

STATE HUMAN RIGHTS
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COMMONWEALTH of VIRGINIA

*Department of Behavioral Health and Developmental Services
Post Office Box 1797
Richmond, Virginia 232181797*

**MINUTES
STATE HUMAN RIGHTS COMMITTEE**

Friday, April 15, 2011

Goochland-Powhatan Community Services Board
Powhatan Office
3910 Old Buckingham Road
Powhatan, Virginia
23139

Margaret S. Walsh
State Human Rights Director

Kli Kinzie
Executive Secretary

DBHDS
Office of Human Rights
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Richmond, VA 23218

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8:30

Administrative Session

Members Present

Christina Delzingaro, **Chair**, T.C. Bullock, Penny Cameron, Carolyn DeVillbiss, Donald Lyons, Joseph Lynch, Jannie Robinson, Frank Royal

Members Not Present

Randy Johnsey, **Vice-Chair**

OHR Staff

Karen DeSousa, DBHDS Special Counsel
Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Michael Curseen, Human Rights Advocate, Region 4 Manager
Reginald T. Daye, Regional Human Rights Advocate, Region 5
Roanna Deal, Human Rights Advocate, Region 6
Carrie Flowers, Human Rights Advocate, Region 4
Beverly Garnes, Human Rights Advocate, Region 4 Manager
Beth Lee, Human Rights Advocate, Region 6
Tammy Long, Human Rights Advocate, Region 6
Sherry Miles, Regional Human Rights Advocate, Region 6
Nancy C. Neese, Regional Human Rights Advocate, Region 3

Other DBHDS Staff

Dr. Kim Runion, Facility Director, Virginia Center for Behavioral Rehabilitation
Dr. Anita M. Schlank, Clinical Director, Virginia Center for Behavioral Rehabilitation
Cheryl Young, Quality Assurance and Resident Complaint Coordinator, Virginia Center for Behavioral Rehabilitation
Jason H. Wilson, Healthcare Compliance Manager, Virginia Center for

Behavioral Rehabilitation

Others	Josephene Johnsey, Interested Person Mark Stevens, Disability Rights Advocate, Virginia Office for Protection and Advocacy
Call to Order and Welcome	<i>At 8:40 a.m. Christina Delzingaro called the administrative meeting to order. Introductions took place prior to proceeding.</i>
Approval of April 15, 2011 Agenda	<i>At 8:42 the SHRC unanimously approved the agenda for the April 15, 2011, SHRC meeting.</i>
Correspondence and Information	At 8:43 the SHRC reviewed correspondence received and VCBR Appeal Responses issued since the March 4, 2011, SHRC meeting.
SHRC Goals and Annual Report Draft	At 8:45 the SHRC reviewed the goals worksheet and draft SHRC Annual Report.
<i>BREAK</i>	<i>At 9:10 Christina Delzingaro called for a 10 minute break.</i>
9:20	<u>Regular Session</u>
Members Present	Christina Delzingaro, Chair , Randy Johnsey, Vice-Chair , T.C. Bullock, Penny Cameron, Carolyn DeVilbiss, Donald Lyons, Joseph Lynch, Jannie Robinson, Frank Royal
OHR Staff	Karen DeSousa, DBHDS Special Counsel Margaret Walsh, State Human Rights Director Kli Kinzie, Executive Secretary Michael Curseen, Human Rights Advocate, Region 4 Manager Reginald T. Daye, Regional Human Rights Advocate, Region 5 Roanna Deal, Human Rights Advocate, Region 6 Carrie Flowers, Human Rights Advocate, Region 4 Beverly Garnes, Human Rights Advocate, Region 4 Manager Beth Lee, Human Rights Advocate, Region 6 Tammy Long, Human Rights Advocate, Region 6 Sherry Miles, Regional Human Rights Advocate, Region 6 Nancy C. Neese, Regional Human Rights Advocate, Region 3
Other DBHDS Staff	Marion Greenfield, Director, Clinical Quality and Risk Management Dr. Kim Runion, Facility Director, Virginia Center for Behavioral Rehabilitation Dr. Anita M. Schlank, Clinical Director, Virginia Center for Behavioral Rehabilitation Cheryl Young, Quality Assurance and Resident Complaint Coordinator, Virginia Center for Behavioral Rehabilitation Jason H. Wilson, Healthcare Compliance Manager, Virginia Center for Behavioral Rehabilitation

Others

Josephene Johnsey, Interested Person
Mark Stevens, Disability Rights Advocate, Virginia Office for Protection and Advocacy

Call to Order and Introductions

At 9:20 a.m. Christina Delzingaro called the April 15, 2011, SHRC meeting to order. Introductions took place prior to proceeding.

Minutes:
March 4, 2011

At 9:22 the SHRC reviewed the draft minutes of the March 4, 2011, SHRC meeting.

Upon a motion by Jannie Robinson and seconded by TC Bullock the SHRC unanimously approved the minutes of the March 4, 2011, SHRC meeting with corrections.

Annual Report:
Region 5

At 9:25 Reginald T. Daye, Regional Human Rights Advocate, Region 5, presented the annual report for Region 5. Mr. Daye was happy to inform the SHRC that the office has hired Annette Joseph-Walker as Executive Secretary. Mr. Daye reported that a new advocate has been hired for the region.

Reginald Daye reported on statistics for his region and described the programs in the area. Mr. Daye said that since the SHRC issued guidance on model Bylaws and affiliation agreements programs and LHRCs have become more proactive about recruiting to fill vacancies. Mr. Daye briefly discussed LHRC activities in the region for the past year.

In April the department began construction of a new home for Southeastern Virginia Training Center

Margaret Walsh talked about the numbers and validity of data coming in to the CHRIS (Computerized Human Rights Information System) database. The old method of reporting via faxed documents is not an efficient method. The new CHRIS involves program staff entering their data via a web-based system.

Joseph Lynch asked when the new CHRIS will roll out into the community. Margaret Walsh said that IT staff are testing the security of the web-based (DELTA) portal. The Department hopes to begin rolling out to the CSBs in the next month or so, then to private providers in the summer of 2011.

Annual Report:
Region 6

At 9:47 Sherry Miles, Regional Advocate for Region 6 introduced Beth Lee, Roanna Deal, and Tammy Long, Human Rights Advocates. Sherry Miles reported on staff changes for the region. Walter Small transferred to Region 4 in February of 2011. Tammy Long has been hired to cover Virginia Center for Behavioral Rehabilitation and Piedmont Geriatric Hospital.

Sherry Miles reviewed the statistical data for the region. Christina Delzingaro asked Karen DeSousa, DBHDS Special Counsel, about capacity and decision-making, as this issue has been raised in previous Region 6 reports. Karen DeSousa offered to provide a training session on capacity and consent. Ms. DeSousa reported also that the Attorney General Office regularly provides training on substitute decision making. Beth Lee, Human Rights Advocate, reported that she annually reviews consent and capacity for decision making for the clients of CVTC. Many clients at CVTC have Authorized Representatives. Ms. Lee also noted that staff regularly respond to and resolve issues (i.e., adjusting temperature, etc) without necessarily reporting them.

Roanna Deal, Human Rights Advocate, continued discussion of capacity and consent. Sherry Miles reported that last year she and Roanna Deal worked together to merge two LHRCs into a single regional LHRC. Ms. Miles also reported that the Region 6 human rights office is monitoring a community program that treats very challenging at-risk children.

Christina Delzingaro asked about the status of the SHRC's request for the department to develop a consistent department-wide Departmental Instruction (DI) on patient funds. Margaret Walsh summarized activities regarding patient funds. The SHRC previously asked for an update at the June meeting in 2011. John Pezzoli is aware of this request and is working with department staff on development of the DI. Following a brief discussion the SHRC decided to send a letter stating that the committee is looking forward to hearing about the new DI at the SHRC meeting at Southside Virginia Training Center on June 10, 2011. A letter will go to SVMHI regarding patient funds and issues specific to SVMHI. Also, a broader letter will go out that will be accessible to consumers and other facilities.

**Model ICFMR
Variance**

At 10:20 Margaret Walsh addressed the SHRC about the Model ICFMR Variance for state facilities' Specially Constituted Committees. The model variance was originally submitted to the SHRC at the March 4, 2011 meeting in Charlottesville. Karen DeSousa, DBHDS Special Council, has reviewed the model variance language.

Beth Lee, Human Rights Advocate, and Beverly Garnes, Human Rights Manager, provided input regarding activities of their LHRCs pertaining to ICFMR Specially Constituted Committees. Nancy C. Neese, Regional Human Rights Advocate pointed out that the Southwestern Virginia Training Center Bylaws address the LHRC acting as the Specially Constituted Committee.

Public Comment

At 10:30 Christina Delzingaro called for Public Comments.

Nancy C. Neese thanked the SHRC for efforts to standardize LHRC practices. She commented that she and her staff have consistently made efforts to empower their LHRCs. Ms. Neese said that some LHRC members and providers have asked if they are required to adopt the model bylaws and affiliation agreements.

**Variance Report:
Virginia Beach
Human Services**

At 10:34 the SHRC reviewed the Variance report for Virginia Beach Human Services' variance to 12 VAC 35-115-50, C7 and C8 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services, which allows restrictions on visits and phone calls while in the Crisis Stabilization program.*

Margaret Walsh reminded the SHRC that the variance report was submitted for the March 4, 2011, meeting but it did not provide needed information about the use of the variance. Reginald T. Daye said that he is satisfied with the updated report.

The Variance report for Virginia Beach Human Services' variance to 12 VAC 35-115-50, C7 and C8 of the Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services, which allows restrictions on visits and phone calls while in the Crisis Stabilization program, is accepted for the file.

**Seclusion and
Restraint Update**

At 10:43 Marion Greenfield, Director of Clinical Quality and Risk Management provided an update on the department's efforts to reduce the use of seclusion and restraint. The office is working on combining the three Departmental Instructions (DI) on seclusion and restraint into one DI. Ms. Greenfield talked about the need to conduct intense analysis anytime there is an incident or allegation of abuse or neglect arising from the use of seclusion and restraint, and discussed some issues pertaining to maximum security facilities and the more challenging populations.

**VCBR Review of
Behavioral
Expectations and
Rules for Resident
Personal Property**

At 11:12 Margaret Walsh introduced Dr. Kim Runion, Facility Director, Dr. Anita M. Schlank, Clinical Director, Cheryl Young, Quality Assurance and Resident Complaint Coordinator, and Jason H. Wilson, Healthcare Compliance Manager, Virginia Center for Behavioral Rehabilitation.

Kim Runion has worked with Margaret Walsh and the Attorney General Office to develop a streamlined complaint resolution process. Dr. Runion believes complaints have dropped drastically since VCBR has implemented the procedure.

Kim Runion and Anita Schlank are evaluating double occupancy housing

of VCBR residents. When census reaches 300 the facility will begin to double-bunk residents. Current projections estimate they may reach 300 by July of this year.

VCBR has revised the rules for behavior. Kim Runion said the general feeling and culture of VCBR has drastically changed for the better since they have established consistent consequences for certain behaviors. Anita Schlank discussed consequences for minor vs major infractions. Jason Wilson said the facility solicits resident participation when assessing consequences for behaviors. The facility has also developed a successful work/skill building program.

At 11:52 Christina Delzingaro directed attention to Rules for Resident Personal Property. Kim Runion reported that if a resident is sent something that not allowed, it is screened and reviewed by facility staff. If it is deemed unreasonable, the resident is not allowed to have it. Dr. Runion stressed that the facility strives to allow residents to receive their packages whenever possible. Anita Schlank said that previously anything that the therapist believed may be counter-therapeutic was taken away. Now some things are allowed but noted in the record.

BREAK

At 12:00 Christina Delzingaro called for a break for lunch.

**LHRC Bylaws and
Cooperative
Agreements**

At 12:36 the meeting reconvened and the SHRC reviewed LHRC Bylaws and Cooperative Agreements.

Region 3

Southwestern Virginia Training Center LHRC

BJ McKnight, Human Rights Advocate, presented the proposed Bylaws and Cooperative Agreement for Southwestern Virginia Training Center LHRC. Ms. McKnight said the LHRC would like to adopt the model Bylaws with a revision to paragraph H to permit the review of all behavioral plans. Ms. McKnight reported that the SWVTC LHRC was particularly interested in continuing to review medications.

Ms. McKnight and the SHRC discussed issues of special interest to Training Centers relative to specially constituted committees and the role of the advocate versus the role of facility staff versus the role of specially constituted committees. Ms. Delzingaro noted that if the SWCTC wished to review medications, that activity would fall under paragraph E and the LHRC would need to inform the SHRC of the activity and the purpose.

Upon a motion by Joseph Lynch and seconded by Randy Johnsey the SHRC unanimously approved the Bylaws for Southwestern Virginia Training Center with the modification of inserting the original paragraph H regarding behavior plans in the model Bylaws in place of the proposed

paragraph H.

Upon a motion by Joseph Lynch and seconded by Penny Cameron the SHRC unanimously accepted the cooperative agreement for Southwestern Virginia Training Center.

Region 4

At 1:17 the SHRC reviewed the Bylaws and Cooperative Agreement for Chesterfield LHRC. Carrie Flowers, Human Rights Advocate, was present to represent the LHRC.

Upon a motion by Randy Johnsey and seconded by Joseph Lynch the SHRC unanimously approved the Bylaws for Chesterfield LHRC.

Upon a motion by Randy Johnsey and seconded by Joseph Lynch the SHRC unanimously approved the Cooperative Agreement for Chesterfield LHRC.

Region 5

At 1:20 Reginald T. Daye presented the Bylaws and Cooperative Agreements for the below listed LHRCs:

- Atlantic Regional LHRC
- Eastern State Hospital LHRC
- Genesis LHRC
- Hampton Regional LHRC
- Hampton Roads Regional LHRC
- James City Regional LHRC
- Ocean View Regional LHRC
- Portsmouth Regional LHRC
- Suffolk Regional LHRC
- Virginia Beach Area LHRC
- Tidewater Regional LHRC
- Universal Family LHRC
- Eastern Virginia Regional LHRC
- Newport News Regional LHRC
- Bay Regional LHRC

Mr. Daye reported that the LHRCs did not make any changes to the model bylaws language. All of the listed LHRCs will meet quarterly. LHRCs will continue to conduct sub-committee meetings to review appeals. Providers have agreed to attend four meetings a year.

Upon a motion by Randy Johnsey and seconded by Carolyn DeVilbiss the SHRC unanimously approved the Bylaws as modified in keeping with the model bylaws language for Atlantic Regional LHRC, Eastern State Hospital LHRC, Genesis LHRC, Hampton Regional LHRC, Hampton Roads Regional LHRC, James City Regional LHRC, Ocean View Regional LHRC, Portsmouth Regional LHRC, Suffolk Regional LHRC, Virginia

Beach Area LHRC, Tidewater Regional LHRC, Universal Family LHRC, Eastern Virginia Regional LHRC, Newport News Regional LHRC, and Bay Regional LHRC.

Upon a motion by Randy Johnsey and seconded by Carolyn DeVilbiss the SHRC unanimously approved the Cooperative Agreements for Atlantic Regional LHRC, Eastern State Hospital LHRC, Genesis LHRC, Hampton Regional LHRC, Hampton Roads Regional LHRC, James City Regional LHRC, Ocean View Regional LHRC, Portsmouth Regional LHRC, Suffolk Regional LHRC, Virginia Beach Area LHRC, Tidewater Regional LHRC, Universal Family LHRC, Eastern Virginia Regional LHRC, Newport News Regional LHRC, and Bay Regional LHRC.

Christina Delzingaro reminded all present that providers are required to attend one meeting per year, but are encouraged to attend more if they wish.

At 1:32 the SHRC reviewed a letter received from Dr. Peter Black, Chair of the Northern Virginia Training Center LHRC, regarding the SHRC's instructions regarding the scope of review of policies, procedures, behavior plans, and other elements that might have an impact on the human and civil rights of the residents at NVTTC (paragraph E of the LHRC bylaws). In response to the SHRC's requirement that the SHRC be informed of any activities that fall under paragraph E, the NVTTC LHRC is notifying the SHRC that it will still review medication errors at level 6 and above.

Karen DeSousa said that LHRCs have authority to conduct such reviews and comment.

Upon a motion by Joseph Lynch and seconded by Randy Johnsey the SHRC unanimously voted to receive the letter for the file.

LHRC Structure
| Sub-Committee

At 1:35 Christina Delzingaro reported on behalf of the Sub-Committee on LHRC Structure. The -sub-committee asked that the advocates give feedback on the recommendations. The sub-committee recommends that if an LHRC has been without a code-mandated member, the SHRC should receive a letter of action plan from the LHRC. The conversation should begin at the six-month mark, rather than after the position has been vacant for a year. The SHRC would then review the viability of the LHRC and consider whether to proceed with the action plan or to consolidate the LHRC with another LHRC.

The Sub-Committee would like to have the advocates provide recommendations as part of the SHRC's review of LHRCs with vacancies. Reginald Daye agreed that the advocates should have input regarding

proposed action plans and consolidations because advocates have more intimate knowledge of the dynamics of the LHRCs and may have insight as to why certain vacancies exist.

Beth Lee asked what would occur to committees that are consolidated - what happens to the overlap of positions in membership. Christina Delzingaro responded that if it is decided that an LHRC is to be dismantled, the advocate could make recommendations regarding the disposition or movement of specific members to other LHRCs, as well as the movement of specific providers to other LHRCs. Another issue to consider is the development of a process for LHRCs to volunteer to consolidate. Sherry Miles discussed the successful consolidation of two LHRCs in Region 6.

Christina Delzingaro will have a final report on LHRC Structure for the June 10, 2011, meeting.

**Healthcare Provider
Sub-Committee**

At 1:50 Joseph Lynch reported on the activities of the Committee on Healthcare Providers (HCP). The HCP Committee has expanded and revised the definition of HCP as it applies to LHRC Membership requirements.

Karen DeSousa summarized the advice she gave the sub-committee after checking relevant statutes, etc. She does believe there was good reason for coming up with the advice developed in 2005. There is no definition of Healthcare Provider in title 37.2. However, healthcare provider is a term used in other places of the code, and a definition is given there. Language in the code states that at least one member shall be a healthcare provider and the remaining appointments should be individuals with knowledge and training in healthcare fields. Penny Cameron said the HCP Committee wants to be open to accepting various people who have an interest in serving. Other SHRC members agreed.

Christina Delzingaro polled SHRC members and verified that none believe the SHRC needs to revisit the March 4, 2011, decision based on Karen DeSousa's input today.

**Communications
Sub-Committee**

At 2:05 Carolyn DeVilbiss reported on behalf of the Committee on Communications. SHRC members received information in their meeting packets. The Communications Committee strategies are to be added to the SHRC goals.

Carolyn DeVilbiss asked human rights advocates for suggestions on how to improve communication.

**SHRC Membership
and Officers Sub-**

At 2:06 Donald Lyons reported on behalf of the Committee on SHRC Membership Appointments/Reappointments and Nomination of Officers.

Committee

The sub-committee spoke to Carolyn DeVilbiss and Randy Johnsey, whose first terms will expire on June 30, 2011. Ms. DeVilbiss and Mr. Johnsey both are interested in serving a second term on the SHRC.

Upon a motion by Joseph Lynch and seconded by Donald Lyons the SHRC unanimously voted to recommend the State Board reappoint Carolyn DeVilbiss and Randy Johnsey for a second term.

Donald Lyons reported that the sub-committee recommends that Christina Delzingaro serve as Chair and Randy Johnsey serve as Vice-Chair for the upcoming year of July 1, 2011 thru June 30, 2012.

Upon a motion by Joseph Lynch and seconded by TC and Bullock and Penny Cameron the SHRC unanimously accepted the proposed slate of Officers for the upcoming year.

The SHRC will vote on the instatement of officers at the June 10, 2011, meeting.

**Request from
Arlington LHRC**

At 2:09 the SHRC considered a request from Arlington LHRC regarding the reappointments of two members for third terms.

Upon a motion by Randy Johnsey and seconded by Carolyn DeVilbiss the SHRC unanimously declined the request to allow LHRC members to serve third terms.

**SHRC Members
Attending LHRC
Meetings**

At 2:10 CT Bullock announced that he will attend the Piedmont Geriatric Hospital LHRC Meeting.

Meeting Attendance Reports were received from Joseph Lynch who attended Western State Hospital LHRC and Harrisonburg/Rockingham LHRC meetings.

**LHRC Membership
Appointments:**

At 2:15 the SHRC considered LHRC Membership.

Upon a motion by Randy Johnsey and seconded by TC Bullock the SHRC convened in 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 by Randy Johnsey and seconded by Carolyn DeVilbiss the

SHRC unanimously made the following appointments.

- Region 1 Region Ten CSB LHRC
 Appoint: Mr. Charles Maupin, Jr.
 Western State Hospital LHRC
 Appoint: Ms. Kathy Belcher
- Region 2 Northern Virginia Regional LHRC
 Appoint: Ms. Theresa Proseus, Ms. Teresa Barrett
 Prince William LHRC
 Appoint: Mr. Daniel Strickland
 Rappahannock Area LHRC
 Reappoint: Ms. Michaeline Galik, Ms. Janet Saylor, Mr. Walter P.
 Nivens
 Fairfax-Falls Church LHRC
 Reappoint: Ms. Mary Jane Billinger
 Northern Virginia Mental Health Institute LHRC
 Appoint: Mr. Michael Hovan
- Region 3 Southwest Regional LHRC
 Appoint: Ms. April Short, Ms. Barbara Compton, Ms. Ada Stacy, Ms.
 Jean Hankins
 Southwestern Virginia Training Center LHRC
 Appoint: Ms. Sandy Yates
- Region 4 Hanover LHRC
 Reappoint: Ms. Taneika Goldman, Ms. Lynn Goodale
 Southside Virginia Training Center LHRC
 Appoint: Dr. Louis B. Cei
 Central State Hospital
 Appoint: Ms. Blondena Mallory
 Richmond Unified LHRC
 Appoint: Ms. Samara Gracia
- Region 5 Atlantic Regional LHRC
 Appoint: Ms. Danielle Gail
 Hampton Regional LHRC
 Appoint: Ms. Rebecca Thompson
 Eastern Virginia Regional LHRC
 Reappoint: Ms. Denise Gordon
- Region 6 Central Virginia Community Services LHRC
 Appoint: Ms. Gretchen Koenig
 Reappoint: Ms. Ida B. Powell, Ms. Brenda Miller
- Other Business and
Adjournment** The SHRC agreed to meet early for June meeting to have training on the
 human rights regulations.

At 2:30 the April 15, 2011 , SHRC meeting adjourned.

The next meeting will be held on Friday, June 10, 2011, at Southside Virginia Training Center.

Respectfully Submitted:



Christina Delzingaro, Chair



Kli Kinzie, Secretary