

STATE HUMAN RIGHTS COMMITTEE

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Megan Sharkey
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Cora Swett
Nokesville



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State Human Rights Committee Meeting **MINUTES**

Thursday, April 15, 2021

VIRTUAL MEETING

Zoom for Government

Administrative Session

8:45 a.m.

Members Present	John Barrett, Chairperson ; Will Childers, Vice-Chairperson ; David Boehm; Julie Dwyer-Allen; Monica Lucas; Sandy Robbins; Megan Sharkey; Timothy Russell
Members Excused	Cora Swett
Staff Present	Taneika Goldman, State Human Rights Director Karen A. Taylor, Senior Assistant Attorney General Jennifer Kovack, Associate Director, Community Operations Mary Clair O'Hara, Associate Director, Facility Operations Brandon Rotenberry, Facility Advocate Manager Carlton Henderson, Training and Development Coordinator Carrie Flowers, Human Rights Advocate Kli Kinzie, Executive Secretary
Others Present	Rebecca Herbig, Institutional Rights Unit Manager, disAbility Law Center of Virginia (dLCV) Rhonda Thissen, Senior Advocate, dLCV
Call to Order	At 8:45, John Barrett, SHRC Chair, called the administrative session of the April 15, 2021, SHRC meeting to order. A call for introductions took place prior to proceeding.
Approval of Agenda	At 8:47, the SHRC considered approval of the agenda. <i>Upon a motion by David Boehm and seconded by Timothy Russell the agenda was approved unanimously.</i>

Information At 8:48, Taneika Goldman, State Human Rights Director, presented information items. Mrs. Goldman highlighted the good work of Faranza Kennedy, a local human rights committee member, who is also President/Owner of Alexandria Compounding Pharmacy. Ms. Kennedy has been involved in the statewide vaccination effort through the Virginia Pharmacist Association (VPhA) and has dedicated herself to helping people get vaccinated. As an independent community pharmacist she received an allocation of vaccines for group homes and worked closely with DBHDS staff to provide the vaccines both on site and at her pharmacy and by travelling to group homes and facilitating vaccine clinics.

Taneika Goldman provided information on an exemption involving Central State Hospital. Exemptions are granted under the authority of the DBHDS Commissioner.

A letter from a patient of Central State Hospital was provided to the SHRC. The letter was received by the Office of Human Rights on March 9, 2021, a few days after the last meeting. The Committee may wish to discuss issues addressed in the letter pertaining to the special complaint resolution process put in place for the maximum security unit. During a previous meeting, the Committee entertained discussion about adding a consumer member of the SHRC to the Max Appeals Committee. Chairman Barrett recommended deferring this discussion until review of the variances for VCBR.

Closed Session *At 8:51, upon a motion by Will Childers, SHRC Vice-Chair, and Timothy Russell the SHRC went into closed session pursuant to VA CODE § 2.2-3711 (A) (8) for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel.*

Upon a motion by Monica Lucas and seconded by Timothy Russell the SHRC reconvened in open session.

Upon reconvening in open session all members of the SHRC 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 the closed session.

Regular Session

9:07 a.m.

Members Present John Barrett, **Chairperson**; Will Childers, **Vice-Chairperson**; David Boehm; Julie Dwyer-Allen; Monica Lucas; Sandy Robbins; Megan Sharkey; Timothy Russell

Members Excused Cora Swett

Staff Present Taneika Goldman, State Human Rights Director
Karen A. Taylor, Senior Assistant Attorney General
Jennifer Kovack, Associate Director, Community Operations

Mary Clair O'Hara, Associate Director, Facility Operations
 Brandon Rotenberry, Facility Advocate Manager
 Carlton Henderson, Training and Development Coordinator
 Carrie Flowers, Human Rights Advocate
 Jason Wilson, Facility Director, Virginia Center for Behavioral Rehabilitation
 Kli Kinzie, Executive Secretary, Office of Human Rights

Others Present	Rebecca Herbig, Institutional Unit Manager, dLCV Rhonda Thissen, Senior Advocate, dLCV
Call to Order	At 9:07, John Barrett, Chairperson, called the April 15, 2021, State Human Rights Committee meeting to order.
Draft Minutes Review	At 9:07, the SHRC reviewed the draft minutes of the March 4, 2021, SHRC meeting. <i>Upon a motion by Timothy Russell and seconded by Megan Skarkey the minutes of the March 4, 2021, SHRC meeting were approved unanimously.</i>
FOIA Chapter, Va Code 2.2-3700	At 9:08, Chairman Barrett led a discussion regarding identifying a person to serve as the FOIA Officer for the Committee. Will Childers volunteered as Vice-Chair to serve as the SHRC's FOIA Officer with Taneika Goldman as staff to assist with the logistics of responding to FOIA requests. Karen Taylor, Senior Assistant Attorney General, recommended that Will Childers get extra training for his role as FOIA Officer. After such training, the Office of Human Rights will facilitate publishing the FOIA Officer's contact information on the Virginia Register web site. The Office of Human Rights will look into having a link to the SHRC email address added to the department web site for the public to use for making FOIA requests. Monica Lucas, Bylaws Subcommittee Chair, will add FOIA Officer appointment and role to the SHRC bylaws. <i>Upon a motion by David Boehm and seconded by Timothy Russell the SHRC voted unanimously to appoint the SHRC Vice-Chair as the FOIA Officer for the Committee.</i>
Public Comment Period	At 9:15, Chairman Barrett called for public comments. <i>No public comments were offered.</i>
Voting: Electronic Meetings of Public Bodies	At 9:15, Taneika Goldman discussed voting during electronic meetings of public bodies. During the March 4, 2021, SHRC meeting Sandy Robbins, Policy Subcommittee Chair, asked about how to conduct and document the voting process. Karen Taylor, Senior Assistant Attorney General talked about the changes to electronic meeting requirements that are in place in response to the COVID pandemic. Each person must vote in roll call fashion. Karen Taylor will take a deeper look and the requirements and report back to the SHRC in May.
VCBR Facility Report	At 9:19, John Barrett called for the VCBR Facility Report. Carrie Flowers, Human Rights Advocate, provided the VCBR Facility Overview and Seclusion and Restraint Report for

February 2021. There were 4 physical emergency restraints for the month of February due to aggression and threatening behavior. The restraints lasted 1 minute or less. There were no injuries to staff or residents.

There were 34 transportation restraints reported for the month of February. The duration of the transportation restraints ranged between 1 hour, 12 minutes and 11 hours, 23 minutes. There were 8 hours, 6 minutes for transport to a COVID clinic in Charlottesville, and 11 hours, 23 minutes for transport to UVA for antibody infusion for COVID. No resident injuries were reported for the month. There were no reports of seclusion for this period.

There were 4 abuse/neglect cases, 1 peer-to-peer and 2 verbal abuse cases for the month of February. There are no substantiated cases. Two cases were out of compliance with late investigations.

There were 12 human rights complaints received during this period. There were 11 complaints alleging violations related to treatment with dignity for the month. There was 1 complaint alleging a violation related to confidentiality. Three complaints were reviewed at the director's level, and 9 were below the director's level. There was 1 violation found under dignity. The founded violation concerned a bar code tab found in food served to a resident.

The facility has obtained certificates of occupancy for buildings 6 and 7. Staff will temporarily move to building 6 to allow renovations to begin in staff areas. A picture of the new rotunda was provided. A skylight runs down the main corridor beyond the security point. Landscaping will be accomplished in the central park area this Spring. Tours will be offered next month.

Variances: VCBR At 9:45, Jason Wilson, Facility Director, Virginia Center for Behavioral Rehabilitation (VCBR), presented 3 variance requests for VCBR. The first variance is for a modified complaint process that allows for a review of complaints at a "Formal" and "Directors" level within the facility. If the resident is not satisfied with the determination or actions of the facility, the resident may appeal the decision to the VCBR Appeals Committee, which includes members of the Office of Human Rights and the State Human Rights Committee, as final reviewers of human rights complaints.

Variance for Complaint Process

- 12VAC 35-115-150 General Provisions
- 12VAC 35-115-175 Human Rights Complaint Process
- 12VAC 35-115-180 Local Human Rights Committee Hearing and Review Procedures
- 12VAC 35-115-190 Special Procedures for Emergency Hearings by the LHRC
- 12VAC 35-115-200 Special Procedures for LHRC Reviews Involving Consent and Authorization
- 12VAC 35-115-210 State Human Rights Committee Appeals Procedures

The second variance is to allow VCBR to “double bunk” residents in rooms

- 12VAC 35-115-50 (C)(3)(a) Dignity

The third variance is to allow VCBR to forego LHRC review of restrictions.

- 12VAC 35-115-100 (B)(5) Freedoms of Everyday Life

The VCBR variances were posted on the Town Hall web site on March 29, 2021. Public comments were received for all three variances.

Upon a motion by Timothy Russell and seconded by Monica Lucas the SHRC unanimously approved the Complaint Process variance as put forward by VCBR with the modification that If neither the Chair nor Vice-Chair of the SHRC are consumers, a consumer member of the SHRC will be appointed to the Appeals Committee.

Variance for Complaint Process

- 12VAC 35-115-150 General Provisions
- 12VAC 35-115-175 Human Rights Complaint Process
- 12VAC 35-115-180 Local Human Rights Committee Hearing and Review Procedures
- 12VAC 35-115-190 Special Procedures for Emergency Hearings by the LHRC
- 12VAC 35-115-200 Special Procedures for LHRC Reviews Involving Consent and Authorization
- 12VAC 35-115-210 State Human Rights Committee Appeals Procedures

As part of the same motion, the SHRC approved the variance for Double Bunking, even though it is currently redundant with an exemption.

Double Bunking.

- 12VAC 35-115-50 (C)(3)(a) Dignity

The proposed variance on Restrictions was not approved.

The members acknowledged the purposeful change in composition to the VCBR Appeals Committee equally impacts membership of the CSH Max Appeals Committee.

VCBR:
Construction

At 10:05, Mary Clair O’Hara asked Jason Wilson to go over the progress on VCBR’s expansion construction. Jason Wilson shared his screen to provide information that he presented to the DBHDS State Board at its April 14, 2021, meeting.

The old VCBR facility was not in an appealing location and was not of a pleasing construction. The new buildings and layout resemble a college campus, and are more aesthetically pleasing both inside and out.

Construction on the residential area and the medical unit is expected to be complete in September 2021. The final transition to the housing unit is expected in February 2022.

Public Comment

At 10:08, Chairman Barrett again called for public comments. *No public comments were offered.*

**Regulation
Spotlight: §§
12VAC 35-115-
10, 20, 40 and
270**

At 10:08, Carlton Henderson, Office of Human Rights Training and Development Coordinator, presented the Regulation Spotlight to the SHRC. This Regulation Spotlight is the first in an ongoing series of presentations OHR staff will provide to the Committee. The purpose of the Spotlight is to improve SHRC members' awareness and understanding of the regulations especially as relates to the SHRC's role and responsibilities. The Spotlight series will be an overview as opposed to a deep dive into the regulations. Mr. Henderson stated that as part of the OHR's statewide training efforts, the office is adding more in depth training on the regulations to providers. SHRC members were invited to join those trainings. The next trainings are scheduled for June 24 and October 21, 2021.

For this first Regulation Spotlight Carlton Henderson provided an overview of sections 12VAC 35-115-10, 20, 40 and 270 of the human rights regulations. These sections pertain to authority and applicability of the regulations, policy, assurance of rights, and SHRC and LHRC responsibilities. These training sessions will be recorded and posted to the OHR webpage of the DBHDS intranet for future reference.

**Presentation:
Overview of
Facility
Operations**

At 10:23, Mary Clair O'Hara, Associate Director, Facility Operations, shared her screen to show the seclusion and restraint data for February 2021. There were some high rates of seclusion and restraint, which staff are monitoring, at the facilities. There are plans to provide additional training on seclusion and restraint at the facilities.

Central State Hospital (CSH) had 9 reported incidents for the month of February involving medical treatment or trips to emergency. There was 1 self-inflicted injury by an individual, there was 1 fall and there were 25 peer-to-peer altercations. There were no deaths at CSH for the month of February.

Eastern State Hospital (ESH) had 28 peer-to-peers, 1 self-inflicted injury, 1 fall and 2 deaths. Neither of those deaths were related to COVID. At Northern Virginia Mental Health Institute (NVMHI), there were 2 incidents, neither of which were serious. There were 26 peer-to-peer incidents at NVMHI. At Southern Virginia Mental Health Institute (SVMHI) had 1 reported event, not serious, and 2 peer-to-peers. Southwestern Virginia Mental Health Institute (SWVMHI) had 38 peer-to-peers, 7 incidents, and 3 falls. There were 3 self-inflicted injuries, 3 falls, and no deaths. Western State Hospital (WSH) had 7 reported events. There was 1 self-inflicted injury. There were 29 peer-to-peers. Catawba Hospital had 9 reported events, 3 of which were deaths. There were 6 falls, which is not unusual for a geriatric facility. Some of the incidents may be attributed to shortness of staff at a time when DBHDS is experiencing over-census at most facilities.

Commonwealth Center for Children and Adolescents (CCCA) only had only 1 reported event for the month February. The census for February was reduced to 24 because of staffing issues due to COVID.

Piedmont Geriatric Hospital (PGH) had 1 death, which was related to COVID. PGH and VCBH had the most deaths, much of which was attributed to medical issues and COVID. Hiram Davis Medical Center (HD) had 1 death due to medical issues not related to COVID. Southeastern Virginia Training Center (SEVTC) had no incidents involving going

to hospital. There were 4 peer-to-peer aggressions. CSH implemented 113 hours in seclusion. ESH had 6 hours of seclusion and 97 hours of restraint. There were 54 individuals; the longest was 53 minutes. The longest seclusion lasted for 53 minutes. NVMHI utilized very little seclusion. There were 110 hours of restraint for 35 individuals. The longest period an individual was in restraint was 20 minutes.

For SVMHI there was an individual in seclusion for more than 97 hours. It was a unique case for the facility, and the individual has now been discharged. For SWVMHI there were 37 individuals in seclusion. The longest seclusion lasted for 93 hours, which accounts for both seclusion and restraint for that individual.

At WSH, the numbers are still high. The facility has a new Director. Mary Claire Smith is retiring. The Medical Director, Dr. Anderson, is the new Facility Director. Ms. O'Hara is hopeful that we will be able to work with the facility on reducing the hours of seclusion and restraint.

Ms. O'Hara also provided an overview of facility operations: Assigned facility advocate staff of the Office of Human Rights are starting to go back and do face-to-face meetings with individuals regarding AIM24, which relates to allegations involving serious injuries and sexual abuse/assault.

Carrie Flowers, Human Rights Advocate, is retiring in June after serving the state for 41 years. OHR is hiring a P14 (part time staff) for the Northern Virginia region to relieve some of the workload handled by Jen Anglin, Human Rights Advocate, who has been covering both facility and community programs.

Most staff who could and wanted to be vaccinated have been vaccinated. Most Facility OHR staff have been FIT tested for N95 masks and can now visit residents. Mary Clair O'Hara has been conducting in-person TOVA training again. TOVA training was provided at the facilities this week, including training at ESH to prepare the facility to train its new Emergency Response Team.

Presentation:
Overview of
Community
Operations

At 10:36, Jennifer Kovack, Associate Director, Community Operations, provided an overview on the planning process and progress toward returning to community onsite visits. Ms. Kovack reported that the Community Operations staff implemented the OHR "Return to Field Operations" Plan on April 1, 2021. Most staff wanting and able to get the COVID vaccine have received it. All have been FIT tested.

The OHR Community Operations team has started back on the AIM24 visits, which is an on-site process. The team is able to prescreen providers using a Tableau dashboard that has a collection of data from providers relating to COVID outbreaks. This helps OHR staff prepare for on-site visits.

The community team has been reviewing cases of abuse and neglect involving sexual abuse/assault, restriction and physical abuse resulting in serious injury. Since April 1, they have had 5 such cases, only 1 of which was completed remotely due to an active COVID outbreak at the provider location. OHR has a process for COVID safety. Taneika

Goldman sent a memo to all providers in the community notifying them of the Return to Field Operations Plan and that they would be contacted for prescreening so they are aware of the expectations.

The Office of Licensing (OL) is the department's issuing body for citations against providers. The Office of Human Rights is able to make recommendations for citations of violations under the human rights regulations. The OL has designated a full time staff person, Tonya Carr, as the OHR CAP Specialist, to handle all of the human rights-only Corrective Action Plans (CAPs) and citations. This new process was implemented on February 1. The OHR and OL are working together to streamline the process and to align the two offices moving forward. Training is provided and updated as the process evolves.

Taneika Goldman expressed her thanks for having the opportunity to work with and have such a competent and compassionate team attending to the advocate needs of individuals both in the community and in state operated facilities.

Subcommittees At 10:43, John Barrett called for subcommittee reports.

Bylaws Subcommittee: Monica Lucas, Chairperson; Cora Swett; Jenifer Kovack, Staff. At 10:43, Monica Lucas reported that she received bylaws updates from Karen Taylor, Senior Assistant Attorney General. There is not a lot that needs to be corrected in the bylaws, but there is some information that needs to be highlighted. Monica Lucas would like to set a time when Cora Swett is available to get together with Karen Taylor, Taneika Goldman and Jennifer Kovack to review the updated draft bylaws. This would be a good opportunity to add language regarding the SHRC FOIA Officer as well adding SHRC Chair responsibilities based on information provided to the subcommittee by Karen Taylor.

Monica Lucas provided a brief update on the HR Access project. She has made a few recordings in her own voice for the project. After hearing Carlton Henderson's presentation earlier this day, she recommends adding Carlton Henderson's voice to the HR Access project, especially in the area of policies. Ms. Lucas hopes to provide an excerpt at the next SHRC meeting to give the full committee an idea of the direction the HR Access project is taking. The audio files are meant to increase accessibility to rights information for individuals in the DBHDS services delivery system.

Policy Subcommittee: Sandy Robbins, Chairperson; David Boehm; Mary Clair O'Hara, Staff.

At 10:48, Sandy Robbins spoke on behalf of the Policy Subcommittee. She asked that SHRC members bring forth questions that may be of interest to the policy subcommittee so issues can be addressed as various providers and department staff come before the SHRC. David Boehm asked members to bring any VCBR issues to the policy subcommittee.

Officer Subcommittee: Sandy Robbins.

At 10:51, Sandy Robbins expressed thanks to all who notified Sandy of their interest in serving as officers in the upcoming year. Ms. Robbins supports Will Childers' willingness to serve as Vice-Chair again. There are 4 individuals willing to serve as Chair: Julie Dwyer-Allen, David Boehm, Monica Lucas and Timothy Russell. A brief discussion followed regarding the process of ballots and voting for officers. A slate of officers will be brought forward by the subcommittee at the May meeting. The election will be conducted during the June meeting. Officer terms commence on July 1.

Workplan / Membership Subcommittee: Julie Dwyer-Allen, Chairperson; Timothy Russell.

At 10:57, Julie Dwyer spoke on behalf of the Workplan/Membership subcommittee. There are no updates regarding membership. Timothy Russell reported that the Workplan has been updated with the recommendations received thus far.

Sandy Robbins reported that she anticipates resigning from the SHRC in June because she is relocating to Florida. Julie Dwyer-Allen recommended moving forward with recruiting to fill the vacancy when Sandy Robbins resigns.

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| LHRC Business | At 11:05, the SHRC considered LHRC business. David Boehm attended a meeting of the SWVMHI LHRC on March 9 with Brandon Rotenberry. The meeting was short and there were no problems. The LHRC has seasoned members who are committed to the human rights program. |
| Other | At 11:07, Chairman Barrett asked for other business. <i>There was no other business.</i> |
| Adjournment | <i>At 11:07, having no further business to discuss the April 15, 2021, SHRC meeting adjourned. The next meeting is scheduled for May 20, 2021. The May meeting is expected to be virtual.</i> |

Respectfully Submitted,

John Barrett, Chairperson
State Human Rights Committee

Kli Kinzie,
Executive Secretary