

MINUTES
STATE HUMAN RIGHTS COMMITTEE

Southeastern Virginia Training Center
2100 Steppingstone Square
Building 3, "In-Service" Room
Chesapeake, Virginia
23320

Friday, October 28, 2011

8:36

Administrative Session

Members Present

Christina Delzingaro, **Chair**, Randy Johnsey, **Vice-Chair**, Joseph Lynch, T.C. Bullock, Don Lyons, Jannie Robinson, Penny Cameron, Frank Royal

Members Not Present

Carolyn DeVilbiss

OHR Staff

Karen DeSousa, DBHDS Special Counsel
Margaret Walsh, State Human Rights Director
Kli Kinzie, Executive Secretary
Reginald T. Day, Regional Advocate, Region 5
Stewart Prost, Advocate, Region 5
Michael Curseen, Regional Advocate, Region 4
Kevin Paluszak, regional Advocate, Region 6
Beverly Garnes, Advocate, region 4

Others

Mark Stevens, Disability rights Advocate, VOPA
Josephine Johnsey, Interested Person
Rebecca Currin, Disability Rights Advocate, VOPA

Call to Order

The October 28, 2011 SHRC meeting convened at 8:36 a.m.

Welcome

At 8:36 Dr. Robert Shrewsberry, Ph.D., Facility Director, welcomed the SHRC to Chesapeake and spoke briefly about the facility.

Tour of Training Center Homes

At 8:45 Dr. Shrewsberry provided a tour of the new housing sub-division at Southeastern Virginia Training Center.

Russell Payne, Behavioral Health, Community Support Services
Mary Clair O'Hare, Clinical Training Manager, Clinical Quality & Risk
Management

**Others Present via
Teleconference**

RJ, Complainant, Central State Hospital
GM. Complainant, Central State Hospital
Jason Wilson, VCBR

Others

Mark Stevens, Disability Rights Advocate, VOPA
Rebecca Currin, Disability Rights Advocate, VOPA
Josephene Johnsey, Interested Person

**Call to Order and
Introductions**

*At 10:05 Christina Delzingaro called the Regular Session of the October 28,
2011 SHRC meeting to order.*

**Approval of Draft
Minutes:** September
9, 2011

*At 10:06 upon a motion by T.C. Bullock and seconded by Jannie Robinson
the Draft minutes of the September 9, 2011 SHRC meeting were approved
unanimously.*

Joseph Lynch asked if Margaret Walsh had looked into whether the
department could use Google analytics to track activity on the online
newsletter. Google Analytics are not available at this time.

Bylaws Modification

*At 10:07 upon a motion by Joseph Lynch and seconded by T.C. bullock the
Committee unanimously agreed to forward the SHRC Bylaws revision to the
DBHDS State Board for approval.*

VCBR Variance

At 10:08 Margaret Walsh reported that the VCBR Variance Request for
approval of the Complaint Process has come before the SHRC on her
recommendation. The complaint process would be held to a higher standard
as a variance to the human rights regulations rather than a policy of the
facility.

VCBR requests a Variance to following sections of the human rights
regulations: 12 VAC 35-115-50 D 3e(5) Abuse, Neglect and Exploitation; 12
VAC 35-115-60 B 1(d) Services; 12 VAC 35-115-140 A 2 and 4 Complaints
and Fair Hearing; 12 VAC-35-115-150 General Provisions; 12 VAC 35-115-
170 Formal Complaint Process; 12 VAC 35-115-180 LHRC Hearing and
Review Procedures; 12 VAC 35-115-190 Special Procedures for Emergency
Hearings by the LHRC; and 12 VAC 35-115-200 Special Procedures for
LHRC Reviews Involving Consent and Authorization; 12 VAC 35-115-210
SHRC Appeals Procedures.

*Upon a motion by Joseph Lynch and seconded by Donald Lyons the SHRC
unanimously approved the VCBR Variance for a period of one year. This
approval puts in place VCBR Facility Instruction 202, Resident Complaint
Resolutions.*

**Waiting Lists
and
Placement in Least
Restrictive Settings**

At 10:25 the SHRC reviewed correspondence received from John Pezzoli regarding waiting lists for transfers and discharges. The Committee discussed these issues with staff and others present. John Pezzoli will attend the March 2012 SHRC meeting to discuss progress with the Committee. Frank Royal asked that the committee receive a brief update in January from CSH and ESH. Margaret Walsh will ask Vicky Montgomery and Jack Wood to come and report in January.

**Public Comment
Period**

At 10:40 Christina Delzingaro announced the public comment period.

Mark Stevens commented that a few days after the September 9 meeting he sent correspondence to the department and he has not received a response. Margaret Walsh will follow up.

**Update on
Discharge Progress**

Russell Payne provided an update on ready for Discharge.

**Appeal PolyCom
R.J. v. CSH LHRC
and CSH Action Plan**

At 11:00. the SHRC heard the appeal of R.J. This case came before the Committee on appeal of the decision of the Central State Hospital (CSH) LHRC following a fact finding hearing that took place on September 2, 2011. R.J. presented the case on his own behalf with support from Mr. Walter Small, human rights advocate. Dr. Vickie Montgomery, Director of CSH, represented the facility. At the request of R.J. the hearing was held in open session.

The SHRC heard statements from the parties to the appeal.

Upon a motion by T.C. Bullock and seconded by Frank Royal the SHRC unanimously upholds the CSH LHRC's finding that the facility did not violate R.J.'s right to the Freedoms of Everyday Life according to 12 VAC 35-115-100, B.2., B.3., and B.4. of the human rights regulations. Further, the SHRC does not support the additional recommendation made by the LHRC.

The SHRC will request that DBHDS issue the policy statement on suspension of patient/resident access to personal computers and devices as soon as possible.

**Appeal PolyCom
CSH v. CSH LHRC
(case of G.M.)**

At 11:49 the SHRC heard the appeal of G.M. This case came before the Committee on CSH's appeal of the decision of the CSH LHRC following a fact finding hearing that took place on August 5, 2011. G. M. presented the case on his own behalf with support from Mr. Walter Small, human rights advocate. Ms. Vickie Montgomery, CSH Director, represented the facility. At the request of G .M. hearing was held in open session.

The SHRC heard statements from the parties to the appeal.

Upon a motion by Frank Royal and seconded by T.C. Bullock the SHRC

unanimously finds that the facts do not support the LHRC's finding of a violation of 12 VAC 35-115-70 B2. Further, the SHRC does not uphold the recommendations of the CSH LHRC.

The SHRC encourages G. M. and CSH to work together to find a resolution to this issue that is satisfactory to both parties.

LHRC Vacancies

At 12:25 the SHRC and human rights advocates discussed ways to encourage providers to become more involved in filling LHRC vacancies.

12:54

BREAK FOR LUNCH

Seclusion and Restraint Update

At 1:20 the meeting reconvened.

Mary Clair O'Hare, Clinical Training Manager reported on the department's ongoing efforts to reduce the use of seclusion and restraint.

SHRC Sub Committee Reports

LHRC Sub Committee

At 1:58 Christina Delzingaro opened discussion on LHRC restructuring. The LHRC Structure subcommittee requests that the office of human rights move forward with piloting a system of floater LHRC members to cover for vacancies on LHRCs lacking mandated members. Floaters will fill in on an as-needed basis, especially for the conducting of LHRC hearings. The pilot will launch in Region 4.

Reporting on Attending LHRC Meetings

At 2:00 Christina Delzingaro said she and T.C. Bullock will attend a meeting of the Eastern State Hospital LHRC.

Christina Delzingaro attended a meeting of the Region Ten LHRC. The LHRC did not have a quorum. There were two members present and approximately 15 affiliates. The LHRC did not have a quorum for its last meeting.

LHRC Membership

LHRC Membership Appointments:

At 2:04 the SHRC considered LHRC Membership.

Upon a motion by Joseph Lynch and seconded by Frank Royal the SHRC convened in closed session pursuant to Virginia Code §2.2-3711(A)1 for the purpose of discussion and consideration of appointments and reappointments to Local Human Rights Committees.

Upon reconvening in open session each member 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.

Frank Royal noted that a name was omitted from the list of applicants provided to SHRC members.

Upon a motion by Joseph Lynch and seconded by Frank Royal the SHRC unanimously voted make the following LHRC appointments:

Region 2

Arlington LHRC

Appoint: Ms. Sue Lowry

Northern Virginia Regional LHRC

Appoint: Ms. Reber Woodley Chergosky

Prince William LHRC

Appoint: Mr. Robert Kelly

Region 4

Central State Hospital LHRC

Appoint: Barbara Davis

New Creation LHRC

Appoint: Ms. Kelly J. Murphy

Petersburg Regional LHRC

Appoint: Mr. Norman E. W. Stone

Richmond Tri-Cities LHRC

Reappoint: Ms. Donna Edmondson, Ms. Veronica Thweatt

Region 5

Chesapeake Regional LHRC

Appoint: Mr. Malcolm Boykins

Health Planning Region V LHRC

Appoint: Mr. Michael Hires

Newport News Regional LHRC

Appoint: Mr. Timothy M. Russell

Williamsburg Regional LHRC

Appoint: Dr. Virgil V. McKenna

Adjournment

At 2:14 the meeting adjourned.

Respectfully Submitted:

Chair

Kli Kinzie, Secretary