human Rights Advocate, Central State Hospital  
Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center

**OTHER STAFF PRESENT**

Karen Walters, DMHMRSAS Special Counsel

**OTHERS PRESENT**

Josephene Johnsey, Interested Person

Hal Myers, Member, WSH LHRC

Mr. Kirby Wright, Chair, opened the administrative session of the State Human Rights Committee meeting. Following introductions the committee reviewed correspondence and informational item.

**Annual Report for Region 1**

Chairman Wright announced the presentation of the Region 1 annual report. Charles T. Collins, Regional Human Rights Advocate, provided a PowerPoint presentation on statistics and activities for the region.

**Draft SHRC Annual Report**

Margaret Walsh, State Human Rights Director, shared a draft of the SHRC Annual report for review by the committee. Some minor changes were recommended by committee members. Ms. Walsh will submit a final version for approval by the State MHMRSAS Board during the board's retreat.

**Sub-Committee Reports**

The committee reviewed the membership guidelines and provided an update on recruitment of new members.

**9:15 a.m. Break**

**REGULAR MEETING**

**9:25 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  
Reginald T. Daye, Regional Human Rights Advocate  
Adrien Monti, Human Rights Advocate, Catawba Hospital and the Roanoke Valley  
Michael Curseen, Human Rights Advocate, Central State Hospital  
Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center  
Mark Seymour, Child and Adolescent Advocate  
Timothy Simmons, Human Rights Advocate, Northern Va Mental Health Institute  
W. Jerry Thomas, Human Rights Advocate, Western State Hospital

## **OTHER STAFF PRESENT**

Jack Barber, Facility Director, WSH  
Gail Burford, Western State Hospital Director's Liaison to WSH LHRC  
Karen Walters, DMHMRSAS Special Counsel

## **OTHERS PRESENT**

Robert J. Berry, Attorney, Kaufman & Canoles, Representing Hope House  
Josephene Johnsey, Interested Person  
Hal Myers, Member, WSH LHRC  
Lynne Seagle, Exec Director,, Hope House Foundation

## **PRESENT VIA SPEAKERPHONE**

Nathan J.D. Veldhuis, Tremblay & Smith, LLP, Representing Mr. C.  
Lee McCormak, Advocate assisting E.S.  
Karen Vegano, Mt. Vernon Hospital  
ES, Consumer

## **PRESENT VIA POLYCOM**

Stewart Prost, Human Rights Advocate, Southeastern Virginia Training Center  
Willie Barnes, Human Rights Advocate, Eastern State Hospital  
Mr. J.B. on behalf of V.B. and P.B  
Mrs. A.B on behalf of V.B. and P.B

## **Welcome / Call to Order**

Chairman Wright called the April 17, 2009, SHRC meeting to order at 9:25 a.m.

Dr. Jack Barber, Facility Director of Western State Hospital (WSH), welcomed the committee to the facility. Dr. Barber provided a copy of WSH's Mall Schedule. Representatives from several states have visited WSH to see the mall and to use it as a model for development their own facility malls. Dr. Barber spoke briefly about the

services offered by Western State Hospital and the populations serviced at the hospital and in the community.

At 9:30 a.m. the SHRC members were taken on a tour of CC's living unit.

At 10:00 a.m. Kirby Wright called the meeting to order again. Following introductions the committee reviewed the minutes of the March 6, 2009, SHRC meeting.

**Upon a motion made by Carolyn DeVilbiss and seconded by Delores Archer the minutes of the March 6, 2009, SHRC meeting were unanimously approved as submitted.**

### **Change to the Agenda**

Margaret Walsh announced that VOPA's appeal of the decision of the case of CS v. Eastern State Hospital will not be heard.

### **CC: WSH - Variance Reporting**

#### **Variances**

#### **WSH: Variance Reporting**

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 Christine Delzingaro and seconded by Delores Archer 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, Christina Delzingaro, Delores Archer, Angela Brosnan, Carolyn DeVilbiss, Randy Johnsey, Joseph Lynch, Donald Lyons and Jannie Robinson. Also present were Margaret Walsh, Director of Human Rights, Karen Walters, DMHMRSAS Special Counsel, Hal Myers, Member of the Western State Hospital LHRC, and Kli Kinzie, Secretary. Jack Barber, Director, Western State Hospital, and Gail Burford, WSH Director's Liaison to the WSH LHRC, were present represent the facility. Nathan J.D. Veldhuis, Tremblay & Smith, LLP, was present via telecom to represent CC and family.

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 all involved for their efforts on behalf of this consumer.**

Nathan Veldhuis shared that he has been discussing CC's situation with Dr. Jana, CC's treating Psychiatrist, who has been very helpful and pleasant to work with. Nathan said that he and CC's family along with Alex Gulotta met with Dr. Jana on April 16 and they are looking forward to making progress in getting CC to the best possible environment for him.

Kirby Wright reported that the Committee saw the living quarters and that they were very appreciative of the tour provided. Kirby thanked Dr. Barber and the hospital staff.

The current variance will expire in June 2009. The committee and all present were reminded that the June meeting would be held on June 5 at Piedmont Geriatric Hospital in Burkeville.

### **Variance**

#### **Keystone Newport News Annual Report on Structured Living Protocol**

The SHRC reviewed the six month status report of the Keystone Newport News RTC variance to section 12 VAC 35-115-110, Time Out, of the human rights regulations. Mr. Reginald Daye, Regional Advocate, indicated that the Keystone Newport News RTC had reported the one incident involving the use of its Structured Living Policy during the past six months, as required by the SHRC.

Mr. Daye shared that Mr. Robert Leihman is no longer the Executive Director for the program. Mr. Chris Ruble has been appointed as acting Executive Director in the interim.

### **Appeal**

#### **Status of Appeal for D.B. Chesterfield CSB**

Michael Curseen, Human Rights Advocate, Central State Hospital, and Beverly W. Garnes, Human Rights Advocate, Southside Virginia Training Center, provided some background on the appeal for D.B. and Chesterfield CSB. The committee then reviewed the status report submitted by Chesterfield Local Human Rights Committee which addressed the actions taken by Chesterfield CSB regarding the case of DB as well as the LHRC's response to those actions.

The SHRC concurred with the Chesterfield LHRC's responses to the actions taken to date by Chesterfield CSB in items number 1 thru 5. Regarding item number 6, the SHRC recommended that, if it has not done so already, the Chesterfield LHRC should inform the new Chesterfield County CSB Executive Director about the outstanding issue of the apology letter. Margaret Walsh will draft a letter to the CSB.

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

Kirby Wright announced the public comment period and invited individuals to come forward to address the committee. There being no individuals from the public who wished to speak the committee continued with the next item.

### **Appeal**

#### **Hope House (Polycom)**

This case came before the State Human Rights Committee (SHRC) on April 17, 2009, on appeal of the original and revised action plan submitted by the Hope House Foundation in response to the October 15, 2008 decision of Health Planning Region (HPR) V Local Human Rights Committee (LHRC). Willie Barnes, Human Rights Advocate assisted Mr. and Mrs. J.B. and A. B on behalf of V.B. and P.B, with the presentation of the case via video conferencing. Hope House Foundation was on site and represented by Executive Director Lynn Seagle and Mr. Robert J. Barry, attorney with Kaufman & Canoles. At the request of Mr and Mrs J.B and A.B. the hearing was held in open session. Members present were Kirby Wright, Christina Delzingaro, Delores Archer, Angela Brosnan, Carolyn DeVilbiss, Randy Johnsey, Joseph Lynch, Donald Lyons, and Jannie Robinson.

Mr. and Mrs. J.B. and A. B on behalf of V.B. and P.B, filed an appeal of the formal human rights complaint with the HPR V LHRC alleging that Hope House Foundation violated V.B.'s and P.B.' s rights under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* (Human Rights Regulations) including 12 VAC 35-115-70A1b, Participation in Decision Making; 12 VAC 35-115-60 A2, Services; 12-35-115-50 B5, Dignity and 12 VAC 35-115-80, The parties appeared for a hearing on the appeal of the formal complaint before the HPR V LHRC on October 7, 2008.

Mr and Mrs J.B and A.B. on behalf of sons V.B and P.B. raised the following issues on appeal to the SHRC:

1. Regarding HPRV LHRC findings and recommendations related to 12 VAC-35-115-70A 1 B, Participation on Decision Making.

- Hope House Foundation's original and revised Action Plan failed to address with specificity the procedures for conducting the discharge planning process.
- Hope House Foundation's original and revised Action Plan failed to provide a response that it would revise its Discharge Summary Form to reflect evidence of participation from all parties.
- Hope House Foundation's original and revised Action Plan failed to provide clear and specific guidelines as to how to address communication and problem solving with family and consumers.

- Hope House Foundation’s original and revised Action Plan failed to provide specifics or clarification of meeting terminology.
- Hope House Foundation’s original and revised Action Plan failed to address how it will revise its Discharge Policy and Discharge Criteria to include clear discharge justification, including clarity and specifics on how a families behavior would justify consumer discharge.

2. Regarding HPRV LHRC findings and recommendations related 12 VAC 35-115-60 A2, Services.

- Hope House Foundation’s original and revised Action Plan failed to address how it will revise its Discharge Policy and Discharge Criteria to include clear discharge justification, including clarity and specifics on how a family’s behavior would justify consumer discharge.
- Hope House Foundation’s original and revised Action Plan failed to provide documentation to address how one could file an objection if one disagreed with HHG actions relating to discharge.

3. Regarding HPRV LHRC findings and recommendations related 12 VAC 35-115-50, Dignity.

- Hope House Foundation failed to develop a check list to include information that is provided in a manner based on the individual’s level of understanding utilizing person centered language.

4. Regarding HPRV LHRC findings and recommendations related 12 VAC 35-115-80, Confidentiality.

- Hope House Foundation’s original and revised Action Plan failed to describe with specificity the development of policy related to the confidentiality rights of individuals served in supervised apartment setting.

Desired Relief: Mr and Mrs J.B and A.B. on behalf of sons V.B and P.B request that the SHRC recommend that Hope House Foundation comply with all recommendations of the HPRV LHRC as articulated in the memo dated December 15, 2008.

Hope House Submission of Revised Discharge Criteria: Hope House Foundation submitted a revised Discharge Criteria dated 4/09 to the parties and SHRC.

**Upon a motion made by Christina Delzingaro and seconded by Randy Johnsey the SHRC unanimously accepted the Hope House Foundation’s revised Action Plan including the revised Discharge Criteria as presented on April 17, 2009 with one change: Hope House Foundation is to add the word “individual” in the new language as such:”provide written notice to the “individual”, family, guardian and any...”**

**Bylaws**

Roanoke LHRC (new committee)

Adrien Monti, Human Rights Advocate, Catawba Hospital and the Roanoke Valley, presented the Bylaws for the newly formed Roanoke Local Human Rights Committee.

**The Bylaws for the Roanoke Local Human Rights Committee were unanimously approved as submitted.**

### **LHRC Membership**

The SHRC acknowledged the resignations of Mr. Paul deVoursney and Mr. Phillip Moser.

**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.

**Upon a motion made by Randy Johnsey and seconded by Delores Archer and Angela Brosnan the SHRC unanimously appointed the following applicants to the specified local human rights committees.**

Region 1 Chuck Collins, Regional Advocate  
Rockbridge Area CSB LHRC

Appoint: Ms. Jean Kesler

Reappoint: Ms. Leslie Novack

Valley CSB LHRC

Reappoint: Ms. Elizabeth Bouldin-Clopton, Mr. Jeffrey Jones

Region II Deb Lochart, Regional Advocate  
Alexandria LHRC

Reappoint: Mr. Scott Singleton

Region III Nan Neese, Regional Advocate  
SWVMHI LHRC

Appoint: Mrs. Peggy Phipps, Roanoke LHRC, Ms. Thayer Walker  
New River Valley LHRC

Appoint: Ms. Lori Bell Mick, Ms. Rhonda J. Quesenberry

Region IV Michael Curseen and Beverly Garnes, Regional Advocates  
Central State Hospital LHRC

Appoint: Ms. Jane A. Clayborne  
Chesterfield LHRC

Appoint: Mr. Charles Armstrong  
Crater LHRC  
Appoint: Ms. Shavon L. Pannett  
Metro Richmond LHRC  
Reappoint: Mr. James Wallace, Mr. Elliott Cox  
Richmond Tri-Cities LHRC  
Reappoint: Ms. Tarah A. Comer  
Southside Virginia Training Center  
Reappoint: Mr. James Pulliam, Ms. Susie Kemp

Region V Reginald T. Daye, Regional Advocate  
Colonial Regional LHRC

Reappoint: Mr. Paul S. Thoroughgood  
HPR-V LHRC

Reappoint: Ms. Jean W. Swanick  
James City LHRC (New Committee)

Appoint: Ms. Audra R. Weaver, Ms. Shenita A. Brown, Ms. Cheryl A. Hilsman,  
Ms. Victoria (Victory) Whitaker

Middle Peninsula-Northern Neck LHRC

Reappoint: Mr. Carl F. Gerster, Ms. Judith I. Link

Southeastern Virginia Training Center LHRC

Reappoint: Ms. Diane C. Watkins, Ms. Brenda Gilmore-Hicks, Ms. Stefanie  
Ward

Suffolk Regional LHRC

Appoint: Ms. Denise N. Tynes

Reappoint: Ms. Jacqueline B. Blackett

Tidewater Regional LHRC

Appoint: Ms. Delinda Patterson

Reappoint: Mr. James A. Overton, Jr.

Region VI Sherry Miles, Regional Advocate  
Central Virginia Community Services LHRC  
Appoint: Ms. Brenda A. Miller

### **State Human Rights Director's Report**

Margaret S. Walsh, State Human Rights Director, provided update on department activities. She reported that Secretary Tavener attended the Monday morning staff meeting at DMHMRSAS Central Office to talk about the many projects involving DMHMRSAS that have yet to be accomplished.

Ms. Walsh also commented that the impact of the loss of positions in the department is very apparent in all offices.

### **Appeal**

E.S.: Inova Mount Vernon (Conference Call)

This case came before the State Human Rights Committee (SHRC) on April 17, 2009, on appeal of the January 22, 2009 decision of the Northern Virginia Hospital (NVH) Local Human Rights Committee (LHRC). Ms. Lee McCormak assisted E.S. with the presentation of the case via conference call. Ms. Karen Vegano presented the case for Mt. Vernon Hospital via conference call. At the request of E.S. the hearing was held in open session. Members present were Kirby Wright, Christina Delzingaro, Delores Archer, Angela Brosnan, Carolyn DeVilbiss, Randy Johnsey Joseph Lynch, Donald Lyons, and Jannie Robinson.

E.S. filed an appeal of the formal human rights complaint with the NVH LHRC alleging that Mt. Vernon Hospital violated her rights under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services* (Human Rights Regulations) including 12 VAC 35-115-50, Dignity, 12 VAC 35-115-30, Definition of Abuse and Neglect and 12-35-115-60, Services. The parties appeared for a hearing on the appeal of the formal complaint before the NVH LHRC on December 18, 2008.

E.S. raised the following issues on appeal to the SHRC:

Regarding Finding #2

ES states she did not file a complaint related to "A patient threatened to kill me." She states that her complaint was related to the allegation that her rights under 12 VAC 35-115-50 A, "...right to exercise his legal, civil and human rights...", were violated by Nurse Grey.

Regarding Finding #3

ES disagrees with the LHCR finding of no violation of 12 VAC 35-115-30, 2 and 5, Definitions (correct citation should be 12 VAC 35-115-50, B, 2, Dignity) related to "Being Pushed from Behind". ES adamantly maintains that she was pushed from behind while being escorted to the seclusion room. ES contends that staff lied when asked about the event and that staff lied about their names. ES contends that these lies are indeed evidence of guilt and that the LHRC should have considered them as evidence for a positive finding on this allegation.

Regarding Finding #4

A regulation cited in the LHRC petition was excluded from the deliberative process. Specifically, 12 VAC 35-115-60 A, B, 2, 3 Services.

ES raised the following issues regarding the LHRC recommendations:

Recommendation for finding #3.

ES states she did not express anything such thing.

Recommendation for finding #4

ES is not satisfied with this recommendation. ES suggests that Mt. Vernon Hospital be directed to show that it has put protections in place to avoid this happening to another patient.

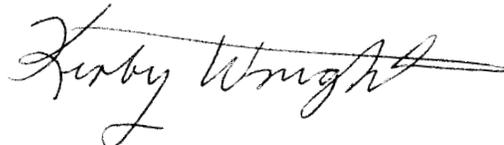
Regarding Finding #2, the SHRC deferred its decision on this issue pending the receipt of further information from the NVH LHRC. The SHRC will ask the NVH LHRC to clarify whether its finding regarding this complaint address the complaint regarding 12 VAC 35-115-50 A,...“right to exercise his legal, civil and human rights...”,

**Upon a motion made by Christina and seconded by Delores Archer regarding LHRC finding #3 the SHRC unanimously concurs with the LHRC that there is not enough evidence to substantiate a finding of violation of 12 VAC 35-115-30, 2 and 5, Definitions (correct citation should be 12 VAC 35-115-50,B,2, Dignity) related to “Being Pushed from Behind”.**

**The SHRC asks that Mt. Vernon Hospital submit its policies related to LHRC recommendation #1 to the SHRC as well as to the LHRC. The SHRC also asks that Vernon Hospital provide monthly reports of any further violations of policy and 12 VAC 35-115-70 A, 1 and 2a, Participation in Decision Making to the NVH LHRC and the SHRC.**

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

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kirby Wright", with a long horizontal flourish extending to the right.

Kirby Wright, Chair