

MEMORANDUM

To: Members, Local Human Rights Committees
DMHMRSAS Human Rights Advocates
Other interested parties

From: Joyce E. Bozeman, Ph.D., Chair
State Human Rights Committee

Date: May 4, 2005

Re: Appointment of Health Care Providers to Local Human Rights Committees

Beginning July 1, 2005, Virginia Code section 37.1-84.3 will be changed as follows:

37.1-84.3. Appointments to state and local human rights committees.

The Board shall appoint a state human rights committee, which shall appoint local human rights committees to address alleged violations of consumers' human rights. One-third of the appointments made to the state or local human rights committees shall be consumers or family members of consumers, with at least two consumers who are receiving or who have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services on each committee. *In addition, at least one appointment to the state and each local human rights committee shall be a health care provider.* Remaining appointments shall include lawyers, ~~health care providers,~~ and persons with interest or knowledge or training in the mental health, mental retardation or substance abuse field. No current employee of the Department or a community services board, behavioral health authority, or local government department with a policy-advisory community services board shall serve as a member of the state human rights committee. No current employee of the Department; a community services board, behavioral health authority or local government department with a policy-advisory community services board; or any facility or program licensed or funded by the Department shall serve as a member of any local human rights committee that serves an oversight function for the employing facility, program or organization.

This change means that every local human rights committee and the State Human Rights Committee (SHRC) must have at least one member who is a "health care provider." Title 37.1 does not contain a generally applicable definition of "health care provider," and the General Assembly did not include such a definition in this statutory revision. Thus, the SHRC will use the following definitions from the Code of Virginia to determine if someone is a health care provider. For the purpose of these appointments,

current and former health care providers will be considered. The SHRC will consider otherwise qualified individuals as “health care providers” when the following definitions are met:

§ 8.01-581.1. Definitions

"Health care provider" means (i) a person, corporation, facility or institution licensed by this Commonwealth to provide health care or professional services as a physician or hospital, dentist, pharmacist, registered nurse or licensed practical nurse, optometrist, podiatrist, chiropractor, physical therapist, physical therapy assistant, clinical psychologist, clinical social worker, professional counselor, licensed dental hygienist, health maintenance organization, or emergency medical care attendant or technician who provides services on a fee basis, (ii) a professional corporation, all of whose shareholders or members are so licensed, (iii) a partnership, all of whose partners are so licensed, (iv) a nursing home as defined in § 54.1-3100 except those nursing institutions conducted by and for those who rely upon treatment by spiritual means alone through prayer in accordance with a recognized church or religious denomination, (v) a professional limited liability company comprised of members as described in subdivision A 2 of § 13.1-1102, (vi) a corporation, partnership, limited liability company or any other entity, except a state-operated facility, which employs or engages a licensed health care provider and which primarily renders health care services, or (vii) a director, officer, employee, independent contractor, or agent of the persons or entities referenced herein, acting within the course and scope of his employment or engagement as related to health care or professional services.

§ 32.1-127.1:03. Health records privacy

"Health care provider" means those entities listed in the definition of "health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

By way of example, health professions regulated by the Department of Health Professions include the following:

Board of Nursing

Registered Nurse

Licensed Nurse Practitioner

Licensed Practical Nurse

Clinical Nurse Specialist

Certified Massage Therapist

Certified Nurse Aide

Board of Medicine

Doctor of Medicine and Surgery
Doctor of Osteopathic Medicine
Doctor of Podiatry
Doctor of Chiropractic
Interns and Residents
Naturopaths
Physician Assistant
Respiratory Therapist
Occupational Therapist
Radiological Technologist
Radiological Technologist Limited
Licensed Acupuncturists
Licensed Athletic Trainers

Board of Pharmacy

Pharmacists
Pharmacist Interns

Board of Dentistry

Dentists
Dental Hygienists
Dental Temporary Permit
Dental Teacher
Dental Hygienist - Temporary
Dental Hygienist - Teacher
Oral/Maxillofacial Surgeons
Restricted Volunteer License - Dentist, Dental Hygienist

Board of Optometry

Optometrist

Board of Counseling

Licensed Professional Counselors
Certified Substance Abuse Counselors
Certified Substance Abuse Counseling Assistants
Certified Rehabilitation Providers
Marriage and Family Therapists
Licensed Substance Abuse Treatment Practitioners

Board of Psychology

School Psychologist
Clinical Psychologist
Applied Psychologist

Sex Offender Treatment Provider
School Psychologist

Board of Social Work

Registered Social Worker
Associate Social Worker
Licensed Social Worker
Licensed Clinical Social Worker

Board of Nursing Home Administrators

Nursing Home Administrator
Nursing Home Preceptor

Board of Audiology and Speech Pathology

Audiologists
Speech-Language Pathologists
School Speech-language Pathologists

Board of Physical Therapy

Physical Therapist
Physical Therapist Assistant

Board of Health Professions

Dietitians and Nutritionists
Dialysis Care Technicians