

STATE HUMAN RIGHTS
COMMITTEE

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Randy Johnsey, V-Chair
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Thomas C. Bullock
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Penny Cameron
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Carolyn DeVillbiss
Alexandria

Joseph Lynch
Harrisonburg

Donald Lyons
Hillsville

Jannie Robinson
Chesapeake

Frank Royal, Jr.
Richmond



COMMONWEALTH of VIRGINIA

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MINUTES

STATE HUMAN RIGHTS COMMITTEE

Friday, June 10, 2011

Southside Virginia Training Center
26317 W. Washington Street
Building 1, Conference Room B
Petersburg, VA 23803

8:00

Administrative Session

Members Present

Christina Delzingaro, **Chair**, T.C. Bullock, Penny Cameron, Carolyn DeVilbiss, Donald Lyons, Frank Royal

Members Not Present

Joseph Lynch, Jannie Robinson

**Members Present via
Teleconference**

Randy Johnsey, **Vice-Chair**

OHR Staff

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
Carrie Flowers, Human Rights Advocate, Region 4
Beverly Garnes, Human Rights Advocate, Region 4 Manager
Deb Lochart, Regional Human Rights Advocate, Region 2
Yolanda Smith, Executive Secretary, Human Rights, SVTC
Hillary Zaneveld, Human Rights Advocate

**OHR Staff via
Teleconference**

Kli Kinzie, Executive Secretary

Other DBHDS Staff

Bill Hawkins, Facility Director, Southside Virginia Training Center

Others

Rebecca Currin, Disability Rights Advocate, Virginia Office for Protection and Advocacy

**Others Present via
Teleconference**

Braden Curtis, Assistant Attorney General, OAG

Call to Order and Welcome

At 8:00 a.m. Christina Delzingaro called the administrative meeting to order. Introductions took place prior to proceeding.

Regulations Training

At 8:02 Margaret Walsh provided training on the human rights regulations for SHRC members.

Approval of June 10, 2011 Agenda

At 8:30 the SHRC unanimously approved the agenda for the June 10, 2011, SHRC meeting.

Upon a motion by Carolyn DeVilbiss and seconded by Frank Royal the SHRC unanimously acknowledged that Randy Johnsey will participate in the June 10, 2011, SHRC meeting via teleconference.

Correspondence and Information

At 8:32 the SHRC reviewed correspondence since the April 15, 2011, SHRC meeting.

Margaret Walsh said that John Pezzoli, Assistant Commissioner of Behavioral Health Services, will have information to submit for the July 8, 2011, SHRC meeting regarding facility handling of patient funds.

Margaret Walsh reported that she will work with Christina Delzingaro, SHRC Chair, and Olivia Garland, Deputy Commissioner, to review capacity evaluations.

At 8:35 the SHRC acknowledged receipt of recent VCBR Appeal Responses. Margaret Walsh talked about census at VCBR and expected issues arising from the upcoming double-bunking of residents.

At 8:37 the SHRC reviewed the revised LHRC Vacancy Tracking table.

The SHRC received an updated SHRC roster.

At 8:38 the Committee reviewed and modified the revised SHRC Workplan for 2010-2012.

Annual Report Draft

At 8:40 the SHRC reviewed the draft SHRC Annual Report with recommended changes incorporated since the April 15, 2011, meeting.

At 8:45 Margaret Walsh resumed SHRC member training on the human rights regulations.

BREAK

At 9:05 Christina Delzingaro called for a break until 9:20.

9:20

Regular Session

Members Present

Christina Delzingaro, **Chair**, T.C. Bullock, Penny Cameron, Carolyn DeVilbiss, Donald Lyons, Frank Royal

Members Not Present

Joseph Lynch, Jannie Robinson

Members Present via Teleconference

Randy Johnsey, **Vice-Chair**

OHR Staff Margaret Walsh, State Human Rights Director
 Chuck Collins, Regional Human Rights Advocate, Region 1
 Michael Curseen, Human Rights Advocate, Region 4 Manager
 Reginald T. Daye, Regional Human Rights Advocate, Region 5
 Carrie Flowers, Human Rights Advocate, Region 4
 Beverly Garnes, Human Rights Advocate, Region 4 Manager
 Deb Lochart, Regional Human Rights Advocate, Region 2
 Sherry Miles, Regional Human Rights Advocate, Region 6
 Yolanda Smith, Executive Secretary, Human Rights, SVTC
 Hillary Zaneveld, Human Rights Advocate

OHR Staff via Teleconference Kli Kinzie, Executive Secretary

Other DBHDS Staff Bill Hawkins, Facility Director, Southside Virginia Training Center
 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 Rebecca Currin, Disability Rights Advocate, Virginia Office of Protection
 and Advocacy

Others Present via Teleconference Braden Curtis, Assistant Attorney General, OAG

Call to Order and Introductions *At 9:20 a.m. Christina Delzingaro called the Regular Session of the June 10, 2011, SHRC meeting to order. Introductions took place prior to proceeding.*

Welcome *At 9:22 Bill Hawkins, Facility Director of Southside Virginia Training Center, welcomed the Committee to Petersburg. Mr. Hawkins talked about current activities and initiatives of the facility.*

Minutes: At 9:26 the SHRC reviewed the draft minutes of the April 15, 2011, SHRC
 April 15, 2011 meeting.

Upon a motion by TC Bullock and seconded by Frank Royal the SHRC unanimously approved the minutes of the April 15, 2011, SHRC meeting.

Annual Report: Region 4 At 9:27 Michael Curseen, Human Rights Manager, Beverly Garnes,
 Human Rights Manager, and Carrie Flowers, Human Rights Advocate,
 presented the annual report for Region 4.

Variance At 9:58 Reginald T. Daye, Regional Human Rights Advocate for Region
 5, presented the annual variance report from The Barry Robinson Center
 for the use of their Structured Living Protocol. Mr. Daye reported that as
 he reviewed the document he noticed the program has changed what the
 SHRC approved for the program's variance. Mr. Daye informed The

Barry Robinson Center that they would have to attend the next LHRC meeting because this is a new Variance which must be reviewed and recommended by the LHRC for consideration and approval by the SHRC.

Mr. Daye reported that the program insists that they have not changed the variance, however, they did not adhere to the specifics that were approved for the variance. Mr. Daye respectfully requested that the SHRC grant an extension for the use of the Variance until the July 8, 2011, SHRC meeting.

Upon a motion by Randy Johnsey and seconded by Donald Lyons the SHRC unanimously extended the use of The Barry Robinson Center's Variance for the use of the Structured Living Protocol until July 8, 2011.

**VCBR Facility
Instructions**

At 10:02 the SHRC reviewed VCBR Facility Instructions. Cheryl Young, Quality Assurance and Resident Complaint Coordinator, and Jason H. Wilson, Healthcare Compliance Manager, Virginia Center for Behavioral Rehabilitation, were present to answer questions from the Committee. Jason Wilson described changes made to the documents since the last presentation.

At 10:05 the SHRC reviewed the facility instruction for Authorized Representation/Substitute Decision Makers. Christina Delzingaro said it should be clear that no person shall be deemed incapable of making treatment decisions on their own behalf based simply on a clinical diagnosis.

At 10:13 the SHRC reviewed the facility instructions for Consent for Treatment, Facility Rules and Resident Privileging Levels, Resident Abuse, Reporting & Investigation of Allegations, and Resident Media.

Public Comment

At 10:20 Christina Delzingaro called for Public Comments.

Rebecca Currin, Disability Rights Advocate, Virginia Office of Protection and Advocacy, commented about the difficulties she encountered with filing a complaint on behalf of multiple individuals that was not specifically against a particular provider but against the Department. She commented that the human rights dispute resolution process is lengthy and does not lend itself to addressing systemic problems.

Tour

At 10:30 the SHRC members toured Central State Hospital maximum security forensics ward and the STAR Treatment Mall.

**Appeal VOPA :
CSH**

At 12:07 p.m. the SHRC heard the Appeal of M.H., W.B., M.W., R.H., M.L., J.T., G.M., and T.L. v. Central State Hospital. This case came before the SHRC on appeal of the decision of the Central State Hospital (CSH) LHRC following a fact finding hearing that took place on April 1, 2011. Ms. Rebecca Currin, Disability Rights Advocate, Virginia Office of Protection and Advocacy (VOPA), presented the case on behalf of M.H.,

W.B., M.W., R.H., M.L., J.T., G.M., and T.L. Dr. Vicki Montgomery, CSH Facility Director, presented the case for the hospital. At the request of Rebecca Currin the hearing was held in open session. SHRC members present were Christina Delzingaro, Donald Lyons, Carolyn DeVillbiss, Penny Cameron, Dr. Frank Royal, Thomas C. Bullock and Randy Johnsey (via telephone).

Rebecca Currin summarized the systemic issue that was brought to the SHRC last July on behalf of 8 clients at CSH, who were ready for transfer to a less restrictive environment and put on a waiting list. Vicki Montgomery reported that she is not in disagreement with the complaint brought forth. CSH staff have been working to facilitate the transfers.

The parties appeared for a hearing before the CSH LHRC on April 1, 2011. The CSH LHRC found a violation of 12 VAC 35-115-100 (A) (2), of the Human Rights Regulations and recommended that: 1) CSH ensure that the department develop and implement a plan with specific timelines to transfer the patients named in the petition to ESH; 2) CSH ensure that the department develop a corrective action plan to prevent future incidents of this nature from occurring; and, 3) CSH ensure that DBHDS provide a written response expressing the department's intent to act on these recommendations within a 90 day period.

Vicki Montgomery does not disagree with the finding and recommendations of the LHRC but she does not have the authority to make the changes requested. She has been working with the Department and the Director of ESH to promote timely transfers and to encourage the development of action plans to prevent future incidents of delays in transfer.

Rebecca Currin said that she has seen no corrective action plan and agreed that this is a system issue, not a facility issue. Ms. Currin said also that she understands Ms. Montgomery's position and appreciates efforts made by CSH and ESH. Ms. Currin asked that the SHRC come up with a short term and a long term plan for timely transfers on an on-going basis.

Ms. Currin asked the SHRC to find that the Department violated the rights of M.H., W.B., M.W., R.H., M.L., J.T., G.M., and T.L. in section 12 VAC 35-115-100 (A) (2), of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers of Mental Health, Mental Retardation and Substance Abuse Services*. Ms. Currin further requests on behalf of her clients and other individuals similarly situated, that the SHRC recommend that the Department implement the findings of the CSH LHRC and expand those recommendations to the system as a whole.

Upon a motion by Frank Royal and properly seconded the SHRC unanimously finds that that DBHDS violated the rights of M.H., W.B., M.W., R.H., M.L., J.T., G.M., and T.L. The SHRC amends and expands upon the decision and recommendations of the CSH LHRC as follows: 1) DBHDS develop and implement a plan with specific timelines and time

limits to transfer all transfer-ready individuals to ESH or other state facilities; 2) DBHDS develop a corrective action plan to prevent future incidents of this nature from occurring within the system; and 3) DBHDS provide a written response to these recommendations within a 90 day period.

BREAK

At 12:45 Christina Delzingaro called for a break for lunch.

Reconvene

At 1:00 the meeting reconvened. Christina Delzingaro requested she be excused from the meeting. Ms. Delzingaro requested that Randy Johnsey, Vice-Chair, act as Chairperson for the remainder of the meeting. Mr. Johnsey accepted and chaired the meeting via tele-conference.

Randy Johnsey asked for introductions before proceeding.

**Bylaws and
Cooperative
Agreements**

At 1:02 the SHRC considered the Bylaws and Cooperative Agreements for the following LHRCs.

Region 1

University of Virginia LHRC
Harrisonburg-Rockingham LHRC
Region Ten CSB LHRC
Western State Hospital LHRC
Rappahannock-Rapidan CSB LHRC
Loudoun County CSB LHRC
Valley CSB LHRC
Northwestern CSB
Commonwealth Center LHRC
Rockbridge Area CSB LHRC

Region 3

Catawba LHRC
Blue Ridge Regional HRC/Roanoke Valley LHRC
Mount Rogers LHRC
New River Valley LHRC
Roanoke LHRC
Southwest Regional HRC/Southwest LHRC
Southwestern Virginia Training Center

Region 4

Central State Hospital LHRC
Metropolitan LHRC
New Creation LHRC
Richmond Tri-Cities LHRC
Richmond Unified LHRC
Tuckahoe LHRC
Central Area LHRC
Central Area LHRC
Commonwealth LHRC
Crater LHRC

Hanover LHRC
Southside Virginia Training Center LHRC
ANUE LHRC
Chester Regional LHRC
Petersburg Regional LHRC
Henrico LHRC
Metro Richmond LHRC

Region 5

Southeast Alliance LHRC
Health Planning Region V LHRC
Norfolk Regional LHRC
Chesapeake Regional LHRC
Southside Regional LHRC
Mid-City LHRC
Peninsula Regional LHRC
Williamsburg Regional LHRC
Colonial Regional LHRC
Middle Peninsula / Northern Neck LHRC

Region 6

Southside CSB LHRC (name change)
Danville-Pittsylvania County Regional LHRC

Randy Johnsey asked for questions or concerns from the SHRC.

Upon a motion by Carolyn DeVilbiss and seconded by Donald Lyons the SHRC unanimously approved the Bylaws as modified in keeping with the model bylaws language, and the Cooperative Agreements for the above listed LHRCs.

**LHRC Structure
Sub-Committee**

At 1:13 Carolyn DeVilbiss reported on behalf of the Sub-Committee on LHRC Structure. The sub-committee on LHRC structure met on March 18, 2011 and continued discussion of changes to the LHRC system. Frank Royal asked that the Advocates be allowed to offer feedback and suggestions for changes. The SHRC considered the problem of vacant code-mandated LHRC positions. The sub-committee proposed the designation of consumer, consumer family, professional, and healthcare professional floaters within regions to ensure a full complement of mandated positions for LHRC hearings. Margaret Walsh emphasized the importance of fulfilling all LHRC roles and responsibilities, especially during hearings. The designating of floaters might be a way to ensure needed representation.

Margaret Walsh asked advocates what region would be a good area to pilot this idea. The SHRC is in agreement to explore the pilot.

Carolyn DeVilbiss reported that the sub-committee discussed the role of the SHRC in the consolidating of LHRCs. Some LHRCs are consolidating

without the SHRC's involvement. Advocates were asked for input.

The sub-committee asked whether notice of vacant positions could be posted in the SHRC newsletter. The sub-committee also asked staff to consider how best to monitor LHRC vacancies and shepherd the process for ensuring filling vacancies in a timely manner.

**Healthcare Provider
Sub-Committee**

1:38 The Healthcare Provider sub-committee had nothing to report at this time.

**SHRC Membership
and Officers Sub-
Committee**

At 1:39 Donald Lyons reported on behalf of the Committee on SHRC Membership and Officers. On April 28, 2011 the DBHDS State Board met and considered the reappointments of Carolyn DeVilbiss and Randy Johnsey to the SHRC. Margaret Walsh was present via teleconference to speak about the recommended reappointments. The Board unanimously reappointed Carolyn DeVilbiss and Randy Johnsey for a term of July 1, 2011 to June 30, 2014.

Donald Lyons reported that the sub-committee discussed the nomination of officers for the upcoming term. SHRC members were polled prior to the meeting. On behalf of the sub-committee Mr. Lyons presented the following slate of officers: Christina Delzingaro, Chairperson; and Randy Johnsey, Vice-Chairperson.

The SHRC approved the slate of officers as presented.

Donald Lyons asked for nominations from the floor. There being no nominations from the floor the SHRC entertained a motion.

Upon a motion made and properly seconded the SHRC unanimously appointed Christina Delzingaro as Chairperson and Randy Johnsey as Vice-Chairperson for the term of July 1, 2011 to June 30, 2012.

**Communications
Sub-Committee**

At 1:42 Carolyn DeVilbiss reported on behalf of the sub-committee on Communications. The sub-committee proposes to use the SHRC newsletter as a vehicle to invite people to make suggestions and provide feedback to the Communications sub-committee. Also in newsletter, the SHRC can ask for feedback on restructuring and retooling the LHRC system.

**LHRC Membership
Appointments:**

At 1:47 the SHRC considered LHRC Membership.

Upon a motion by Carolyn DeVilbiss and properly seconded 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 Carolyn DeVilbiss and properly seconded the SHRC unanimously made the following appointments.

Region 1

Commonwealth Center Children & Adolescents LHRC

Reappoint: Mr. Jim Strock

Harrisonburg-Rockingham LHRC

Reappoint: Ms. Page Shields

Appoint: Ms. Cindy G. Ring

Loudoun County CSB LHRC

Reappoint: Ms. Barbara Franklin, Ms. Kelli Nemer

Appoint: Ms. Delores Grigsby

Northwestern CSB LHRC

Reappoint: Ms. Jeannie Decker

Appoint: Ms. Joann Ebersole, Ms. Audrey W. Brown, Ms. Jean Snider

Rappahannock-Rapidan CSB LHRC

Reappoint: Ms. Eileen Peet, Ms. Dorothy Adams

Rockbridge Area CSB LHRC

Appoint: Ms. Robin Telsch

University of Virginia LHRC

Reappoint: Mr. Kenneth Moore

Appoint: Ms. Wendy J. Price

Valley CSB LHRC

Appoint: Mr. James Hall

Western State Hospital LHRC

Reappoint: Ms. Donna H. Gum, Mr. Hal I. Myers

Region 2

Fairfax-Falls Church LHRC

Reappoint: Ms. Mary Jane Bollinger, Ms. Patricia B. Miles

Appoint: Ms. Joyce M. Stuart

Northern Virginia Training Center LHRC

Reappoint: Ms. Helen Adamchak, Mr. Peter Black, Mr. Gerald

Vaiden, Mr. Edward Grimm

Prince William LHRC

Appoint: Ms. Debbie Mahaffee

Rappahannock Area LHRC

Appoint: Ms. Marci Bartley, Ms. Marsha Green

Region 3

New River Valley LHRC

Reappoint: Dr. Ioannis Stivachtis, Ms. Lori Bell Mick

Region 4

ANUE LHRC

Reappoint: Mr. Donald Wheeler, Ms. Joyce E. Bozeman
Central Area LHRC
Reappoint: Ms. Monica D. Lucas
Central State Hospital LHRC
Reappoint: Mr. William H. Lightfoot, Ms. Jullian Taylor
Appoint: Ms. Isabel Vartanian
Chester Regional LHRC
Mr. Dennis Winston, Ms. Letta P. Jones
Chesterfield LHRC
Appoint: Ms. Dina Phelps
Hanover LHRC
Appoint: Ms. Olusola Akinkuade
Henrico LHRC
Reappoint: Mr. Edward McIntosh, Aljanon Wills, Ms. Laura Buracher
Metro Richmond LHRC
Appoint: Ms. Amanda R. Simons
Petersburg Regional LHRC
Reappoint: Mr. Steven R. Watkins, Mr. Michael Nichols, Ms.
Michaelé McKeever-Davis
Richmond Tri-Cities LHRC
Reappoint: Mr. Jimmy Christmas
Richmond Unified LHRC
Appoint: Ms. Janice Gant
Southside Virginia Training Center LHRC
Reappoint: Dr. Ramakrishnan S. Shenoy, Mr. Edmund R. Martin
Tuckahoe LHRC
Reappoint: Mr. John Redd, Ms. Kia Symondes

Region 5

Atlantic Regional LHRC
Reappoint: Ms. Karen Etheridge, Ms. Valerie Guess
Bay Regional LHRC
Reappoint: Ms. Tamesha Giddens
Chesapeake Regional LHRC
Reappoint: Ms. Deborah S. Jones, Dr. Martin A. Powell
Colonial Regional LHRC
Reappoint: Dr. Charles Ponquinette, Ms. Cheryl Westray, Mr. Joe
Windborne
Eastern State Hospital LHRC
Reappoint: Ms. Joyce L. Smith, Mr. Jason Mintel
Hampton Roads Regional LHRC
Reappoint: Ms. Doris S. Peterkin
Appoint: Ms. Audrey P. Williams
James City Regional LHRC
Appoint: Mr. Danny Cephas
Mid-City LHRC
Reappoint: Ms. Norma Faye Joseph, Ms. Latonia Edmonds

Middle Peninsula-Northern Neck LHRC

Reappoint: Ms. Alice T. Coates

Appoint: Ms. Tara Brent

Norfolk Regional LHRC

Reappoint: Ms. Kelly Wilson

Ocean View Regional LHRC

Reappoint: Ms. Debbie Coley

Appoint: Ms. Barbara Johnson

Portsmouth Regional LHRC

Reappoint: Ms. Marietta Cottingham

Appoint: Ms. Ashley Peters

Southeast Alliance LHRC

Reappoint: Ms. Linda L. Lane

Southside Regional LHRC

Reappoint: Ms. Tracy Ferguson

Suffolk Regional LHRC

Reappoint: Mr. Steven Alexander

Appoint: Ms. Tina Copeland

Tidewater Regional LHRC

Reappoint: Ms. Felicia Sawyer

Universal Family LHRC

Reappoint: Ms. Dorothy Drummond

Williamsburg Regional LHRC

Reappoint: Mr. James R. Henry

Region 6

Goochland-Powhatan CS LHRC

Reappoint: Ms. Vernell Straughter

Appoint: Ms. Geri Venable

Piedmont Community Services LHRC

Reappoint: Ms. Rhonda L. Stone, Ms. Nancy Davis

Southside Community Services LHRC

Appoint: Ms. Saheir R. Ghanem

**Other Business and
Adjournment**

At 1:58 the June 10, 2011, SHRC meeting adjourned.

The next SHRC meeting will be held on Friday, July 8, 2011, at
Spotsylvania Regional Medical Center in Fredericksburg.

Respectfully Submitted:



Christina Delzingaro, Chair



Kli Kinzie, Secretary