

Western State Hospital
Staunton, Virginia
Local Human Rights Committee Meeting Minutes
Jeffrey's Building, Room 95 at 12:30
November 26, 2012

Present: Hal Meyers, Committee Chair, Kathy Belcher, Heidi Campbell, Mark Schorsch, Committee Members; Chuck Collins, WSH/Regional Advocate, Mark Seymour, WSH Advocate; Ellen Harrison Liaison to WSH Director

Absent: Donna Gum, Rob Wade and Mahlon Webb, Committee Members; Erin Haw, VOPA

Guests: Mr. RS, Client

Mr. Meyers, Committee Chair, called the meeting of the Local Human Rights Committee to order on November 26, 2012. Mr. Meyers noted that a quorum of members was present. Mr. Collins commented on the quality of the minutes from the October meeting. He feels that Ms. Sheffer very accurately captured the essence of his remarks regarding the variations in ward rules relating to microwave use and the application of Human Rights Regulations. With a motion from Ms. Belcher and a second by Ms. Campbell, the minutes from the October meeting were approved as written. Ms. Belcher asked that an addition be made to the agenda for Ms. Harrison to comment on the issue of telephone privacy at the new WSH facility. Ms. Belcher then made a motion to approve the agenda with the recommended change. Ms. Campbell seconded the motion, and the agenda was approved by vote.

There were no public comments at this time.

Ms. Harrison addressed the hospital's preparations and response to Hurricane Sandy. Preparations were made to open Ward D7/8 for staff lodging, if necessary. This is a standard for any inclement weather event with the potential to impede staffing levels. Fortunately, as our region was not significantly impacted by the hurricane, this was not necessary. Ms. Belcher asked how these situations will be addressed at the new WSH facility. Ms. Harrison responded that a plan has not yet been developed for this; however, various ideas are being considered. This is one of many continuing operation plans that will be addressed prior to the relocation. Ms. Harrison will share the plans with the LHRC once they have been finalized. Mr. Meyers asked about possible accommodations for CCCA staff and patients if they have the need to evacuate their building as in 2010. Ms. Harrison indicated that all of the state hospitals have cooperative agreements allowing for the accommodation of patients and staff from other hospitals in the event of an evacuation.

The Joint Commission (TJC) representatives were at WSH in late October to conduct the triennial compliance survey. The surveyors were on-site for five days: The engineer who performs the life safety code portion was on-site for two days and a doctor and nurse were on-site for all five days. The survey was very thorough and a number of findings were noted; however, they were all small items. They were not "conditional findings" that would jeopardize the hospital's accreditation. They are items that can be fixed, many have already been fixed, and the others are in the process of being fixed. We will be responding to TJC by December 10th with our plan, which they will hopefully accept. They may request some changes and when we implement those we will then track and present the measures of success, which is to measure or monitor the change for four months and report back to TJC that the change is working. Mr. Meyers asked whether a new survey will need to be conducted when WSH moves to the new facility. There will be a complete survey conducted at the new facility at some point no less than 90 days following occupation of the new site. Mr. Collins asked if TJC has the option to conduct a survey at

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any time based on a complaint. Ms. Harrison explained that they do have this option if they receive complaints that give them concern.

Ms. Harrison explained that she has seen the more-complete construction of the patient telephone areas on the wards at the new facility. There is a partition extending two to three feet from the wall that separates the two phones to allow for both phones to be used privately as well as having the phones in an alcove to allow for some separation from others in the room; however, there will be no method by which the patient can close themselves into the phone "booth" as this could present an unsafe situation. This arrangement does allow a good bit of privacy for the patient even when someone is using the other phone. Mr. Seymour noted that this is a considerable improvement over the current telephone situation. WSH will continue to provide equipment for those with hearing impairments.

Upon a motion made by Ms. Campbell, the committee went into closed session pursuant to Virginia Code §2.2-3711, a.15 and §2.2-3705.5 for the purpose of discussion of medical record / treatment plans.

Upon reconvening in open session, all members of the Local Human Rights Committee certified that to the best of each ones' 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.

Mr. Meyers expressed his concerns regarding the filming that occurred at WSH for use in a documentary being made in France. His primary concern at this time is specific to potential media tours of the new facility. When the documentary was being filmed, there were patients who submitted complaints. He feels that instead of being treated seriously, the patients were merely advised that WSH had obtained "signed papers" from the filmmakers. Mr. Meyers is also concerned because a planned meeting between members of the LHRC and the WSH Ethics Committee to review the film has still not occurred. He understands that WSH has made efforts to obtain a copy of the completed film to review. Ms. Harrison recounted that the film has not been completed and is, therefore, not available for review. Mr. Meyers also stated that he is concerned that this will become a precedent; that the unauthorized use of an individual's body image, and minimal response to the individual's complaints is exploitation equivalent to rape, and that if there was exploitation by a staff member, it would be handled differently. He also feels that the advocates need to be involved to assist patients in expressing their feelings and desires regarding the process. He believes this situation was handled poorly, sets a poor precedent, and wants to ensure that it does not happen again, especially considering the interest that will be generated by the new facility. He feels that due diligence would have been for the raw footage to have been reviewed prior to the filmmakers leaving the facility.

Ms. Harrison noted that WSH has worked closely with local media for a very long time, has a positive relationship, and has never had an incident wherein they have been asked not to film someone and did, or a patient who asked not to be filmed was filmed against their will. When the French film crew was here, patients were given the opportunity to choose whether they wanted to be included in the film, and when complaints were received, the treatment team met with the patient to determine exactly what the complaint was and documented those meetings. WSH still has the list of patients who consented to being in the film and those who asked not to be included as well as any who have since rescinded their consent. When the film becomes available for review, the Ethics Committee will compare these lists with the actual film to ensure that only the images of those who provided consent are shown in the film.

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Throughout our working relationship with the media, we have not had an incident where they did something they were asked not to do. The hospital takes the patient's permission, or lack of, very seriously and does not allow the media to film anyone against their will. Our working relationship with the media has been invaluable in the fight against the stigma of mental illness; allowing the media to represent the lives of patients as well as treatment provided at WSH continues to improve the public's understanding and awareness. It is therefore a tool that the mental health community cannot afford to lose. The media provides an opportunity to share with the world that mental illness is just that, an illness, and the individuals who fight this are no different than those fighting cancer.

Mr. Meyers revisited the issue of patients in common areas not understanding whether they were being filmed and that this misunderstanding could have, and should have, been avoided. Ms. Harrison recognized that filming common areas does present a unique set of challenges, but again assured the committee that anyone who has stated they do not want to be in the film, either during filming or since filming concluded, will not be in the final product.

Ms. Campbell asked whether the Ethics Committee has reviewed the finished film. Ms. Harrison stated that the film has not been completed and repeated attempts from WSH to ascertain the status of the film have gone unanswered. WSH has a contract with the filmmakers that clearly dictates the hospital's rights and responsibilities as well as the filmmaker's responsibilities, not the least of which is for a review of the film to be conducted by WSH staff prior to its public use.

Mr. Meyers concluded by stating that he does not like patients feeling as if they have been violated; and that the excuse that "the filmmakers have signed a paper" is insufficient in protecting the rights of the patients. He also does not feel that the specific complaints raised by patients were adequately addressed at the time. He asked Ms. Harrison to relay this information to WSH Executive Staff.

Mr. Collins added that he agrees with Ms. Harrison's comments regarding the enlightenment of the public to mental illness and the treatment of mental illness. It is an important aspect of the overall success of the treatment programs provided. However, he is concerned about the filming that took place in the common areas of the hospital between groups and during meal breaks. Those individuals who had not given express consent to being filmed were at risk of being filmed or of having the perception of being filmed in those areas. He stated that he feels the policy should clearly indicate that without a person's express consent to being filmed, their image cannot be used in any form. Ms. Harrison stated that this is indeed how the current WSH policy is written.

It was also asked that the status of the film be included on the January agenda.

The Advocates' Report: Mr. Collins and Mr. Seymour will be joining the other advocates on December 11th and 12th in Richmond for an Advocate's Meeting where the approximately 25 advocates from around the state meet to discuss common issues. The primary agenda item will be how the department, specifically the Office of Human Rights, assures compliance with the DOJ Agreement. Mr. Collins will be speaking at the Virginia Psychosocial Rehabilitation Association (VAPRA) conference on November 29th. This will be his 15th year speaking at this conference. He will be giving the "Don't Back Down" presentation.

There are 212 patients at WSH today out of a maximum of 246. It is typical for the census to be lower throughout the holiday season. Mr. Collins will be working throughout the holidays, specifically, the days between Christmas and New Years'. He asked Ms. Harrison what patients typically do during

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this time because the treatment malls are not operating. She replied that Stribling Building will be open for leisure activities throughout this time and most patients take advantage of the opportunity to relax and have free time without groups and classes.

Mr. Seymour commented that he has seen a decrease in the number of complaints he has received, which is understandable considering the census. He received 11 complaints that were not on the Complaint Report for October and 10 to date in November. He noted that he has seen an increase in the requests for assistance in obtaining medical appointments outside of the hospital, which he attributes to an increase in the patient population of "Baby Boomers". He also stated that he believes the new facility will likely feel more technology-friendly to the younger patients coming to WSH. Mr. Meyers commented that the individual rooms at the new facility will also be a benefit to patients with varying medical needs due to the increased privacy.

Mr. Collins handled 15 requests for assistance in October that were not on the Complaint Report, and has received 7 complaints thus far in November.

The VOPA Representative, Ms. Erin Haw, was not present to provide a report at this meeting.

Regarding the Complaint Report, Mr. Collins commented that he likes the new report format, finding it much more user friendly, and asked that Ms. Harrison relay his comments and his appreciation to Ms. Nulty for her work on this report. Other than the overall layout, he feels that the renewed significance of the resolution section of the report is the most beneficial aspect. Ms. Campbell noted that in Complaint #7 of the September report, the resolution appears to be directed to the complainant. The others seem to be more generic in how they are addressed. Mr. Seymour spoke to the condition of this specific person and commented that he appreciated the way the resolution was written. Ms. Belcher concurred in that the resolution appears to her to be exactly what was written to the individual from Dr. Barber. Ms. Campbell felt that the response was harsh in how it addressed the individual. Mr. Seymour commented that in this case, due to the repetitious nature of the complaints received, Dr. Barber may have felt the need to be very direct and specific in his response.

Ms. Belcher commented on several items on the October Complaint Report, numbers 12, 13 and 24, where the resolution indicates "Pending". She felt that the complaints should have been resolved before so much time had passed. These complaints all originated on Ward A1. The possibility was raised that perhaps the problem is not that the complaint has not been resolved, but that communication from this ward is delayed or insufficient. Mr. Collins asked Mr. Seymour to contact Dr. Anderson from A1 regarding this issue. Regarding Complaint #22, the question of whether all complaints are seen by the treatment team was raised. In response, Mr. Seymour indicated that this resolution does not necessarily mean that the team was not made aware of the complaint, but that the complaint had already been resolved before the treatment team received it.

As a follow up to questions raised regarding the August Complaint Report, Mr. Seymour noted that Complaint #211, regarding the patient's desire to receive treatment for a herniated disk, the patient was referred for physical therapy. The committee questioned whether physical therapy was the appropriate treatment for an individual with this level of back injury. This individual has since been discharged; however, in speaking with staff who treated this patient, the level of pain was decreased by the physical therapy. Complaint #229 was regarding the RNs judgment in the use of the emergency restraint chair. This patient is currently still hospitalized in his seventh admission to WSH. He is a very treatment resistant, complicated and delusional individual. Mr. Seymour has spoken with the individual

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directly regarding this complaint, to which his response is that he has never been in the restraint chair. He feels this is why the resolution provided indicated that the issue was discussed with the individual as no further resolution was possible.

The Extraordinary Barriers List appears to have more cases than what we had been seeing. The committee speculated as to the average number of cases. Ms. Harrison indicated she will investigate the average number of cases per month and report back to the committee. Under Central Virginia, patient DC's placement continues to be barred by the mother. Mr. Collins has been to the TPCs for this individual and spoken with the social worker about this issue. The mother is the patient's authorized representative, and therefore, has the authority to make decisions regarding his placement. This individual is very demanding, yet clearly does not always understand what he is asking for. The mother has indicated she does not want him to be placed near her home. This scenario has taken place in other cases; however, when the individual is ready for discharge, the hospital continues to seek avenues by which this may be realized. In this case, the team has continued to seek placement in a different region of the state. If the hospital feels that the requests of the AR are detrimental to the patient, Dr. Barber may request that the AR be changed to someone else. This is only done in extreme cases. In this case, the treatment team feels that it is appropriate for the patient to continue to cooperate with the desires of the AR.

Internal Forensic Privilege Committee Minutes: Mr. Collins commented that this report is helpful to him and Mr. Seymour because they receive the report with complete patient names, allowing them to respond to specific individuals who may contact them with complaints regarding their privilege levels. This committee addresses privilege levels for all Forensic patients. Treatment teams make recommendations to the IFPC regarding levels, and the IFPC makes the final decisions. If a Forensic patient is seeking discharge, the IFPC makes a recommendation and forwards it to the Forensic Review Panel (FRP) in Richmond for a final decision. This is a long-standing process that has worked well for WSH as well as other state hospitals.

Mr. Meyers feels that regarding the review and approval of Ward Rule changes, the LHRC should adopt the policy held by the Joint Commission and begin reviewing ward rules 90 days after the relocation to the new facility. Ms. Harrison noted that the relocation is scheduled to take place in mid-September and that patients as well as staff will need time to adjust to their new surroundings and new technology. It should also be noted that TJC practice is to visit no less than 90 days post move. Also, 90 days will be mid-December. The LHRC doesn't normally meet in December so the first opportunity to review ward rules will be the January 2014 meeting, which begins the new cycle of ward rule reviews.

The next meeting will be held January 28, 2012, at 12:30 p.m.

With no further business to discuss, the meeting was adjourned.

APPROVED:

Hal Meyers, Chair

Glenda D. Sheffer, LHRC Secretary