

**State Human Rights Committee
Meeting Minutes**

Department of Behavioral Health and Developmental Services (BHDS)
July 10, 2009
Rappahannock Area Community Services Board
Fredericksburg Clinic
600 Jackson Street
Fredericksburg, Virginia, 22401

Administrative Meeting

Committee Members Present Kirby Wright, Chair; Christina Delzingaro, Vice-Chair, Delores Archer, Carolyn M. DeVilbiss, Randy Johnsey, Joseph Lynch, Donald Lyons, Jannie Robinson

Human Rights Staff Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Willie Barnes, Human Rights Advocate
Michael Curseen, Human Rights Advocate
Roanna Deal, Human Rights Advocate
Beverly W. Garnes, Human Rights Advocate
Deb Lochart, Regional Human Rights Advocate
Sherry C. Miles, Regional Human Rights Advocate
Mark Seymour, Human Rights Advocate
Mary Towle, Human Rights Advocate
Brian Whitley, Human Rights Advocate

Other Staff Karen Walters, DMHMRSAS Special Counsel
Eric Alridge, Director of Operations, Virginia Center for Behavioral Rehabilitation
Cheryl Crawford, QA Director, Virginia Center for Behavioral Rehabilitation

Others Ron Branscome, Executive Director, Rappahannock Area CSB
Josephene Johnsey, Interested Person
Colleen Miller, Executive Director, VOPA
Frank Royal, Interested Person
Thelma Wright, Southern Va Mental Health Institute LHRC

Call to Order Mr. Kirby Wright, Chair, opened the administrative session of the State Human Rights Committee meeting.

SHRC Workplan Members confirmed that the committee is up to date with Workplan goals.

Review of Correspondence and Informational Items

○ NVH LHRC The Committee reviewed an e-mail from Tim Simmons, Human Rights Advocate, concerning LHRC terms of membership.

This issue will be reviewed when the human rights regulations undergo the revision process.

○ PGH LHRC The Committee reviewed a letter from John Fyfe, Vice Chair, Piedmont Geriatric Hospital LHRC, requesting a six-month extension for their decision on whether to accept responsibility as the LHRC for Virginia Center for Behavioral Rehabilitation.

The SHRC granted the six-month extension. Kirby Wright and Joe Lynch will visit with the LHRC to speak to them further about providing services to the residents of VCBR.

○ Juvenile Competency The Committee discussed a letter sent to Wendy Young, Chair, CCCA LHRC, in which Kirby Wright asked the LHRC to consider becoming the LHRC for DBHDS' Juvenile Competency Restoration Services program.

Mark Seymour reported that he is confident that CCCA LHRC will take on this responsibility.

Human Rights Study Margaret Walsh informed the SHRC that the current model for the human rights program was developed in 1970's. In 1998 a study of the program was conducted and the findings were incorporated into the current human rights regulations. It is now time for another human rights study or program evaluation so we may create a new model as the department pursues current initiatives.

Kirby Wright offered any help the SHRC can give on this project. This item will be added to the SHRC Workplan.

Chesterfield CSB On April 28, 2009, the SHRC sent a letter to Chesterfield LHRC recommending that the LHRC inform the new Chesterfield County CSB Executive Director about the outstanding issue of an apology letter to the mother of a deceased consumer.

Mike Curseen reported that the new Executive Director was willing to revise the letter of apology, but decided against sending it as doing so may resurrect the issue in a way that interferes with the healing process.

The SHRC agreed. Christina Delzingaro commented that this does at least let the new Executive Director know of the situation and that there may be other areas that need attention.

LHRC Recruitment The Committee briefly discussed a letter sent to licensed providers and state facilities regarding the support of LHRC member recruitment.

Break At 9:00 a.m. Chairman Wright called for a fifteen minute break.

Regular Meeting

Committee Members Present Kirby Wright, Chair; Christina Delzingaro, Vice-Chair, Delores Archer, Carolyn M. DeVilbiss, Randy Johnsey, Joseph Lynch, Donald Lyons and Jannie Robinson

Human Rights Staff Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Willie Barnes, Human Rights Advocate
Michael Curseen, Human Rights Advocate
Roanna Deal, Human Rights Advocate
Beverly W. Garnes, Human Rights Advocate
Deb Lochart, Regional Human Rights Advocate
Sherry C. Miles, Regional Human Rights Advocate
Mark Seymour, Human Rights Advocate
Tim Simmons, Human Rights Advocate
Mary Towle, Human Rights Advocate
Brian Whitley, Human Rights Advocate

Other Staff Karen Walters, DMHMRSAS Special Counsel
Eric Alridge, Director of Operations, Virginia Center for Behavioral Rehabilitation
Dr. Kanchan Clark, Psychiatrist, Southern Va Mental Health Institute
Cheryl Crawford, QA Director, Virginia Center for Behavioral Rehabilitation
David Lyon, Facility Director, Southern Va Mental Health Institute

Dr. Jennifer Melerski, Forensic Unit Administrator, SVMHI

Others

M.A., Consumer, Southern Va Mental Health Institute
Ron Branscome, Executive Director, Rappahannock Area CSB
Josephene Johnsey, Interested Person
Colleen Miller, Executive Director, Va Office for Protection and
Advocacy
Frank Royal, Interested Person
Thelma Wright, Southern Va Mental Health Institute LHRC

Present via Telecom

Gail Burford, Western State Hospital Director's Liaison to WSH LHRC
Alex Gulotta, Executive Director, Legal Aid Justice Center
Dr. Timothy Jana, M.D., Psychiatrist, Western State Hospital

**Call to Order and
Welcome**

Kirby Wright called the meeting to order at 9:15 a.m. A call for
introductions took place prior to proceeding.

Ron Branscome welcomed the SHRC to Fredericksburg and to the clinic.

Minutes

*Upon a motion by Joe Lynch and seconded by Delores Archer the SHRC
unanimously approved the minutes of the June 5, 2009 meeting with as
corrected.*

**Review of SHRC
Case 09-02**

On April 17, 2009, the Committee conducted a review of the decision of
the NVH LHRC for the case of E.S. An opinion was issued on May 15,
2009, for all issues except the LHRC's finding # 2. On July 10, 2009, the
SHRC reviewed correspondence from the NVH-LHRC which provided
information necessary to making a determination regarding finding #2.
Members present were Kirby Wright, Christina Delzingaro, Delores
Archer, Donald Lyons, Joseph Lynch, Randy Johnsey, Jannie Robinson,
and Carolyn M. DeVilbiss.

*Upon a motion by Joe Lynch and seconded by Delores Archer and Randy
Johnsey the Committee unanimously upholds the LHRC decision of no
violation of 12 VAC 35-115-50 (A), including the right to exercise his
legal, civil and human rights.*

**Variance Report for
C.C. - Western State
Hospital**

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

*Upon a motion 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, 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, Mark Seymour, Human Rights Advocate, and Kli Kinzie, Secretary. Dr. Timothy Jana, Psychiatrist, Western State Hospital, and Gail Burford, WSH Director's Liaison to the WSH LHRC, were present represent the facility. Alex Gulotta, Executive Director, Legal Aid Justice Center, was present via telecom to represent CC and family. Frank Royal, Psychiatrist, was also present.

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.

The Committee decided to send a letter to the Commissioner urging Western State Hospital and Northern Virginia Mental Health Institute complete C.C.'s move from WSH to NVMHI by September 4, 2009.

Annual Report for Region 2

Deb Lochart, Tim Simmons and Mary Towle presented the annual report for Region 2 and summarized highlights from the past year. .

Kirby Wright thanked staff of Region 2 for presenting their annual report.

Public Comment

At 10:25 a.m. Kirby Wright asked if anyone present from the public wished to make public comments.

As no one came forward to speak, the Committee continued with regular business.

VOPA

At 10:26 a.m. Colleen Miller came forward to speak with the Committee to provide comment on how the human rights system is working at state facilities.

The Committee and Margaret Walsh thanked Ms. Miller for attending the meeting and providing her comments.

Public Comment

At 11:10 a.m. Kirby Wright again asked for any public comments.

As no one came forward to speak, the Committee continued with regular business.

Break

Chairman Wright called for a break at 11:10 a.m.

VCBR Exemptions Eric Alridge and Cheryl Crawford came forward to talk about exemptions in place at Virginia Center for Behavioral Rehabilitation. Improvements are being made in residents living quarters and overall the exemptions are fitting and working well for staff and residents.

Kirby Wright thanked Eric Alridge and Cheryl for attending the meeting to speak with the Committee.

LHRC Membership *Upon a motion the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(1) for the purpose of discussion and consideration of appointments to 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 Jannie Robinson the SHRC unanimously appointed the following applicants to the specified local human rights committees.

- Region 1 Commonwealth Center for Children and Adolescents
Appoint: Ms. Susan Powell
- Region 2 NVH LHRC
Appoint: Ms. Yolanda Nicholson
Reappoint: Ms. Flora Fenchel
- Region 4 Chesterfield CSB LHRC
Reappoint: Ms. Mauretta Copeland
Hanover CSB LHRC
Reappoint: Ms. Paula Smith, Sharon Taylor
New Creation LHRC
Reappoint: Ms. Hasan Zarif, Ms. Shirley Purnell
Southside Virginia Training Center LHRC
Appoint: Ms. Carol Gittman
Tuckahoe LHRC
Appoint: Ms. Corrinthia Monique Morris
- Region 5 Eastern State Hospital LHRC
Appoint: Mr. Charles H. Loundermon
Eastern Virginia LHRC
Appoint: Mr. Craig Paige
Genesis LHRC
Appoint: Ms. Tina Favre, Mr. Joseph Motley
Hampton Roads Regional LHRC
Appoint: Ms. Pamela Stover
Health Planning Region V LHRC
Appoint: Mr. Jeffrey G. Kail

Southeast Alliance LHRC

Appoint: Mr. Bryan Sanderson

Williamsburg Regional LHRC

Appoint: Mr. John Barrett

o Region 6

Central Virginia Community Services

Reappoint: Ms. Katherine Oulds

Variance

The SHRC reviewed The Pine's Residential Treatment Center's annual report of their Structural Living Protocol. The protocol provides an intervention when all other less restrictive interventions have failed. The program reported no use of the protocol in 2008 or the first quarter of 2009 but continues to keep the variance in place should the need arise.

Appeal of M.A. v. SVMHI

This case came before the State Human Rights Committee on appeal of the Director's Action plan following the May 20, 2009 fact finding hearing and June 2, 2009 decision by the Southern Virginia Mental Health Institute (SVMHI) Local Human Rights Committee (LHRC). Roanna Deal assisted M.A. with the presentation of the case. David Lyons, Director of SVMHI, Dr. Kanchan Clark M.D and Dr. Jennifer Melerski, Ph.D., presented the case for SVMHI assisted by Karen Walters from the Office of the Attorney General. At the request of M.A., the hearing was held in closed session. Members present were Kirby Wright, Christina Delzingaro, Delores Archer, Donald Lyons, Joseph Lynch, Randy Johnsey, Jannie Robinson, and Carolyn M. DeVilbiss.

Upon a motion by Christina Delzingaro and seconded by Joe Lynch 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.

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.

Upon a motion by Randy Johnsey and seconded by Christina Delzingaro the SHRC upholds the LHRC findings and recommendations and asks that the hospital to abide by them.

Upon a motion by Christina Delzingaro and seconded by Joe Lynch the SHRC recommends that if SVMHI wishes to develop a restrictive plan for any individual in the future the plan be presented to the LHRC for comment in accordance with the requirements for behavioral treatment

plans.

Adjournment

There being no further business, the meeting adjourned. The next meeting will be held on September 4, 2009.

Respectfully Submitted:



Kirby Wright, Chair

Kli Kinzie, Secretary